



National Transportation Safety Board

Washington, D.C. 20594

APR 19 2011

Office of the Chairman

The Honorable Jerry F. Costello
United States House of Representatives
2408 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Costello:

I am responding to your request for the National Transportation Safety Board's (NTSB) comments on H.R. 658, the Federal Aviation Administration (FAA) Reauthorization Act of 2011.

As you know, NTSB recommendations are the hallmarks of our accident reports. After thorough investigation of a transportation accident, the NTSB provides, to various recipients, recommendations that, if implemented, will improve safety and potentially prevent a similar accident from occurring. In aviation accidents, many of the NTSB's recommendations are directed to the FAA, and they often require rulemaking activity. Section 826 of H.R. 658 would add complexity to the rulemaking process and would likely increase the time required to complete rulemakings, thereby delaying key measures needed to improve safety.

As you know, the FAA is currently implementing H.R. 5900, the Airline Safety and FAA Extension Act of 2010, which passed Congress with unanimous support. This bill codifies several NTSB recommendations resulting from the tragic Colgan Air accident that occurred in Buffalo, New York, in February 2009, and addresses safety issues that have been on the NTSB's Most Wanted List (MWL) for many years. One issue, pilot fatigue, has been on the MWL since 1990. In September 2010, the FAA began its rulemaking activities on the flight and duty time provisions of H.R. 5900. The NTSB supports this proposed rule and, accordingly, submitted comments to the FAA, stating, "Implementation of the proposed revisions will represent a significant improvement in the regulations to prevent flight crew fatigue in Part 121 operations." However, if Section 826 of H.R. 658 is enacted, this important rulemaking process, and many others, could be halted or not uniformly applied.

You also requested an evaluation of other provisions in H.R. 658 that could compromise safety. The NTSB is concerned that Section 336 would prohibit fatigue-related rulemakings for air ambulances and cargo haulers, a segment of the aviation industry affected by well-documented safety issues related to circadian rhythm and sleep disruption. The NTSB believes there is no reason to exempt these operations from science-based flight crew scheduling requirements. These operations are affected by known fatigue-related problems and, if they are exempted from these rules, tragic consequences could occur. The aviation industry is quickly moving towards safety management systems that incorporate fatigue risk management systems (FRMS). The enactment of H.R. 658, Section 336, however, would prevent the FAA from requiring FRMS for

air ambulances and cargo haulers, which would be detrimental to the safety of the flight crews, medical personnel, patients on board, and persons on the ground.

Thank you for your commitment to transportation safety and for seeking input from the NTSB that can lead to improving aviation safety for all Americans.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Hersman', with a long horizontal flourish extending to the right.

Deborah A.P. Hersman
Chairman