



**Committee on Transportation and Infrastructure
U.S. House of Representatives**

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May 10, 2013

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SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Aviation
FROM: Staff, Subcommittee on Aviation
RE: Subcommittee Hearing on "Review of FAA's Progress in Implementing the FAA Modernization and Reform Act"

PURPOSE

The Subcommittee on Aviation will meet on Thursday, May 16, 2013, at 2:00 p.m. in 2167 Rayburn House Office Building to receive testimony in order to re-examine the progress that the Federal Aviation Administration (FAA) has made in implementing portions of the FAA Modernization and Reform Act of 2012 (the Reform Act) (P.L. 112-95). The Subcommittee will hear from the agency on the progress it has made and the steps it has taken in implementing the Reform Act.

BACKGROUND

The FAA reauthorization bill, the FAA Modernization and Reform Act of 2012 (P.L. 112-95) was signed into law by the President on February 14, 2012. This key piece of legislation contained multiple provisions to provide for a modern, safe and efficient civil aviation system now and into the future. The Reform Act provides the funding necessary for the Administration to operate the air traffic control system at the highest standards of safety and to modernize the Nation's air traffic control system. It provides policy direction for the FAA's critical safety and air traffic control modernization programs and implements reforms that will allow the FAA to become a more efficient, results-oriented safety organization. In addition, the Reform Act contains provisions that will address passenger service improvements. The Reform Act also includes multiple provisions that assist the FAA's safety oversight role. After five years of short term extensions, the Reform Act provides the FAA with the necessary guidance and stability it needs.

Safety

The United States aviation system is the safest in the world due to the hard work and commitment of government, industry and other stakeholders to provide safe air travel. The aviation system is a key part of the Nation's infrastructure and economy and it is the top priority of the FAA, stakeholders, and Congress to ensure the safety of the aviation system. Several important safety issues are addressed in the Reform Act by requiring the FAA to develop rules, on air ambulance operations, maintenance providers, foreign repair stations, and commercial aircraft personnel training requirements. The Reform Act requires the FAA to report to Congress on topics such as runway safety, flight standards, and foreign repair stations to ensure that regulations are being complied with and address any weaknesses in the system. To help foster the safety of the national airspace system (NAS) the Reform Act also requires studies on FAA staffing needs and models and addresses a variety of training issues. The FAA is behind on meeting the deadlines for the many provisions outlined above, but it is continuing to make some progress on addressing the requirements.

Unmanned Aircraft Systems

The Reform Act requires the FAA to allow for the safe integration of civil unmanned aircraft systems (UASs) into the NAS by December 2015. Ultimately, it is the FAA's call whether civil UASs can be safely integrated by this date. Currently, public UASs, such as those operated by Federal, State, and local government entities, including law enforcement agencies, are operating in the NAS, but only with FAA authorization. The Reform Act requires the FAA to work with government entities to expedite the authorization process while still ensuring safety. Government entities are seeking to use UASs for such missions as: search and rescue, wildlife and weather research, mapping, firefighting, border patrol, and law enforcement efforts.

Not later than 180 days after enactment, the FAA is directed to establish a program to safely integrate UASs into the NAS at six test ranges. Due to privacy concerns, the FAA is currently behind on implementation. The FAA issued a Screening Information Request on February 14, 2013, for the test ranges and is currently going through the process of selecting the test ranges with the hopes it can announce selections by the end of 2013. The establishment of test ranges will allow the FAA to collect valuable data on the operation of UASs and decide how and if UASs can be safely integrated into the NAS.

The Secretary of Transportation shall determine if certain UASs may operate safely in the NAS prior to completion of the comprehensive plan and guidance required by the Reform Act. In making the determination, the Secretary will decide the types of UASs, if any, as a result of their size, weight, speed, operational capability, do not create a hazard to users of the NAS or the public or pose a threat to national security. In addition, the Secretary will decide whether a certificate of waiver, certificate of authorization, or airworthiness certification is required for the operation of small UASs. If the Secretary determines that certain UASs may operate safely in the NAS, the Secretary is required to establish requirements for the safe operation of such aircraft systems.

Finally, in regard to the operation of model aircraft, the Reform Act prohibits the FAA from promulgating any rule or regulation regarding a model aircraft or an aircraft being developed as a model aircraft, as long as the model aircraft is flown for hobby or recreational use

and adheres to the other requirements of the law. While the FAA has made steps to achieve the UAS requirements in the law, it has run into several problems that have delayed implementation, including addressing privacy concerns.

Passenger Service Improvements

The Reform Act acknowledges that airline passengers are critical stakeholders in the airline industry and contains provisions to address passenger concerns. It includes provisions that instruct the Secretary, FAA, U.S. Department of Transportation (DOT) Inspector General (IG), and Government Accountability Office (GAO) to conduct studies and reports and take other actions to improve passenger service. Such provisions include a requirement DOT require air carriers to provide a monthly report on diverted flights. Additionally, to ensure that passengers receive proper treatment during delays, DOT is required to ensure that all air carriers develop emergency contingency plans at airports the carriers serve. DOT is also directed to establish an advisory committee on consumer protection to advise the Secretary of Transportation when the Secretary is carrying out airline customer service improvements. The IG and GAO are required to conduct reviews and study issues that affect aviation passengers, such as flight delays, cancellations, and delayed baggage. All of the studies will provide valuable data to assist Congress in future decisions. The FAA and DOT have made progress in carrying out the passenger service improvement requirements, similarly the GAO and IG are on schedule with the majority of their studies and reviews.

