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**The Special Counsel**

June 13, 2018

The President  
The White House  
Washington, D.C. 20500

Re: OSC File No. DI-17-1298

Dear Mr. President:

Pursuant to 5 U.S.C. §1213(e)(3), I am forwarding a report from Department of Transportation (DOT) based on disclosures of wrongdoing at the Federal Aviation Administration (FAA), Aviation Safety Office, Flight Standard Service, in Washington, D.C. The whistleblower, who chose to remain anonymous, disclosed that Aviation Safety Inspectors (ASIs) are improperly approving aircraft for commercial operations under 14 C.F.R. Part 135 (Part 135)<sup>1</sup> and failing to ensure that all aircraft operating in the National Airspace System have valid aircraft registration.<sup>2</sup>

The FAA Office of Audit and Evaluation (AAE) investigation substantiated the whistleblower's allegation that ASIs are improperly approving aircraft for addition to Operations Specifications (Ops Specs)<sup>3</sup> under Part 135 without appropriately reviewing the exemptions of the aircraft.<sup>4</sup> The investigation concluded that ASIs are not sufficiently familiar with the requirement to review exemptions associated with each aircraft prior to adding it to a Part 135 certificate, and that FAA guidance on the requirement was inadequate.

The investigation also substantiated the whistleblower's allegation that aircraft had operated in the National Airspace System without the authority to operate due to expired registration and airworthiness certificates. AAE concluded that most expired registration violations are technical or inadvertent, and do not necessarily increase risk in the National Airspace System. Regardless, when the FAA does not know the location of an aircraft, the owner of an aircraft, or whether the owner might be deliberately attempting to circumvent the regulation, the level of risk increases.

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<sup>1</sup> 14 C.F.R. Part 135 governs commuter and on-demand aircraft operations for compensation or for hire.

<sup>2</sup> The whistleblower's allegations were referred to Secretary Elaine L. Chao for investigation pursuant to 5 U.S.C. §1213(c) and (d). The FAA Office of Audit and Evaluation investigated the allegations, and Secretary Chao reviewed and signed the report.

<sup>3</sup> Each person operating civil aircraft as an air carrier or commercial operator under Part 135 must obtain operations specifications approved by the FAA that identify, among other things, the type, registration markings, and serial numbers of each aircraft authorized for use. See 14 C.F.R. Part 119.

<sup>4</sup> For example, the investigation confirmed that aircraft listed on Part 135 Op Specs had been granted exemptions to 14 C.F.R. § 25.813(e), a safety regulation governing emergency exit access. Based on those exemptions, aircraft owners are permitted install interior doors that limit access to the aircraft's emergency exit, provided the aircraft is not operated for hire or common carriage under Part 135. ASIs are required to determine whether an interior door exists or the danger had been mitigated prior to approval of an aircraft for Part 135 operations.

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Based on these findings, AAE issued recommendations for corrective action to FAA's Associate Administrator for Aviation Safety, who concurred with the report's recommendations on September 18, 2017. The FAA established a task force to analyze approximately 1,000 exemptions and records for over 11,000 aircraft to determine airworthiness actions necessary to ensure the safety of all aircraft with exemptions operating under Part 135. In addition, the FAA is revising guidance to provide clarity and establish procedures regarding ASIs' responsibility to review limitations associated with exemptions prior to aircraft addition to Part 135 Op Specs. AAE also recommended that the FAA revisit and implement recommendations made by the DOT Office of Inspector General in 2013 to enhance the accuracy and integrity of the FAA Civil Aviation Registry.

The whistleblower submitted comments on the FAA report and expressed concern about the FAA's commitment to completing the corrective actions in a meaningful and timely manner. The whistleblower also highlighted that part of FAA's strategic initiative is to address emerging safety risk proactively using consistent, data-informed approaches. However, the whistleblower stated current corrective actions taken by FAA appear reactive. It is worth noting we have received status updates on FAA's proposed corrective actions in this matter, which address the whistleblower's concerns. The FAA Flight Standard Service has conducted a comprehensive review, and narrowed the number of exemptions that may limit aircraft use under Part 135 from 1,000 to 112. A notice directing ASIs to conduct an exemption conformity review of all applicable make, model, and series of aircraft identified in the completed exemption review, as well as other revised FAA guidance are scheduled for publication in September 2018. In addition, the FAA resolved the backlog of aircraft registration revocations and revised its revocation and law enforcement coordination policies in April 2018.

I have reviewed the original disclosure, the agency report, and the whistleblower comments. Based on the information discovered during this investigation, it appears that the whistleblower identified serious problems in the FAA's oversight of Part 135 aircraft and the Civil Aviation Registry. In response to this referral, the FAA is now taking these problems seriously and carrying out comprehensive corrective action.

For these reasons, I have determined that the report meets the statutory requirements and the findings appear reasonable. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency report, and whistleblower comments to the Chairmen and Ranking Members of the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure. I have also filed a copy of this letter, a redacted agency report, and redacted whistleblower comments in our public file which is available at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,



Henry J. Kerner  
Special Counsel

Enclosures