

STATEMENT OF ED BOLEN

PRESIDENT AND CEO

**NATIONAL BUSINESS AVIATION
ASSOCIATION**

BEFORE THE

SUBCOMMITTEE ON AVIATION

**COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE**

U.S. HOUSE OF REPRESENTATIVES

March 17, 2010

**STATEMENT OF ED BOLEN
PRESIDENT AND CEO
NATIONAL BUSINESS AVIATION ASSOCIATION**

Mr. Chairman and members of the Subcommittee, my name is Ed Bolen, and I am the President and CEO of the National Business Aviation Association. I am grateful for the opportunity to appear before you today. NBAA commends the Subcommittee for holding this important hearing to discuss FAA's Oversight of On-Demand Aircraft Operators.

THE NATIONAL BUSINESS AVIATION ASSOCIATION

NBAA was founded 62 years ago to represent companies that utilize general aviation aircraft as a tool for meeting some of their transportation challenges. NBAA and our Members are committed to working with Congress to transform and modernize the nation's aviation system. Likewise, we are committed to modernization policies that support the continued growth of each aviation segment, including general aviation, which plays a critical role in driving economic growth, jobs and investment across the U.S. We strongly support the shared goal of keeping our national aviation system the largest, safest and most efficient in the world.

General aviation is an essential economic generator, contributing more than \$150 billion to annual U.S. economic output, and directly or indirectly employing more than one million people. Most general aviation aircraft operating around the world are manufactured and/or completed in the U.S., and our industry is continuing to build a strong American manufacturing and employment base that contributes positively to our national balance of trade. Congress recognized just how fundamental general aviation is to our nation's transportation system, rural economies, manufacturing capability, and balance of trade when it passed the General Aviation Revitalization Act a little more than a decade ago.

FACTS ABOUT BUSINESS AVIATION

Business aviation, as many members of the Subcommittee know, is an FAA-defined term. According to the FAA, business aviation is the use of any general aviation aircraft – piston or turbine – for a business purpose.

From creating growth opportunities and global connectivity for America's small towns and rural areas to supporting the nation's productivity, business aviation is an important economic engine, creating jobs and investment, while contributing to the world's leading aviation system. Simply put, business aviation is a vital part of the nation's economy and transportation system.

The U.S. aviation system is fully integrated. Each player is critical to the success, strength and growth of our economy. The system is made up of three segments:

- Scheduled operations, including passenger airlines;
- Military, and;
- General aviation.

General aviation includes diverse operations, with business uses that range from agriculture, to law enforcement, to fire and rescue services, to varied government, educational, nonprofit and business organizations. Servicing and supporting these organizations are FBO's, maintenance technicians, suppliers and service providers.

The business aviation fleet is dominated by pistons and turboprops, with over 80 percent of the 15,000 registered business aircraft in the U.S. having cabins about the size of an SUV, and flying on average less than 1,000 miles. The vast majority of these GA operators use small aircraft that seat no more than eight people.

A Vital Lifeline for Main Street

In small towns and rural areas across America, business aviation is an essential tool that enables businesses to thrive, grow and create jobs in their hometowns. That's because in many instances, there are no other transportation options that meet their needs.

Many small and mid-size businesses are located in areas without scheduled airline service. Businesses of all sizes require in-person travel for such operations as sales, technical support and other types of customer service. Such trips may call for multiple stops in a short period of time or travel to remote locations. Often, the distances are too long to drive or airline service is not available.

A 2009 survey of business aviation pilots and passengers, conducted for NBAA by Harris Interactive, concludes that managers and other mid-level employees are the typical passengers on business aircraft. Only 22% of passengers on business aircraft are top management (i.e., a company's Chairman, Board Member, CEO or CFO); the majority are other managers (50%) and or technical, sales or service staff (20%).

A Lifeline in Disaster and Emergency

The business aviation community is not only an economic lifeline for thousands of our nation's communities; it also supports people and communities both here and abroad during times of crisis.

Following the devastating earthquake that struck the island nation of Haiti on January 12, people from all corners of the business aviation community contacted NBAA with one central question: "How Can I Help?"

A tally of all the offers to donate time, aircraft, and expertise is difficult to gauge, but estimates are that business airplanes have conducted more than 700 flights, transported nearly 3,500 passengers, and delivered several hundred thousand pounds of supplies.