Good Governance

Through the Reform Act, Congress recognizes the importance of ensuring the FAA is an efficient, streamlined, and effective government agency. The Reform Act encourages the FAA to reform and streamline its offices, regulations and processes and to seek greater cost efficiencies. In fact, the Reform Act requires the FAA to undertake a review of all programs, offices, and organizations to identify duplicative positions or programs, wasteful practices, redundant functions, and inefficient processes or policies. The FAA is then directed to submit a report to Congress. This report was due to be completed earlier this year. The FAA is also given the authority to take any actions necessary to address the findings of its review and report.

Another important reform provision directs the FAA to develop a facilities realignment and consolidation report. The report is to be comprehensive, include labor and industry participation, and outline recommendations to support the transition to Next Generation Air Transportation System (NextGen) and to reduce capital costs without adversely affecting safety. After a public review process, the report is to be submitted to Congress. The Administrator may not carry out the recommendations included in the report if a joint resolution of disapproval is enacted by Congress within 30-days after the submission of the report to Congress. The FAA is still developing the facilities realignment and consolidation report and is delayed in meeting the timelines outlined in the Reform Act.

Another important provision in the Reform Act addresses concerns by industry and other stakeholders related to inconsistent interpretations of regulations by FAA staff and Regional offices. To address the concerns, the Reform Act directs the FAA to form an advisory panel to

determine the root cause of inconsistent interpretations and to develop recommendations to improve consistency among FAA offices. The report was due one year after enactment and is currently overdue.

Finally, the Reform Act requires the FAA to review and reform its aircraft certification process by conducting an assessment, developing recommendations to improve efficiency, reduce costs, and streamline and reengineer the certification process. A report was due six months after enactment and the FAA is directed to begin implementing the recommendations not later than one year after enactment. The FAA is still in the process of developing these requirements.

NextGen

Under our current air traffic system, controller workload, voice communication congestion, limitations of air traffic control radar accuracy, and the coverage and accuracy of ground-based navigational signals impose limitations on the capacity and efficiency of air traffic, particularly in busy terminal areas near major airports and metropolitan areas. According to the FAA, by 2025 our air traffic system will need to handle roughly 1 billion passengers per year and, including general aviation flights, more than 79,000 flights every day. It is widely acknowledged our current system will not be able to meet future demands.

For nearly a decade, the FAA has been trying to transition from legacy air traffic systems to NextGen. These efforts include transitioning from a ground-based radar system to a satellite-based surveillance system, developing data communications capabilities between aircraft and the ground to reduce controller and pilot workload, improving aviation weather forecasting and monitoring systems, and creating shared and distributed information technology architectures. When it is properly implemented, NextGen will reduce delays and operating costs, improve safety and efficiency, increase capacity, and lessen aviation's impact on the environment. This will ensure that the United States aviation system maintains its global competitiveness as other nations modernize their own air traffic control systems.

However, NextGen suffers from a lack of accountability, significant cost overruns, and numerous project delays. To address underlying shortfalls and unforeseen challenges, Congress enacted numerous NextGen reforms in the Reform Act, which include requiring the FAA to establish a Chief NextGen Officer, responsible for overseeing the entire NextGen program and held accountable by Congress. In addition, it elevated the position of the Director of the Joint Planning and Development Office (JPDO) to Associate Administrator, reporting directly to the Administrator and responsible for inter- and intra-agency coordination. It granted the FAA authority to streamline the environmental review process required for the development and implementation of performance-based navigation procedures. It authorized the establishment of an avionics equipment incentive program and required the FAA to identify operational incentives for equipment. In addition, it required the FAA to establish and track NAS performance metrics to track the agency's progress in implementing NextGen.

Unfortunately, to date the FAA does not have a Chief NextGen Officer and has not elevated the head of JPDO to Associate Administrator. Further, the agency has not implemented

a plan to make use of its new authority to expedite the environmental review process, has not established financial or operational equipage incentives, and has not completed its work on establishing and tracking NAS performance metrics.

Conclusion

It has been over a year since the FAA Modernization and Reform Act of 2012 became law, which created a vital four year framework for the FAA and industry. It is the Aviation Subcommittee's responsibility to ensure that the FAA is properly implementing the provisions contained in the Reform Act. In addition, given the important work that the FAA is responsible for, it is critical that the Subcommittee ensure the FAA is properly organized and structured. The Reform Act set forth dozens of deadlines that the FAA was required to achieve; some of those deadlines have been met, while the FAA is still in the process of meeting others. While the FAA may not have met all deadlines, some progress has been made in areas that were facing stagnation or inefficiencies. The FAA must be attentive in its efforts to implement the mandates and goals of the FAA Modernization and Reform Act of 2012.

WITNESS LIST

The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration