

STATEMENT OF JOEL SZABAT  
ACTING UNDER SECRETARY FOR POLICY, DEPARTMENT OF TRANSPORTATION  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON AVIATION  
2018 FAA REAUTHORIZATION PROGRESS  
SEPTEMBER 26, 2019

Chairman Larsen, Ranking Member Graves, Members of the Subcommittee:

Thank you to the Committee and to Congress for passing the 2018 FAA Reauthorization Act last fall and for inviting me to testify on behalf of the U.S. Department of Transportation (DOT). The more than 550 sections of the Act cover a wide range of aviation issues, many supporting Secretary Chao's first priority of safety and the Department's mission to provide the safest and most efficient airspace in the world. Our team is working to accomplish the directives Congress set forth in the Act, which provided the stability and direction needed to continue the important missions we oversee on a day-to-day basis and to address new challenges.

Despite the government shutdown last winter and our ongoing response to the fatal accidents and grounding of the 737 MAX, we have made great progress on the safety, civil rights, and consumer protection provisions of the Act. We identified more than 360 deliverables for the Department, and, while we have not been able to address all of the deliverables simultaneously or meet all the requirements in this first year, the Department has demonstrated unwavering commitment to the provisions of the Act. We will continue to deliver on the goals and realize the vision of this Committee and this Congress as a whole.

With many different mandates, each meriting timely completion, the responsible course of action is to distribute and schedule the work in a way that reflects the key principles of our mission. This also must be done without disrupting ongoing work in matters of safety, policy, oversight, and operations.

Working with the Federal Aviation Administration (FAA), our other modal administrations, and other agencies as necessary, we have addressed safety, accessibility and consumer rights, and a stronger, more efficient infrastructure. We have also advanced the integration of new technologies into the airspace that hold promise for improved safety, accessibility, and economic opportunity, such as Unmanned Aircraft Systems (UAS). I am sure the members of this Committee share these goals, and I look forward to discussing some of our achievements to date.

### *Safety*

DOT takes pride in our extremely successful safety record and appreciates the additional authorities and measures taken in this latest reauthorization to continue that legacy. We have already responded to Reauthorization requirements to establish new offices to deal with important issues, such as oversight of delegated authorities, (e.g. Organization Designation Authorizations), consumer advocacy, and support of our Nation's spaceports.

To help maintain the safety of passengers with respect to lithium batteries, the FAA and the Pipeline and Hazardous Materials Safety Administration (PHMSA) are taking action to implement Reauthorization provisions. We have harmonized domestic regulations with the ICAO Technical Instructions, begun working with stakeholders to identify and mitigate risks, and established inter-governmental and industry working groups to provide research, evaluation, and safety recommendations for the safe air transportation of lithium batteries.

The Reauthorization has also augmented our work in maintaining the world's safest airspace through the formation of several new advisory bodies and mechanisms. For example, the Secretary has already created task forces such as the Safety Oversight and Certification

Advisory Committee. The continued authority and certainty provided by the Reauthorization has been helpful in allowing us to continue to provide the world's highest expectation of safety for the flying public.

These efforts are taking place in the context of evaluating Boeing's 737 MAX aircraft for clearance to fly in the United States. As the Secretary has said repeatedly, the 737 MAX will not return to service until the safety experts at the FAA have determined it is safe to fly. The Secretary and the FAA Administrator have called for multiple objective and substantive reviews of the FAA's certification process and its analysis of the 737 MAX safety issues and potential resolutions. The issues with the 737 MAX are now being reviewed, studied, and addressed by the NTSB, the Special Air Certification Committee convened in March, the DOT Inspector General, an interagency Technical Advisory Board, the Joint Authorities Technical Review Team, various Congressional committees, and others. We will continue this important work, including ongoing coordination with other nations' safety certification authorities.

### ***Consumer Advocacy***

The Department is also actively working to implement the many aviation consumer protection and civil rights provisions of the Act, and we are doing it with the help of the people whose voices need to be heard. The Act requires us to establish four advisory committees, develop seven mandatory rulemakings, consider four discretionary rulemakings, and conduct twelve studies, reports or other tasks. Here are some highlights of our accomplishments.