This staggering airlift started coming together immediately following the earthquake. Within two days after the quake hit, NBAA had logged hundreds of offers of flight support and other assistance from individuals and companies in business aviation.

Furthermore, estimates are that nearly 100 general aviation aircraft on humanitarian missions flew from the U.S. to the Haitian capital Port-Au-Prince in just the first five days after a local airport opened to humanitarian flights. During the two-day weekend after the airport opened, the U.S. military and the Federal Aviation Administration reported that 330 requests to land had been approved, with nearly half coming from civilian aircraft.

The people who rely on a general aviation aircraft for business are also dedicated to helping provide lifesaving flights to the communities in which they live and work. Operations like the Corporate Angel Network arrange free air transportation for cancer patients traveling to treatment using the empty seats aboard business airplanes. Angel Flight America's seven member organizations and 7,200 volunteer pilots arrange flights to carry patients to medical facilities.

Veterans Airlift Command uses business airplanes and unused hours of fractional aircraft ownership programs to provide free flights for medical and other purposes for wounded service members, veterans and their families.

Veterans Airlift finds volunteers in the business aviation community to fly missions on request and contribute the full cost of their aircraft and fuel for the missions flown.

ECONOMIC CHALLENGES FACING GENERAL AVIATION

Unfortunately, the people and businesses in general aviation, like other industries, are weathering one of the worst economic storms anyone has ever seen. The impact of the flagging economy on the companies and communities that rely on general aviation is visible in all parts of the country.

This past year, we have seen business aviation flying decrease by as much as 35 percent. The inventory of used airplanes available for sale reached an all-time high. Prices for business airplanes have declined by 40 percent, and employment at leading general aviation companies has fallen by as much as 50 percent.

SAFETY IS PRIORITY ONE

Mr. Chairman, The National Business Aviation Association views its most important responsibility as advancing business aviation safety and fostering development of industry safety best practices. Thanks to ongoing commitments to safe operating practices by NBAA and the professionals involved in business flying, our industry has achieved a level of safety comparable to that for the nation's commercial airlines. Yet, in spite of the safety milestones recognized here and, the overall safety record for the industry, we know that even one aircraft accident is too many. Every accident is a loss for the industry and an opportunity to learn and improve. Aviation remains the safest form of transportation. Continual improvements in technology and training are pushing accident rates lower and lower. But even with these advances, the aviation community must continue to be focused on improving safety performance.

NBAA has been an active participant in issues affecting the on-demand charter community for decades. NBAA's membership includes many of the country's on-demand charter companies.

As this Committee knows so well, Part 135 covers a very wide variety of passenger, cargo and utility flying. This includes regular passenger and cargo flights, specialty work such as air tours, sight seeing, helicopter external load and fire fighting, and life saving missions carrying critical patients and organ teams. Part 135 satisfies many of the common safety requirements across all of these operating environments while allowing operational flexibility to accomplish a long list of missions.

Involvement with 125/135 Aviation Rulemaking Committee

In 2003, I agreed to co-chair the FAA's Part 125/135 Aviation Rulemaking Committee, which had an ambitious goal of updating Part 135 regulations and determining recommendations for the future of Part 125. After two years of dedicated work by hundreds of industry volunteers, we submitted over 140 recommendations to the FAA addressing a myriad of issues affecting Part 135 operations including pilot training, flight duty and rest limits and FAA oversight, among others.

As the DOT IG report on "On-Demand Operator Safety Issues" correctly identifies, there has been little public movement on the important safety

recommendations submitted by the ARC. Since our submission in 2005, new leadership at FAA has taken a renewed interest in following through with our work. We are hopeful that this effort will result in regulatory changes that will enhance safety for Part 135 operators.

On the issue of changes to flight duty and rest requirements, we should point out that the recommendation submitted to the FAA had the majority consensus of all ARC steering committee members but one – which submitted a dissenting opinion. The flight duty and rest recommendation addressed every element of duty limits and rest requirements that the FAA is trying to achieve with the scheduled Part 121 carriers.

DOT-IG Report on “On-Demand Operator Safety Issues”

Some of the issues discussed in the DOT-IG report focused on challenges faced by operators in receiving required approvals from the FAA. Other issues involved delays in updating Part 135 regulations to reflect the current state of the industry. As the DOT-IG report correctly indicates, many of the safety elements of Part 135 remain largely unchanged since their introduction in 1978 despite significant advances in aircraft, avionics, technology and operational complexity.

