



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman

Katherine W. Dedrick
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Sam Graves
Ranking Member

Paul J. Sass
Republican Staff Director

October 1, 2020

Steve Dickson
Administrator
Federal Aviation Administration (FAA)
U.S. Department of Transportation
800 Independence Avenue, SW
Washington, DC 20591

Dear Administrator Dickson:

As the Federal Aviation Administration (FAA) contemplates final action to allow the Boeing 737 MAX to return to revenue service, we urge you in the strongest possible terms to publicly release all documents related to design revisions or evaluations related to the aircraft's safe return to service. This should include, but not be limited to, system safety assessments, related analysis, assumptions about pilot response times and key test data concerning the safety of the aircraft.

As you know, our Committee recently published its final report on the design, development and certification of the 737 MAX.¹ Among the many alarming findings was the fact that even in the wake of the Lion Air crash, both Boeing and the FAA found the Maneuvering Characteristics Augmentation System (MCAS) to be compliant,² despite the fact that the aircraft was actually unsafe and ultimately resulted in two crashes that killed 346 people. To assure the flying public that Boeing's fixes to the MAX have rendered the plane safe to once again carry passengers, the FAA will need to do more than merely certify that the plane is now compliant.

The FAA needs to be transparent about what design changes have been made to the 737 MAX, any revisions to pilot protocols regarding non-normal or emergency procedures, and it should fully reveal the data any determination to unground the MAX has been based upon. This is a critical point. The public needs to see this data and that sort of transparency can only help to enhance aviation safety.

¹ Final Committee Report The Design, Development & Certification of the Boeing 737 MAX, prepared for Chair of the House Transportation and Infrastructure Committee Peter DeFazio and Chair of the House Subcommittee on Aviation Rick Larsen by the majority staff of the House Committee on Transportation and Infrastructure, September 16, 2020, accessed here:

<https://transportation.house.gov/imo/media/doc/2020.09.15%20FINAL%20737%20MAX%20Report%20for%20Public%20Release.pdf>

² Ibid, p. 31.

Administrator Steve Dickson

October 1, 2020

Page 2

Unfortunately, the FAA has not always been fully forthcoming with the public regarding the rationale for its decisions. In 2017, the D.C. Circuit found FAA's denial of a petition from a safety advocate for a rulemaking on airline seat size due to evacuation concerns was wholly inadequate. According to the court, "The problem here is that the [FAA] has given no reasoned explanation for withholding the tests in their entirety, and it has declined to file them under seal or in redacted form. Yet the [FAA] explicitly relied on those missing studies in reaching its decision to deny the petition for rulemaking."³

In addition, the Committee's investigation revealed several instances where fuller disclosure by Boeing to both the FAA and to its 737 MAX customers and pilots may have dramatically improved the safety of the aircraft. Given these revelations, that are well documented in the Committee's staff report, the FAA must take maximum efforts to be transparent with the public about its ungrounding decision. As a result, we are urging you to make publicly accessible all safety related documentation regarding the ungrounding so that the public can fully assess how the FAA arrived at its decision regarding the ultimate ungrounding of the 737 MAX.

As you are also well aware, the MAX tragedies have not only led to serious questions about Boeing, but also deep concerns about the FAA's certification process and oversight abilities. The bipartisan legislation the Committee has introduced, the "Aircraft Certification Reform and Accountability Act," is a response to both these tragedies and the documented failures at Boeing and the Federal Aviation Administration. It is vital that the FAA take significant steps to regain the public's trust. Being fully transparent about how the Agency arrives at any decision it makes regarding the ungrounding of the 737 MAX will only be the first of many steps forward towards this goal that the FAA must take to regain the trust of the flying public.

We appreciate your time and consideration of this crucial matter.

Sincerely,



PETER A. DeFAZIO
Chair



RICK LARSEN
Chair
Subcommittee on Aviation

cc: The Honorable Sam Graves, Ranking Member
The Honorable Garret Graves, Ranking Member, Subcommittee on Aviation

³ *Flyers Rights Education Fund, Inc. v. Federal Aviation Administration*, 864 F.3d 738, 741 (D.C. Cir. 2017).