



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

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SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Aviation
FROM: Staff, Subcommittee on Aviation
RE: Hearing on "Implementation of the FAA Reauthorization and Reform Act: One Year Later"

PURPOSE

The purpose of this hearing is to 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

On February 14, 2012, the President signed into law the *FAA Modernization and Reform Act of 2012* (P.L. 112-95). This key piece of legislation contained critical provisions to reforming and modernizing the United States civil aviation system and provided long-term stability for the industry. 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. The Act also contains provisions that will implement passenger service improvements. The Reform Act contains multiple provisions that assist the FAA's safety oversight role. After five years of multiple short term extensions, the new 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, with government, industry, and stakeholders all working together 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 FAA, stakeholders, and

Congress. The Reform Act requires the FAA to issue rules on several key safety areas, including air ambulance operations maintenance providers, foreign repair stations, and commercial aircraft personnel training requirements. Critical safety issues are also addressed with FAA reporting requirements on topics such as runway safety, flight standards, and foreign repair stations. To help foster the safety of the national airspace system (NAS) the Reform Act also contains a variety of studies on FAA staffing needs and models and addresses a variety of training issues. While the FAA has missed several deadlines for the provisions described above, it has made progress and continues to work to meet the requirements.

Passenger Service Improvements

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

Unmanned Aircraft Systems

The provisions in the Reform Act require FAA to allow for the safe integration of civil unmanned aircraft systems (UAS) into the national airspace system by December 2015. It is ultimately FAA's call whether civil UAS can be safely integrated by this date. Public UAS's, such as those operated by Federal, State, and local government entities, including law enforcement agencies, are currently operating in the NAS 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 UAS 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 UAS's into the national airspace system at six test ranges. The FAA is currently behind on the implementation due to public concerns on privacy. The FAA issued a Screening Information Request (SIR) on February 14, 2013, for the test ranges. The establishment of test ranges will allow the FAA to collect valuable data on the operations of UASs. In regard to the operation of model aircraft, the FAA may not promulgate any rule or regulation regarding a model aircraft or an aircraft being developed as a model aircraft, if it is flown for hobby or recreational use and adheres to the other requirements of the law. In addition, the Secretary shall determine if certain UAS may operate safely in the national airspace system

before completion of the comprehensive plan and guidance required by the Reform Act. In making the determination, the Secretary shall determine the types of UAS, if any, as a result of their size, weight, speed, operational capability, etc. do not create a hazard to users of the national airspace system or the public or pose a threat to national security; and whether a certificate of waiver, certificate of authorization, or airworthiness is required for the operation of small UAS. If the Secretary determines that certain UAS's may operate safely in the national airspace system, the Secretary is required to establish requirements for the safe operation of such aircraft systems. While the FAA has made steps to achieve the UAS requirements in the law, it has run into several problems that have delayed implementation.

Good Governance

The Reform Act includes several provisions to encourage the FAA to reform and streamline its offices, regulations, and processes and to seek greater cost efficiencies. The 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, which was completed earlier this year, and is given the authority to take any actions necessary to address the findings of its review and report. Another important provision in the Reform Act directs the FAA to develop a facilities realignment and consolidation report. The report is to be developed with the participation of labor organizations and industry stakeholders. This report is to be comprehensive and include recommendations to support the transition to 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 provision included in the Reform Act addresses concerns 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. A report is due one year after enactment. 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.

Next Generation Air Transportation System (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 a Next Generation Air Transportation System (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.

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 Act, which include:

- Requiring the FAA to establish a Chief NextGen Officer, responsible for overseeing the entire NextGen program and held accountable by Congress;
- Elevating 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;
- Granting the FAA authority to streamline the environmental review process required for the development and implementation of performance-based navigation procedures;
- Authorizing the establishment of an avionics equipage incentive program and requiring the FAA to identify operational incentives for equipage; and
- Requiring the FAA to establish and track national airspace system 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 national airspace system performance metrics.

Conclusion

It has been slightly over a year since the *FAA Modernization and Reform Act of 2012* became law, which created a four-year framework for the FAA and industry. In that year, the Reform Act provided dozens of deadlines for the FAA. 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. Much important work remains; and the FAA must remain diligent in its efforts to achieve the mandates and goals of the *FAA Modernization and Reform Act of 2012*.

WITNESS LIST

The Honorable Michael P. Huerta
Administrator
Federal Aviation Administration