

The Honorable Maria Cantwell Chair, Committee on Commerce, Science, and Transportation United States Senate Washington, DC 20510

Dear Chair Cantwell:

The Federal Aviation Administration's (FAA) Office of Audit and Evaluation is pleased to submit its Annual Report to Congress, the "Aviation Safety Whistleblower Investigation Office" in fulfillment of the statutory requirements established by the FAA Modernization and Reform Act of 2012, Section 341, codified at 49 United States Code § 106(t)) and augmented as

Pub. L. 116-260, Section 133 (a)(3), Aircraft Certification Safety and Accountability Act.

We have sent identical letters to Chair DeFazio, Ranking Member Wicker, and Ranking Member Graves.

Sincerely,

H. Clayton Foushee

Director, Office of Audit and Evaluation



The Honorable Roger Wicker
Committee on
Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Ranking Member Wicker:

The Federal Aviation Administration's (FAA) Office of Audit and Evaluation is pleased to submit its Annual Report to Congress, the "Aviation Safety Whistleblower Investigation Office" in fulfillment of the statutory requirements established by the FAA Modernization and Reform Act of 2012, Section 341, codified at 49 United States Code § 106(t)) and augmented as

Pub. L. 116-260, Section 133 (a)(3), Aircraft Certification Safety and Accountability Act.

We have sent identical letters to Chair Cantwell, Chair DeFazio, and Ranking Member Graves.

Sincerely,

H. Clayton Foushee

Director, Office of Audit and Evaluation



The Honorable Peter A. DeFazio Chair, Committee on Transportation and Infrastructure House of Representatives Washington, DC 20515

Dear Chair DeFazio:

The Federal Aviation Administration's (FAA) Office of Audit and Evaluation is pleased to submit its Annual Report to Congress, the "Aviation Safety Whistleblower Investigation Office" in fulfillment of the statutory requirements established by the FAA Modernization and Reform Act of 2012, Section 341, codified at 49 United States Code § 106(t)) and augmented as

Pub. L. 116-260, Section 133 (a)(3), Aircraft Certification Safety and Accountability Act.

We have sent identical letters to Chair Cantwell, Ranking Member Wicker, and Ranking Member Graves.

Sincerely,

H. Clayton Foushee

Director, Office of Audit and Evaluation



The Honorable Sam Graves Committee on Transportation and Infrastructure House of Representatives Washington, DC 20515

Dear Ranking Member Graves:

The Federal Aviation Administration's (FAA) Office of Audit and Evaluation is pleased to submit its Annual Report to Congress, the "Aviation Safety Whistleblower Investigation Office" in fulfillment of the statutory requirements established by the FAA Modernization and Reform Act of 2012, Section 341, codified at 49 United States Code § 106(t)) and augmented as

Pub. L. 116-260, Section 133 (a)(3), Aircraft Certification Safety and Accountability Act.

We have sent identical letters to Chair Cantwell, Ranking Member Wicker, and Chair DeFazio.

Sincerely,

H. Clayton Foushee

Director, Office of Audit and Evaluation



U.S. Department of Transportation **Federal Aviation Administration**

Office of Audit and Evaluation Annual Report to Congress Fiscal Year 2021

Title 49 of the United States Code § 106(t)(7)

Legislative Mandate

The Federal Aviation Administration (FAA) Office of Audit and Evaluation (AAE) submits this Annual Report to Congress in response to Title 49 of the United States Code (49 U.S.C.) § 106(t)(7), titled Office of Whistleblower Protection and Aviation Safety Investigations.

This report summarizes the work that the FAA Office of Audit and Evaluation initiated or completed with regard to a number of critical aviation safety activities during Fiscal Year 2021 (FY2021). AAE conducted this work in support of the FAA's continuing mission to provide the safest, most efficient aerospace system in the world. In addition to conducting investigations under § 106(t), AAE performs many other important safety-related investigations and safety oversight activities.

During this reporting period, AAE investigated or oversaw FAA Hotline disclosures pertaining to nearly every FAA organizational entity. Many of the allegations contained in these disclosures identified programmatic or operational deficiencies that could have impacted safety directly. In some cases, allegations were substantiated by our investigations, and our recommendations resulted in policy changes and the implementation of noteworthy corrective actions by the FAA. Overall, senior FAA officials were open and receptive in response to AAE's recommendations for improving aviation safety and FAA operations.