Key mandates in the Reauthorization include establishing an Aviation Consumer Advocate within DOT to assist consumers in resolving airline service complaints filed with the Department, to identify actions the Department can take to improve the resolution of airline

service complaints and enforcement of aviation consumer protection rules, and to identify regulations and policies that can be amended to resolve airline service complaints more effectively. In March 2019, we selected Blane Workie, Assistant General Counsel for the Department's Office of Aviation Enforcement and Proceedings, to serve as the Aviation Consumer Advocate. To help her fulfill the responsibilities of the Aviation Consumer Advocate, Ms. Workie has already established two new positions in her office – Director of Consumer Advocacy and Director of Civil Rights Advocacy.

Approximately a month after the passage of the bill, DOT reconstituted the Aviation Consumer Protection Advisory Committee (ACPAC) and established the National In-Flight Sexual Misconduct Task Force (Task Force) as an ACPAC Subcommittee. The first ACPAC meeting was scheduled for January 16, 2019, but had to be canceled because of the government shutdown. The meeting was then held in early April, and focused on the transparency of airline ancillary service fees, involuntary changes to travel itineraries, and the operation of the Task Force. The work of the ACPAC is ongoing.

Also, the Task Force members have been actively exploring how best to address and prevent incidents of sexual misconduct on board aircraft. The Department is very committed to addressing the problem of in-flight sexual misconduct and assault to provide a safe flight in every sense of the word. The Task Force members have already met five times this year in one or two-day meetings that occurred in April, May, June, July and September. The work focused on training, reporting, and data collection regarding incidents of sexual misconduct. As part of their duties, Task Force members have heard and reviewed first-hand accounts from passengers and flight attendants who have experienced sexual misconduct onboard commercial aircraft. We expect the Task Force to conclude its work this calendar year.

### *Accessible Air Service*

The Reauthorization also contains several provisions requiring DOT to review its Air Carrier Access Act regulation and take certain actions as appropriate. For example, section 433 directs us to consider developing specific recommendations regarding improvements to wheelchair assistance by U.S. airlines, and how airline training programs can address consumer complaints regarding wheelchair assistance. Section 434 requires us to develop the “Airline Passengers with Disabilities Bill of Rights.” As required by section 440, we will also review, and if necessary, revise regulations to ensure that passengers with disabilities receive dignified, timely, and effective assistance from trained personnel. We will also require training to occur on an annual schedule for personnel charged with providing physical assistance to passengers with disabilities.

We have already started the process of reviewing the regulations to determine what actions need to be taken in these areas. We look forward to consulting with stakeholders, including disability organizations, airlines, and their contractors. We also just established the Air Ambulance and Patient Billing Advisory Committee (AAPB Advisory Committee) and the Air Carrier Access Act Advisory Committee (ACAA Advisory Committee). Both necessitated issuing of notices to find the best-suited members, and both committees are now in place. The active ongoing work of the Department in forming and engaging with these committees as well as with ACPAC, reflects our commitment to protecting the rights of air travelers, to human dignity in general, and to the American ideal of balanced representation.

The AAPB Advisory Committee will make recommendations regarding disclosure of charges and fees for air ambulance services and insurance coverage, as well as consumer

protection and enforcement authorities of both DOT and State authorities, and the prevention of balance billing to consumers. The ACAA Advisory Committee will identify and assess barriers to accessible air travel, determine the extent to which DOT is addressing those barriers, recommend improvements, and advise the Secretary on implementing the Air Carrier Access Act. We will announce the date of the first meeting of the AAPB Advisory Committee as well as the first meeting of the ACAA Advisory Committee after coordinating with the advisory committee members.