However, we should also note that the report’s comparison of safety requirements of Parts 121 and 135 does so without a discussion of some of the important considerations that led to the development of separate regulations.

The fact that the FAA regulations contain separate requirements for scheduled air carriers and on-demand operators is no accident. FAA’s primary mission is the safety of the public in air travel. An important element of this protection is the expectation and influence of the customer traveling by air. In Part 121 operations, the expectation of the customer is that by purchasing a ticket, the air carrier manages all aspects of the operation, including safety, maintenance, departure and arrival times, route of flights and service.

Conversely, under Part 91, the basic aviation safety and operating rules, the operator of the aircraft assumes full responsibility for safety, since there are no paying passengers.

Part 135 allows passengers to play a larger role in determining certain operational parameters of a chartered flight. This increased involvement by customers is facilitated by safety requirements that reflect the variability and complexity of operator.

Over the years, specific updates to Part 135 have reflected the growing complexity of on-demand operations. As an example, in 2008, the FAA required Part 135 operators to evaluate the same considerations as scheduled air carriers conducting extended range flights with aircraft having only two engines. Known as ETOPS, this air carrier concept brought a needed update to a regulatory structure constructed around the operation of piston and turboprop aircraft. Now, complex turbojet aircraft with ranges approaching those of airliners operating under Part 135 must develop their flight plans to remain within three hours of an airport, just like the airlines.

While large portions of Part 135 remain untouched from its introduction in 1978, added requirements reflecting the latest safety analysis and research have improved the safety record for the industry. Technological improvements such as TCAS and EGPWS, CVRs and FDRs, have applied the same safety improvements to both Part 121 and Part 135. In setting its safety targets, the FAA has recognized that multiple approaches can achieve the same goal. There are many similarities between Part 121 and Part 135 which seek to achieve the same safety goal through alternate means of compliance, a fact that unfortunately is not covered by the IG report.

Elements of the Report

NBAA is concerned about some elements of the report that appear to be misleading. This concern, combined with an appearance of causal analysis for some aviation accidents – a purview set aside for the National Transportation Safety Board – is troubling, considering the DOT’s long history of technical aviation reports. Additionally, we believe that the report’s focus on only minimum required standards for some operators does not accurately reflect the full scope of requirements contained within Part 135.

Additionally, the sections of the report that discuss CRM, cabin attendant safety training and dispatchers, paint a incomplete picture of the issues and fail to provide a balanced analysis.

Minimum Flight Experience

Part 121, §121.437, Pilot Qualification: Certificates Required states that: “No certificate holder may use nor may any pilot act as a pilot in a capacity other than those specified in paragraph (a) of this section unless the pilot holds at least a commercial pilot certificate with appropriate category and class ratings for the aircraft concerned, and an instrument rating.” A commercial pilot certificate requires 250 hours of flight experience. This is contrary to the report’s statement that Part 121 requires 1500 hours and an Air Transport License as minimum pilot experience.

Maximum Flight Hours

Additionally, under Part 121, §121.471(a)(4) Flight Time Limitations and Rest Requirements: All Flight Crewmembers states: "No certificate holder conducting domestic operations may schedule any flight crewmember and no flight crewmember may accept an assignment for flight time in scheduled air transportation or in other commercial flying if that crewmember's total flight time in all commercial flying will exceed 8 hours *between required rest periods*" (emphasis added).

§121.471(b)(1), Flight Time Limitations and Rest Requirements: All Flight Crewmembers states: "Except as provided in paragraph (c) of this section, no certificate holder conducting domestic operations may schedule a flight crewmember and no flight crewmember may accept an assignment for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least the following: 9 consecutive hours of rest for less than 8 hours of scheduled flight time." This could result in total flight time in a 24 hour period of *nearly 15 hours*. This is contrary to the statement in the DOT-IG report that the maximum flight time under Part 121 is 8 hours.

Aircraft Flight Instruments

Other comparisons also do not accurately compare similar types of operations and associated requirements. Table 2 of the report, while listing "the least restrictive regulations...for each subject," fails to indicate that equipment requirements such as Terrain Awareness and Warning Systems, Traffic Alert & Collision Avoidance Systems, Cockpit Voice and Flight Data Recorders and In-Flight Weather Radar are required under Part 135 for aircraft with 10 or more passenger seats.