AAE investigators and FAA subject matter experts who assist and support AAE safety investigations from whistleblower disclosures worked together to demonstrate a strong commitment to safety and improving FAA operations. In December 2020, as part of the Aircraft Certification, Safety and Accountability Act (the Act), Congress renamed AAE from the "Aviation Safety Whistleblower Investigation Office," to "Office of Whistleblower Protection and Aviation Safety Investigations." The Act also establishes the position of Whistleblower Ombudsman.

The purpose of the name change was to emphasize the office's role with regard to accountability, aviation safety, and whistleblower protection. To reduce potential confusion or uncertainty among FAA employees and other whistleblowers, AAE proposed to keep its current name, but to modify the office organization to comply with the Act. AAE was established in 2010, and has continually operated as AAE. Its name, functions and responsibilities are well rooted within FAA culture. During FY22, AAE established the "Office of Whistleblower Ombudsman," and merged existing investigation-related functions under a new office named the "Office of Whistleblower & Aviation Safety Investigations" to meet the statutory requirements of the Act.

AAE continues to coordinate with and support other FAA Lines of Business, the DOT Office of Inspector General (OIG), and Office of Special Counsel (OSC), all of which share responsibilities for handling disclosures and conducting whistleblower retaliation investigations.

-

¹ See prior reports to Congress for Fiscal Years 2013-2020.

AAE appreciates the support it has received from senior officials throughout the FAA and the entire U.S. Department of Transportation (DOT), the OIG, OSC, the U.S. Government Accountability Office (GAO), and members of Congress and their staff members during this reporting period. AAE looks forward to continuing this important work in the coming years.

Significant Activity October 1, 2020 – September 30, 2021

FY2021 was a successful year for AAE, despite continued challenges associated with the COVID-19 pandemic. AAE employees showed their flexibility and resiliency and continued a normal pace of operations at the outset of COVID-19-related workplace restrictions. AAE is equipped to work virtually and remotely, and it has fulfilled all of its responsibilities.

Table 1:

	Total Submissions	146
Disclosures referred for investigation		57
Disclosures referred to the safety hotline		26
Disclosures that did not require further investigation ¹		63
Sources of Complaints Referred for Inve	estigation	57
Mechanics – 9 Cabin Crew – 3		
Cabin Crew – 3 Manufacturers – 8 Gate/Station Agents - 3 Others ² – 7 FAA Employees – 17		
Cabin Crew – 3 Manufacturers – 8 Gate/Station Agents - 3 Others ² – 7		57

Appendix A lists individual summaries of each safety disclosure made by FAA employees and aviation industry employees in FY2021.

OIG and GAO Audits

In accordance with FAA Order 1100.167B, AAE serves as the FAA's primary interface and liaison for audits of and recommendations regarding FAA-related engagements by GAO, DOT OIG, and other OIGs.² AAE reviews the sufficiency and responsiveness of draft FAA responses to these external audits and monitors the implementation of corrective action commitments by FAA organizations in response to these external audits.

Table 2:

OIG and GAO Audit Activity in FY 2021	DOT OIG	GAO	Other Reviews	Total
Audit Reviews Initiated	22	28	0	50
Audit Reports Reviewed and Responses Drafted	12	12	0	24
Audit Recommendations Resulting from Completed Audits	106	32	0	138
Recommendations Resolved Based Upon FAA Responses	102	32	0	134

FAA Hotline Operations

Pursuant to FAA Order 1070.1A Change 1, the FAA Hotline receives reports related to unsafe and unauthorized aviation activity that may violate an FAA regulation, order, or any other provision of federal law related to aviation safety; or fraud, waste, abuse, or misconduct associated with FAA programs, personnel, organizations, or facilities.³ The FAA Hotline receives reports from FAA employees, the aviation community, law enforcement, and the public via an online web form, email, or mail. Based upon an analysis of all matters submitted to the FAA Hotline in FY2021, there were more than 6,164 referrals to FAA organizations for investigation or other appropriate action. The number of referrals to FAA organizations increased by 18 percent over FY2020.

