



**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

Assistant Secretary
for Governmental Affairs

1200 New Jersey Avenue, SE
Washington, DC 20590

October 23, 2019

The Honorable Peter A. DeFazio
Chairman, Committee on Transportation & Infrastructure
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds on behalf of the Federal Aviation Administration (FAA) to your letter of October 18, 2019. The FAA shares your concern about the instant messages exchanged between two Boeing technical pilots and the emails we subsequently identified. That was why we sent them to you, notified the Inspector General of the Boeing document, and wrote to Boeing seeking an “explanation immediately,” all within hours of receipt.

The Secretary’s number one priority for the Department of Transportation is safety. She recognizes that a key to continued excellence in aviation safety is guarding against complacency—“rooting out problems and embracing opportunities for improvement.”¹ On FAA Administrator Steve Dickson’s first day on the job, the Secretary directed him to be “transparent and engaged” in response to the ongoing investigations of the 737 MAX certification, including the Committee’s investigation and to be “open to their critiques and recommendations, and to lead the FAA forward in improving safety no matter what the reviews may find.”² Administrator Dickson and the FAA are doing just that.

The FAA has provided the Committee an unprecedented level of access and substantial internal communications and documents responsive to the Committee’s request. Over the past six months, the FAA and its aviation safety professionals have spent thousands of hours identifying and collecting documents responsive to your six letters on the 737 MAX, searching the accounts of some 500 FAA employees.

As of today, the FAA has sent the Committee ***over 33,000 pages*** of responsive documents, including 5,000 pages of emails; provided dozens of briefings to Committee members and staff; and agreed to interviews of FAA employees by the Committee staff, including most witnesses you requested and others the FAA proactively offered.

¹ Memorandum from the Secretary of Transportation, to the Administrator of the Federal Aviation Administration (Aug. 12, 2019) (enclosed).

² *Id.*

We do wish to point out, however, that the Committee staff continue to ask for documents and information the FAA has already provided, suggesting they have not reviewed those materials. Examples of these duplicative requests are detailed in the accompanying enclosure.

The emails highlighted in your letter in and of themselves do not show “coziness” between Boeing and the FAA, though multiple ongoing reviews continue to examine the broad range of issues related to the 737 MAX certification. The instant message exchange was internal to Boeing. And the emails quoted in your letter were sent to a personal contact in Air Traffic Operations, a separate line of business from Aviation Safety, which certified the 737 MAX. The Committee staff has already interviewed many of the career aviation safety professionals at the Seattle Aircraft Evaluation Group involved with the review of the 737 MAX. They were professional and candid with the Committee staff about shortcomings at both FAA and Boeing. Their testimony demonstrated commitment to the FAA’s safety mission.

We share your interest in understanding what happened with the 737 MAX. That is why the Secretary and the FAA initiated several independent reviews, including a review by the Inspector General, the Special Committee to Review FAA’s Aircraft Certification Process, and the Joint Authorities Technical Review. We remain committed to transparency with the Committee and will continue to produce records the Committee is seeking as they are identified. Our staff will follow up with additional information about the emails we provided to you on Friday. As we have previously offered, we are happy to prioritize certain documents or email accounts. We know that, together, these collective efforts will yield improvements that further enhance aviation safety.

Sincerely,



Adam Sullivan
Assistant Secretary
Governmental Affairs

cc: The Honorable Sam Graves, Ranking Member, Committee on Transportation and Infrastructure


Enclosures



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

August 12, 2019

MEMORANDUM FOR STEPHEN M. DICKSON, FAA ADMINISTRATOR

From: Elaine L. Chao 

Subject: Ensuring a Continued Culture of Safety First at the FAA

Congratulations on your appointment as the 18th Administrator of the Federal Aviation Administration. You join the FAA at a critical time in its history and with a unique opportunity to help ensure its continued legacy as the gold standard for aviation safety.

The top priority for the Department is safety—safety must always come first. The absence of a single fatal commercial airline crash in the United States in over a decade is due in large part to the dedication and professionalism of career aviation safety personnel at the FAA. Today, however, the FAA is at the center of many questions regarding safety of commercial aviation. The Lion Air Flight 610 and Ethiopian Airlines Flight 302 accidents claimed 346 lives and have prompted important questions about the certification of the 737 MAX, the FAA's aircraft certification and oversight processes generally, and the receptiveness of FAA leadership to critical feedback from within its ranks.

These questions must be addressed to preserve FAA's standing in the international aviation safety community and to ensure continued public confidence. To date, the Department and FAA have already taken several significant steps to answer those questions and identify potential solutions:

- On March 25, 2019, I established the Special Committee to Review FAA's Aircraft Certification Process. The Special Committee is co-chaired by Air Force General (Ret.) Darren McDew, former head of the U.S. Transportation Command, and Captain Lee Moak, former President of the Air Line Pilots Association, and is tasked with conducting a complete and independent review of the FAA's aircraft certification process.
- On March 27, 2019, at my request, the Inspector General for the Department of Transportation initiated an audit of the certification of the Boeing 737 MAX 8.
- On March 28, 2019, I directed Acting Administrator Elwell to take action to address key concerns discussed above.
- On April 2, 2019, the FAA established an independent Joint Authorities Technical Review (JATR), chaired by former NTSB Chairman Christopher A. Hart, to conduct a comprehensive review of the certification of the automated flight system on the Boeing 737 MAX aircraft.
- On May 7, 2019, the FAA convened an independent Technical Advisory Board (TAB) composed of experts from NASA, the U.S. Air Force, the Volpe National Transportation Systems Center, and the FAA to review Boeing's software update, flight control system modifications, and system safety assessment for the 737 MAX.

