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March 19, 2019

The Honorable Calvin L. Scovel, III
Inspector General
Office of Inspector General
United States Department of Transportation
1200 New Jersey Avenue, Southeast, 7th Floor
Washington, D.C. 20590

Dear Inspector General Scovel:

In the wake of two devastating Boeing 737 MAX 8 crashes, I respectfully request that you thoroughly investigate what led to this tragic loss of life and how we can better keep our skies safe. With 346 people dead – including eight Americans – and trust in our nation's aviation safety authorities in tatters, you have a special responsibility to leave no stone unturned and to provide the basis for both accountability and reform. I urge you to go beyond Secretary Elaine Chao's audit request, made today. Specifically, your investigation must consider actions that the Federal Aviation Administration (FAA) took or failed to take before approving Boeing 737 MAX aircraft to fly, in response to any safety concerns raised after the aircraft had been approved, and during the period after the first 737 MAX 8 crash when the aircraft's deficiencies had become apparent.

First, I ask that your office consider whether the Boeing 737 MAX 8 and 9 planes should have been approved by the FAA without changes in either engineering or operating procedures. Safety experts have long raised concerns that the FAA's Organization Designation Authority (ODA) program leaves the fox in charge of the hen house. Under that program, employees of the aircraft manufacturers – who are hired and can be fired by those manufacturers – are responsible not only for quality control during the aircraft manufacturing process but for certifying that aircraft are safe. In short, the staff responsible for regulating aircraft safety are answerable to the manufacturers who profit from cutting corners, not the American people who may be put at risk. I urge you to determine the degree to which the ODA program played a role in allowing the FAA to miss safety problems before the 737 MAX 8 and 9 were approved and whether the FAA's procedures for certifying aircraft before they can fly are sufficient to protect the public.

After the 737 MAX 8 and 9 were approved, the FAA had an ongoing duty to monitor the safety of those planes. It has been reported that pilots identified potential safety concerns related to these aircraft before the crash of Lion Air Flight 610, the first 737 MAX 8 disaster. Following that tragedy, the FAA determined that the automated anti-stall sensors and inadequate operating procedures were at fault and called on Boeing to revise certificate limitations and operating procedures of the airplane flight manual, but it is not clear to what degree the FAA's directive was implemented by Boeing. Any investigation of the two Boeing crashes must include a review of pilots' complaints and other information that could have alerted the FAA to safety problems with 737 MAX planes before the first plane went down, as well as lessons that the FAA failed to learn – or failed to take sufficiently seriously – following the first 737 MAX 8 crash.

Finally, in the period following the crash of Ethiopian Airlines Flight 302 – the second disaster involving a 737 MAX 8 plane in less than five months – the FAA appeared to be the only air safety organization on earth that did not recognize the danger posed by these planes. China, Ethiopia, and Indonesia immediately grounded the 737 MAX 8. Within days of the crash, the United Kingdom, Australia, Singapore, Brazil, Mexico, Argentina, and many other countries around the world followed suit. Yet the FAA stubbornly insisted on keeping Boeing 737 MAX aircraft in the sky, disregarding key similarities already known between the crashes of Flight 610 and Flight 302. In fact, just after the Flight 302 crash, the FAA announced it would require software changes by the end of April – allowing 737 MAX planes to continue to fly in the meantime. Your investigation should determine why the FAA failed to act with exigency during this crucial period.

As part of your investigation, I ask that you find answers to the following specific questions related to the concerns articulated above. I also ask that, to the degree possible, you make your findings available to Congress and the American people, both to ensure that the appropriate individuals are held accountable and to allow for needed reforms.

Aircraft safety certification:

1. Is there a loophole allowing for unduly expedited approval of aircraft that are a derivative model? How can this loophole be addressed?
2. Why were Boeing 737 MAX aircraft certified without requiring additional operating procedures?
3. Did FAA or Boeing employees engage in any unethical, improper or criminal activity during the certification process? Were there conflicts of interest that were not properly addressed?

After the Lion Air crash:

1. What was the basis for FAA issuing an airworthiness directive after the Lion Air crash? What data did it review?
2. How did FAA monitor implementation of requirements outlined in the airworthiness directive issued after the Lion Air crash?

3. Was FAA able to arrive at its decision without improper or undue influence from Boeing or Administration officials? What role did Boeing or Administration officials play?
4. Why did FAA not mandate Boeing immediately institute software updates to its planes and require additional operating procedures? Was that approach considered?
5. Did FAA consider doing more at this time, including a grounding? Why or why not?
6. Did the FAA review pilot complaints to NASA's ASRS system? How regularly is this information reviewed and acted upon? What changes can be made to this system to make it more effective?

After the Ethiopian Airlines crash:

1. What factors are taken into account for a grounding decision?
2. What information did aviation regulators in other countries consider when they decided to ground Boeing 737 MAX planes? Did the FAA lack that information, did they interpret it differently, or did they simply fail to act?
3. What process is in place to ensure a timely decision? What factors led to a delayed decision?
4. What was the timeline for arriving at the grounding decision?
5. What steps will the FAA take to determine safety and lift the grounding decision?

Policy:

1. How should the FAA change its policies, practices, or procedures to ensure that a dangerous aircraft do not transport passengers?
2. How should the FAA update its policies to ensure it is more timely in decisions to ground aircraft? Does the FAA need any additional authorities to do so?

I thank you for your attention in this important matter. I respectfully request a response no later than March 29, 2019 laying out your plans for investigating these serious issues and for answering the questions provided above.

Sincerely,



Richard Blumenthal
United States Senate