² FAA Order 1100.167B *The Office of Audit and Evaluation* available at: https://www.faa.gov/documentLibrary/media/Order/FAA Order 1100 167B.pdf

³ FAA Order 1070.1A Change 1 *FAA Hotline Program* available at: https://www.faa.gov/documentLibrary/media/Order/1070.1A w CHG 1.pdf

Appendix A: FAA Safety-related Whistleblower Investigations

Tracking Number: EWB21003 Date Received: 10/16/2020

Reporter: Other. Allegation(s): HR Manager reporting a Part 135 carrier did not complete drug and alcohol protocols prior to hiring a mechanic and two pilots; loadmasters who compute weight and balance are not safety sensitive; and the VP Ops directed alteration of a pilot's training records relating to Pilot Records Improvement Act of 1996.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Gate/Station Agent. Allegation(s): Ground handling manager for GAT at Dallas

Fort-Worth (DFW) reporting failure to park aircraft in appropriate safety zone.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard

Reporter: Pilot. Allegation(s): Air Charter Pilot reporting violations of pilot oxygen

requirements and drinking during duty periods.

Referred To: Flight Standards Service

Finding(s): Report under review

Tracking Number: EWB21009 Date Received: 10/26/20

Reporter: Manufacturing. Allegation(s): Manufacturing QA Manager reporting that their employer is failing to accomplish required inspections and use of expired fire retardants.

Referred To: Aircraft Certification Service

Finding(s): Violation of a regulation, order, or standard. Corrective and/or enforcement action completed.

Reporter: Mechanic. Allegation(s): Repair Station mechanic reporting company misled recent FAA inspectors and that repairs are not being properly accomplished.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Pilot. *Allegation(s):* Part 121 carrier captain reporting failure of company Aviation Medical Examiner (AME) to comply with Human Intervention Motivational Study required testing procedures.

Referred To: Office of Aerospace Medicine

Findings: No violation of a regulation, order, or standard.

Reporter: Pilot. Allegation(s): Former Chief Pilot reporting General Operations Manual and training deficiencies and violation of Operation Supplement Safety restrictions.

Referred To: Flight Standards Service

Finding(s): Violation of a regulation, order, or standard. Corrective and/or enforcement action completed.

Reporter: Other. Allegation(s): Employee reporting falsification of training records.

Referred To: Flight Standards Service

Finding(s): Violation of a regulation, order or standard. Corrective and/or enforcement

action pending.

Tracking Number: EWB21019 Date Received: 12/15/20

Reporter: Manufacturing. Allegation(s): Mechanic reporting misuse of his stamp to sign off unaccomplished work and improper repair of chips between spar chord and skin panel on the new aircraft

Referred To: Aircraft Certification Service

Finding(s): Violation of a regulation, order or standard. Corrective and/or enforcement action completed.

Reporter: Mechanic. Allegation(s): Repair Station Mechanic reporting failure to document visible damage.

Referred To: Flight Standards Service

Finding(s): No violations of a regulation, order, or standard.

Reporter: Mechanic. Allegation(s): Repair Station Mechanic reporting failure to document auxiliary power unit door damage and pencil whipping repairs.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Gate/Station Agent. Allegation(s): Ramper reporting lack of training, improperly maintained ground support equipment, and improper cargo loading and ramp procedures.

Referred To: Flight Standards Service

Finding(s): Reported issues are being resolved through the operator's voluntary disclosure program.

Reporter: Pilot. Allegation(s): Part 121 Pilot reporting ASAP and crew rest issues pertaining to 9WGA.

Referred To: Flight Standards Service

Finding(s): Reported issues are being resolved through the operator's voluntary disclosure

program.

Reporter: Pilot. Allegation(s): Former Whistleblower Protection Program submitter reporting that the substantiated finding from EWB16637 pertaining to deadhead legs affecting crew days has not been corrected.

Referred To: Office of Audit and Evaluation

Finding(s): No violation of a regulation, order, or standard.

Reporter: Pilot. *Allegation(s):* Former Whistleblower forwarding her concerns that an AME involved in her grounding due to a false diagnosis is not qualified to be an AME.

Referred To: Office of Aerospace Medicine

Finding(s): No violation of a regulation, order, or standard.

Tracking Number: EWB21033 Date Received: 1/15/21

Reporter: Pilot. *Allegation(s):* Former Whistleblower forwarding her concerns that a Senior Vice President of Operations involved in her grounding is morally unfit to hold an Airline Transport Pilot certificate.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Manufacturing. *Allegation(s):* Mechanic was blending an exterior skin without having the defects documented or an engineering approval.