The aircraft flight instruments identified in the DOT-IG report cost hundreds of thousands of dollars to purchase, test, install and certify to FAA standards. The cost of this equipment for small aircraft, those with nine or fewer passenger seats, can often exceed the value of the aircraft.

Maintenance

Additionally, maintenance programs for aircraft with 10 or more seats include aging airplane and continuous surveillance and analysis requirements.

Crew Resource Management

As the IG report correctly notes, the FAA published its CRM proposal in May 2009. This proposal stems from recommendations made by the Part

125/135 Aviation Rulemaking Committee. NBAA endorsed this ARC recommendation because of the value we have seen in its use by the large commercial air carriers. We look forward to seeing the final rule.

Cabin Attendant Safety Training

Another recommendation of the Part 125/135 ARC was additional safety training requirements for cabin safety personnel and passenger service specialists. As a passenger on a Part 135 aircraft, an expectation exists that a cabin attendant working on the flight possesses the necessary safety training needed to assist passengers in the event of an emergency. NBAA agrees with the need for cabin safety training.

Unfortunately, the inclusion of the Teterboro accident, which has been identified as possibly one of the most illegal flights ever conducted, where luckily no fatalities occurred, suggests that the industry conducts no training at all for its cabin attendants. NBAA is the only organization that offers a conference specifically dedicated to business aircraft cabin safety training. Thousands of cabin safety professionals have attended our training, which discusses the latest safety information and research.

On Demand Dispatchers

As we have discussed earlier, Part 135 encompasses an extremely wide variety of operations. The vast majority of Part 135 operations would be considered small businesses by the U.S. Small Business Administration. In order for a dispatcher to correctly perform his or her duties, both the business location and the aircraft need sophisticated electronics to allow communication both on the ground and in flight. It's not as simple as sending an email to a work colleague. This equipment is extremely expensive, often requiring monthly and annual service fees.

Part 135 already contains the concepts of airline dispatching in the requirements for exercising operational control of the aircraft. Operational control is much larger than simply starting the engines and making the aircraft turn left or right. Operational control is a concept that determines the legality of the flight, the crew, the aircraft and the passengers. In 2006, the FAA began an extensive campaign within the Part 135 industry to upgrade the industry's knowledge and understanding of operational control.

That effort resulted in significant changes to how Part 135 operators plan and conduct their flights. We believe that FAA's efforts on operational control have achieved what the DOT-IG report seeks to accomplish through the requirement of a dispatcher.

NBAA's Recommendations

The Part 135 industry has struggled to find its place among FAA's competing safety priorities. Having fewer safety inspectors – whose first priority is the large scheduled airlines – has often led to unanswered safety questions and in some cases, incorrectly applied safety standards by operators. We believe the following recommendations could play a dramatic role in improving oversight of the Part 135 community:

1. **Implement the recommendations of the Part 125/135 Aviation Rulemaking Committee.** These extensive recommendations address many of the issues identified in the IG report. We believe that prioritizing the ARC recommendations will substantially benefit the Part 135 industry.
2. **Specific 135 training for new inspectors and during recurrent inspector training.** New inspectors receive very little exposure to the unique operational nature of Part 135 during their initial indoctrination training in Oklahoma City. We believe that more than a casual acknowledgement of Part 135 would give inspectors more confidence when charged with overseeing those operators, and would allow for a more seamless transition between classroom and real-world oversight.
3. **Balance inspector workload with available resources.** Today, it is not uncommon for a single operator to oversee one to two dozen Part 135 certificates. This volume of work does not allow an inspector to provide the same level of oversight to certificates as a large air carrier gets with a single inspector who is assigned to a single carrier. Better allocation of inspector resources could allow for more interactive and in-depth oversight, hopefully revealing areas for improvement before accidents occur.

CONCLUSION

In conclusion, NBAA is committed to aviation safety. We will continue to work with Congress, industry leaders, government agencies, academic researchers and aircraft operators to exchange insights and information about safety and operational best practices with the shared goal of keeping the U.S. aviation system the safest, largest and most efficient in the world. NBAA and our Member Companies across the nation look forward to working with this Subcommittee to continue this effort.