### ***Consumer-Focused Regulation***

The Department is committed to enhancing consumer protection and access in the aviation sector. We believe that there should be no more regulations than necessary, and those regulations should be straightforward, clear, and designed to minimize unnecessary and costly burdens on aviation stakeholders. During the past year, we made strides in implementing the consumer protection and access rulemaking mandates in the Reauthorization. These rulemakings are all identified in the Department's upcoming fall Unified Agenda of Regulatory and Deregulatory Actions as actions we plan to issue in the near and long term. Among these rules are regulations that would issue guidance on cell phone communications on aircraft, require refunds to customers for services not received, require minimum customer service standards of large ticket agents, and streamline the consumer complaints process.

The Reauthorization also prohibits U.S. and foreign airlines from denying boarding to a revenue passenger traveling on a confirmed reservation, or involuntarily removing that passenger from the aircraft once the passenger has checked in for flight before the check-in deadline, and his or her boarding pass has been collected or accepted by the gate agent.

We will also be issuing a proposed rule related to traveling by air with service animals. There is rising concern that passengers are increasingly bringing untrained emotional support animals onboard aircraft – which could put the safety of crewmembers and other passengers at risk. Our rulemaking will define “service animal,” develop minimum standards for what is required for service animals and address the issue of emotional support animals. Last year, DOT published an Advance Notice of Proposed Rulemaking on service animals, and we plan to issue a Notice of Proposed Rulemaking later this year. We want individuals with disabilities to continue using their service animals, while also maintaining safety and reducing the likelihood that other passengers will be able to falsely claim their pets are service animals.

### ***Innovation and Infrastructure***

We remain in close communication with industry, international regulatory bodies, and the public when it comes to the technology that is promising to reshape aviation as we know it - Unmanned Aircraft Systems (UAS). We are entering the final year of the President’s Integration Pilot Program, where we have been working steadily with industry, State, local, and tribal governments to enable unique operations, and more importantly, to uncover the key issues we face as a Nation in adapting a disruptive, but promising technology into a complex, highly coordinated airspace system. We continue to receive recommendations from the Drone Advisory Committee (DAC), our test sites, our centers of excellence for research, standards bodies, and international partners on what the focus of our work should be and the next steps that will continue UAS integration on a larger scale.

We are engaging with the public through the rulemaking process and the DAC. Earlier this year, we published our proposed amendment to Part 107 that will allow for limited, safe

operations over people, flights at night, and easier ways for Part 107 pilots to remain current in their certifications. We are working with our intergovernmental partners and the Office of Management and Budget to publish a proposed rule that will establish remote identification requirements for UAS. This will be a key milestone in promoting the safe operations of UAS as we continue to work with industry to develop the technologies that will enable routine beyond-visual-line-of-sight (BVLOS) and truly integrated operations. These advances offer significant new opportunities, and we will continue to work with the public and all relevant government and industry partners to realize these milestones.

We are doing more than rulemaking. Under Section 349 of the Act, we opened airspace authorizations to recreational flyers of UAS for quick, automated access to airspace. We are establishing a framework for broad, electronic testing that will make UAS instructions more accessible, and more understandable to more potential flyers, than ever before. This year, the FAA granted the first air carrier certification to a commercial drone operator for package deliveries in rural Christiansburg, Virginia, and other similar certifications will follow. The Department has not only been innovating the way forward, but we have been collaborating, building consensus, and constructing UAS solutions that promote safety, security, and responsibility, along with greater UAS operations.

We also have a responsibility to invest in our Nation's infrastructure, and the funding for grant programs, including the Airport Improvement Program, in the Reauthorization will help to provide the best possible environment and experience for travelers to small and large airports. We have already implemented all of the statutory changes to the Essential Air Service (EAS) Program and the Small Community Air Service Development Program (SCASDP), and we have a keen interest in administering these small community programs as effectively as possible.



## ***Conclusion***

While we have not yet completed all of our obligations under the Reauthorization, we have demonstrated our commitment to meeting them, and we have the right principles in place to accomplish the work. On behalf of the Secretary, I assure you that we will continue our diligent work and push forward, collaboratively, to achieve the safe, accessible vision for aviation that Congress set forth as a shared ideal in the Reauthorization. I am happy to join Dan Elwell and our staff to answer any further questions you may have on these provisions.

Thank you all for your time and attentiveness.