Referred To: Aircraft Certification Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Mechanic. Allegation(s): Mechanic reporting that the attaching hardware for the CAM roller arm assembly bearings was reused instead of using new hardware in violation of what the job card states.

Referred To: Flight Standards Service

Finding(s): Violation of a regulation, order or standard. Corrective and/or enforcement action pending completion.

 Reporter: Manufacturing. Allegation(s): Project Manager reported a significant supplier speaker fault and was terminated.

Referred To: Aircraft Certification Service

Finding(s): Violation of a regulation, order or standard. Corrective and/or enforcement action pending.

Reporter: Pilot. Allegation(s): Part 121 Pilot reporting deficiencies in the operations manual led to his checkride failure. A check airman has reportedly shown up for duty after drinking.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Mechanic. *Allegation(s):* Mechanic was suspended for reporting another mechanic who was performing unsafe/illegal activities. Forwarded by the South Florida Flight Standards District Office (FSDO).

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Tracking Number: EWB21052 Date Received: 3/1/21

Reporter: Pilot. Allegation(s): Part 135 Pilot retaliated against for documenting discrepancies.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Gate/Station Agent. Allegation(s): Ground Handler working for a U.S. company providing ground handling reporting safety issues with a carrier in December 2020 at Chicago O'Hare.

Referred To: Office of Hazardous Materials Safety and Flight Standards Service

Finding(s): Violation of a regulation, order or standard. Corrective and/or enforcement action complete.

Reporter: Pilot. Allegation(s): Pilot reporting unqualified selectees for First Officer and rolling rest.

Referred To: Flight Standards Service

Finding(s): Violation of a regulation, order or standard. Corrective and/or enforcement action complete.

Tracking Number: EWB21060 | Date Received: 3/18/21

Reporter: Pilot. Allegation(s): Pilot reporting unqualified First Officers, failure to accomplish maintenance, and a passenger in the cockpit.

Referred To: Aircraft Certification Service

Finding(s): Violation of a regulation, order or standard. Corrective and/or enforcement

action complete.

Reporter: Cabin Crew. Allegation(s): Flight Attendant (FA) told the pilots that their bags

were not in the correct position on the plane and was given a corrective action.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Pilot. Allegation(s): Part 135 Pilot reporting issues with minimum equipment list procedures.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Manufacturing. Allegation(s): Non-certificated mechanic reporting a lack of required training and being removed as lead for reporting this safety concern.

Referred To: Aircraft Certification Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Mechanic. Allegation(s): Part 135 mechanic was fired for refusing to fly in an aircraft where the reason for an engine flame out had not been determined.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Other. *Allegation(s):* Internal Evaluation Program (IEP) Manager reporting failures to comply with IEP findings and observations.

Referred To: Flight Standards Service

Finding(s): Violation of a regulation, order, or standard. Corrective and/or enforcement action completed.

Reporter: Other. Allegation(s): Non-specific report of safety issues at a simulator training

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Mechanic. Allegation(s): An air carrier mechanic reporting operation of an unairworthy aircraft in September 2020 via the Aviation Safety Action Program (ASAP) and being retaliated against by being forced to wear a COVID mask even though he has asthma.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Tracking Number: EWB21094 Date Received: 5/7/21

Reporter: Pilot. Allegation(s): Two pilots reporting multiple issues of company non-

compliance with federal aviation standards.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Tracking Number: EWB21095 Date Received: 5/8/21

Reporter: Pilot. Allegation(s): Part 135 pilot believes that three new hires have falsified their

resumes to get hired.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Pilot. Allegation(s): Emergency Medical Services Helicopter (HEMS) Pilot reporting training deficiencies with new model Bell 407 and being suspended for reporting that through Safety Management System.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Other. Allegation(s): Safety Worker reporting that an internal system of

investigation is being improperly manipulated by a manager.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Pilot. Allegation(s): Pilot who had submitted three hotlines reporting being denied

promotion.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Tracking Number: EWB21109 Date Received: 6/28/2021

Reporter: Mechanic. Allegation(s): Repair station mechanic reporting being walked off the property for being unwilling to sign off a job ticket without performing the maintenance.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Other. Allegation(s): Simulator training manager reporting that an instructor did not provide required simulator time to client.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Pilot. Allegation(s): Part 135 Pilot reporting rolling rest as a standard.

