

# United States Senate

Washington, DC 20510-1304

March 22, 2019

Daniel K. Elwell  
Acting Administrator  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, D.C. 20591

Dear Acting Administrator Elwell:

I write to request answers to growing questions surrounding the Federal Aviation Administration's (FAA) safety certification process and the agency's oversight role in Boeing's decision to make important safety features optional on their 737 Max 8 series aircraft. The flying public rely on the FAA to certify the planes they fly in as safe. In the wake of the two recent crashes involving the same aircraft model, the public deserve more transparency about how the FAA makes those determinations.

While the National Transportation Safety Board (NTSB) and the FAA continue to investigate the cause of the recent crashes involving Boeing 737 Max 8 series aircraft, a previously optional safety feature will now reportedly be added as a standard feature on all 737 Max 8 series planes. Boeing will make this change as part of upgrades to the aircraft's automated-control system that were called for in a FAA air safety directive following the recent Ethiopian Air crash that killed all 157 onboard, including eight Americans. Investigators of the Lion Air crash in October involving the same aircraft model say that faulty data from sensors on the plane may have caused the plane's new software system to malfunction before the crash. The previously optional safety feature that Boeing is now adding helps pilots recognize false readings from the system's sensors.

Although safety upgrades in response to these deadly crashes are a welcome first step, the fact that this change is being made now raises questions about why this important safety feature was not required by the FAA to be standard on the Boeing 737 Max 8 series to begin with. To provide the public with greater transparency, please provide answers to the following questions about the FAA's safety certification process:

- Can you confirm that the FAA will require Boeing to add an additional safety feature to the 737 Max 8 series that the FAA previously determined was not required to be standard on the aircraft?
- If so, why was this safety features not originally required by the FAA to be included on all Max series aircraft?
- What process was used by the FAA to determine that certain safety features on the aircraft were not required to be standard?
- What additional safety features of the Max 8 series aircraft will the FAA allow to remain optional?

- To what extent does the FAA allow manufacturers to self-certify the safety features on their aircraft including those considered optional?
- What information does the FAA require manufacturers, who design and build the planes, and airlines, who purchase and fly them, to disclose to the public about the safety features on their aircraft including which features are only available as additional options and the price associated with adding optional safety features to the aircraft?

Growing questions about the FAA's certification of the Max series have led European and Canadian regulators that normally rely on the FAA's safety determinations to conduct their own reviews of the safety of these Boeing planes. The fact that President Trump only nominated a new FAA Administrator this week after leaving the position open for the past 14 months also calls into question this Administration's commitment to safety. To ensure accountability for the flying public and to guarantee that the FAA remains the world leader in aircraft safety, increased transparency about the FAA's safety determinations is needed.

I look forward to your prompt response to my preliminary questions about the FAA's current safety certification process. Thank you for your attention to this urgent matter, and for your commitment to maintaining the safety of aviation in the United States.

Sincerely,



Richard J. Durbin  
United States Senator