Other inquiries—including two congressional investigations and reviews by foreign aviation safety authorities—are also underway. I trust and expect that you will be transparent and engaged with these reviews, open to their critiques and recommendations, and lead the FAA forward in improving safety no matter what the reviews may find.

The FAA has made great strides in advancing aviation safety. But it must guard against complacency. Continued excellence requires rooting out problems and embracing opportunities for improvement. Leading the FAA through these challenges, addressing any issues identified, and reaffirming the FAA's dedication to fulfilling its critical safety mission should be among your top priorities.

I look forward to regular updates from you on your progress in achieving these important goals. Welcome aboard.

END

Enclosure: Examples of Committee Staff Requests

Below are examples of requests from the Majority staff of the House Transportation and Infrastructure Committee:

- On October 15, 2019, the Committee staff requested a copy of the Transport Airplane Risk Assessment Methodology (TARAM),¹ which the FAA had provided to the same staff months earlier on August 16.² The documents produced on August 16 were part of a request from the Majority staff for which the FAA refocused its resources. The FAA had produced the TARAM as part of a small subset of approximately 100 pages and included a short index specifying where each document could be found within the production.³ The first item listed in the index was the TARAM,⁴ and the relevant document was clearly labeled as the “FAA Transport Airplane Risk Assessment Methodology Worksheet.”
- In a separate request on October 15, 2019, the Committee staff requested a list of the regulatory exemptions Boeing received for the MAX.⁵ FAA had provided the G-1 Issue Paper containing that information four months earlier, on June 13. The G-1 itself was prioritized and produced as expeditiously as possible in response to a request from the Committee staff.⁶
- On August 30, 2019, the Chairman sent a letter to the FAA that he was “still awaiting delivery of critical email correspondence,”⁷ but the two prior productions had included almost 3,000 pages of emails in total.⁸ The Committee staff was informed of this fact the day we received the letter. They emailed us five days later indicating they were unable to locate the last production,⁹ which it turned out was because they had not downloaded it.¹⁰

¹ Email from Committee Staff (October 15, 2019, 7:26 PM); Email from Committee Staff (October 17, 2019, 11:22 AM).

² Email to Committee Staff (August 16, 2019, 12:43 PM).

³ T&I Majority Questions (August 16, 2019).

⁴ *Id.*

⁵ Email from Committee Staff (Oct. 15, 2019, 12:10 PM).

⁶ Email from Committee Staff (Apr. 3, 2019, 6:03 PM).

⁷ Letter from the Hon. Peter A. DeFazio, Chair, H. Comm. on Transportation & Infrastructure, and the Hon. Rick Larsen, Chair, Subcommittee on Aviation, H. Comm. on Transportation & Infrastructure, to the Hon. Stephen M. Dickson, Admin’r, Fed. Aviation Administration (Aug. 30, 2019).

⁸ See FAA-DEFAZIO-28889 (Aug. 16, 2019), *et seq.*; FAA-T&I-28938, *et seq.* (Aug. 29, 2019).

⁹ Email from Committee Staff (Sept. 3, 2019, 3:35 PM).

¹⁰ Email from Committee Staff (Sept. 3, 2019, 6:01 PM).

- On August 16, the Committee staff requested we resend them the password to open a production the FAA had delivered three weeks earlier, leading to the inference that they had not attempted to open the documents for three weeks.¹¹
- On October 4, we offered to prioritize production of emails by specific custodian accounts.¹² To date, the Committee staff has not sent such a list, despite receiving in August a list of the names, offices, and organizational charts for the approximately 500 custodians whose accounts the FAA searched.¹³
- On July 31, the Committee staff requested a document the FAA had provided to them over a month earlier. When informed that the requested document was an issue paper they had already received, the Committee staff asked for help locating it.¹⁴
- On July 11, in a meeting on the status of the production, a member of the Committee staff expressed frustration with the pace of production but then conceded he had not looked at the documents “that closely.”¹⁵
- On July 3, the Committee staff asked why the response “appears to be dragging along so slowly,” but in the same email wrote they had not opened or reviewed the latest production delivered the week before.¹⁶
- Most recently, the Committee staff requested the FAA “re-produce” nearly 28,000 pages of documents in a new format despite the fact that this would draw resources away from producing additional responsive materials.¹⁷

¹¹ Email from Committee Staff (August 16, 2019, 9:07 AM).

¹² Email to Committee Staff (Oct. 4, 2019, 9:03 PM).

¹³ FAA-T&I-31898, *et seq.*

¹⁴ Email from Committee Staff (August 7, 2019, 1:03 PM).

¹⁵ Meeting with Committee Staff at the Committee’s office, Rayburn House Office Building, Room 2167 (July 11, 2019, 10:20 AM).

¹⁶ Email from Committee Staff (July 3, 2019, 2:24 PM).

¹⁷ Email from Committee Staff (October 7, 2019, 2:01 PM).