Referred To: Flight Standards Service.

Finding(s): Under investigation.

Reporter: Manufacturing. Allegation(s): Previous submitter reporting that the same allegations he had substantiated in Everett, Washington, are happening in the South Carolina facility relating to failure to conduct approved quality inspections.

Referred To: Aircraft Certification Service

Finding(s): Violation of a regulation, order, or standard. Corrective and/or enforcement action pending.

Tracking Number: EWB21120 Date Received: 7/20/2021

Reporter: Pilot. Allegation(s): Part 135 Pilot terminated after making allegations of safety violations to management.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Cabin Crew. *Allegation(s):* FA reporting the company disarmed her ASAP submission ability in retaliation for refusing a flight with an FA who appeared to have COVID symptoms.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Pilot. Allegation(s): Pilot reporting very unsafe and dangerous operations as he was threatened and then terminated for refusing to fly in bad weather.

Referred To: Flight Standards Service

Finding(s): No violation of a regulation, order, or standard.

Reporter: Cabin Crew. Allegation(s): FA reporting being discharged for reporting safety

deficiencies during training.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Manufacturing. *Allegation(s):* Germany-based manufacturing inspector noted multiple nonconforming conditions (such as but not limited to scratches and gouges, inadequate squeeze out, and sealant and paint covering one side of the bearings) on a Polishmade landing gear.

Referred To: Aircraft Certification Service

Finding(s): Under investigation.

Reporter: Pilot. *Allegation(s):* Previous submitter reporting that a Designated Pilot Examiner lied to the company about complainant's flying skills and company discharged him.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Mechanic. Allegation(s): Repair Station mechanic reporting bypassing required steps for cadmium plating of components.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Pilot. Allegation(s): Follow-on to EWB21143 bringing up different training issues.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Pilot. Allegation(s): HEMS Pilot reporting being reassigned after raising safety issues pertaining to a specific night landing.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Reporter: Manufacturing. Allegation(s): Quality Supervisor reported his concerns that the

Vice President of Engineering improperly approved unqualified parts.

Referred To: Aircraft Certification Service and Flight Standards Service

Finding(s): Under investigation.

Reporter: Pilot. Allegation(s): HEMS pilot reporting rolling rest and exceedance of crew

days.

Referred To: Flight Standards Service

Finding(s): Under investigation.

Tracking Number: A20210128008 Date Received: 1/28/2021

Reporter: FAA Employee

Allegation(s): A Certificate Management Office manager directed employees to violate

document and retention requirements to protect the air carrier.

Referred To: AAE Investigated this matter.

Finding(s): Substantiated in part. AAE made two recommendations to develop regulatory support and guidance for aviation safety inspectors to use to ensure compliance with 49 USC § 44735.

Tracking Number: IWB20803 Date Received: 3/5/2020

Reporter: FAA Employee

Allegation(s): Supervisors and upper management at an Air Traffic Control Center did not follow the regulations, policies and standards in place regarding Drug and Alcohol Testing procedures for an Air Traffic Controller who was suspected of being under the influence on position.

Referred To: AAE and the Office of Investigations jointly investigated this matter.

Finding(s): Substantiated in part. AAE made a recommendation to review training for supervisors and managers on "reasonable suspicion."

Reporter: FAA Employee

Allegation(s): Acceptance of possible deficient Continuing Analysis and Surveillance

Systems (CASS) programs by Principle Inspectors at a FSDO.

Referred To: AAE investigated the matter.

Finding(s): Substantiated. The CASS programs were revised as needed.

Tracking Number: H21G003CCO | Date Received: 1/25/2021

Reporter: Referral from OIG

Allegation(s): Fire protection deficiencies at an airport terminal project

Referred To: Office of Airports

Finding(s): No violation of a regulation, order, or standard.

Contacts

Director

H. Clayton Foushee, (202) 267-9000

Senior Technical Advisor

Erika Vincent, (202) 267-8585

Manager, Safety Investigations and AIR 21 Program

Barbara Barnet, (202) 267-4187

Manager, Hotline and Data Analysis

Barbara Barnet, (202) 267-4187

OIG/GAO Audit Coordinator and Liaison

Pierre McLeod, (202) 267-9440