

**Testimony of
Mark V. Rosenker, Acting Chairman
National Transportation Safety Board
before the
Committee on Transportation and Infrastructure
Subcommittee on Aviation
U.S. House of Representatives
regarding
Reauthorization of the National Transportation Safety Board
March 8, 2006**

Good morning, Chairman Mica, Ranking Member Costello, and Members of the Aviation Subcommittee. As Acting Chairman of the National Transportation Safety Board, I am pleased to appear before you today in support of our request for reauthorization. I am delighted to be serving as Acting Chairman of the NTSB at such an important time at the Board. As you know, the Safety Board has a critical mission: We investigate transportation accidents to determine what happened and why – not so that we can assign blame or determine fault. Rather, we do this work so that future accidents can be prevented. The core mission of the Safety Board has remained the same since the Board's inception in 1967. We are, however, reframing our efforts and activities on that core mission by examining all of our programs and activities to ensure that we are diligently focused on conducting accident investigations and issuing safety recommendations. Transportation accidents are increasingly complex, and the tools and technology available for accident investigation are also increasing in sophistication. However, we intend to ensure that despite these changes, our emphasis remains on quality investigations and timely safety recommendations that prevent transportation accidents, and reduce the deaths and injuries resulting from accidents that do occur. Our job is to work with you to ensure that the Board maintains the technical staff and investigative tools that are needed to confidently and efficiently conduct the thorough and unbiased investigations that the public deserves.

Safety Board Activity

Let me give you a brief overview of what the Board has accomplished since our last reauthorization. Since the beginning of fiscal year 2003, the NTSB has held 6 public hearings and 41 Board meetings. We adopted 49 reports at those Board meetings. We also investigated more than 4,500 aviation accidents, and hundreds of surface transportation accidents. During this time, we published more than 5,000 aviation accident brief reports, 11 major aviation accident reports, 18 highway accident reports, 31 railroad reports, 10 marine reports, 5 pipeline reports, 4 hazardous materials reports, and 7 other studies and special reports. Since the beginning of fiscal year 2003, our laboratories read out 187 flight data recorders, 203 cockpit voice recorders, and performed 458 wreckage examinations. During this time period, the Board issued more than 450 safety recommendations (about 45 percent pertain to aviation, and the remaining recommendations pertain to surface transportation). Already, 67 (about 15 percent) of these recommendations have been successfully implemented.

Just yesterday, the Board held a meeting to consider two accident investigation reports: The capsizing of a water taxi in Baltimore, Maryland, and the crash of a Sikorsky S-76 helicopter in the Gulf of Mexico, about 70 nautical miles from Galveston, Texas. Five of the 23 water taxi occupants were killed, and all 10 of those aboard the helicopter died in that accident.

Some of the other investigations that we concluded since our last reauthorization include:

- ⌘ The January 6, 2005, collision of two Norfolk Southern trains in Graniteville, South Carolina, which resulted in the release of chlorine gas from a breached tank car, and killed 9 people.
- ⌘ The October 24, 2004, crash of the Beech King Air that was transporting employees of Hendrick Motorsports. The airplane crashed while attempting to land at Martinsville, Virginia. All 10 persons aboard the airplane died.
- ⌘ The October 19, 2004, crash of Corporate Airlines flight 5966, a British Aerospace "Jetstream" that crashed short of the runway while attempting to land at Kirksville Regional Airport, Missouri. The 2 pilots and 11 of the 13 passengers were killed.
- ⌘ The October 15, 2003, accident involving the Ferry Andrew J. Barberi, which struck a maintenance pier at the Staten Island Ferry terminal. Eleven passengers died and 70 were injured.
- ⌘ The October 12, 2003, Chicago, Illinois, Metra commuter derailment that resulted in 3 injuries and more than \$5,000,000 dollars in damage.
- ⌘ The February 14, 2003, accident in which a motorcoach crossed a highway median in a rainstorm striking an SUV and killing 7 in Hewitt, Texas.
- ⌘ The Beechcraft King Air that crashed near Eveleth, Minnesota, on October 25, 2002, killing all 8 people aboard, including Sen. Paul Wellstone.
- ⌘ The May 26, 2002, accident that resulted when the towboat Robert Y. Love rammed a pier supporting the Interstate 40 bridge over the Arkansas River near Webbers Falls, Oklahoma. The impact collapsed a 503-foot section of the bridge, which fell into the river and onto the barges below. The accident resulted in 14 fatalities and 5 injuries.
- ⌘ The November 12, 2001, crash of American Airlines flight 587, an Airbus A300, which crashed into a Queens, New York, neighborhood shortly after taking off from John F. Kennedy International Airport. All 260 people aboard the plane died, as did 5 persons on the ground. This is the second deadliest aviation accident in American history.

The Board also issues special reports and studies. For example, since we were last reauthorized, we issued a safety report on the Rollover Propensity of 15-Passenger Vans. Also, we issued a special report on medical oversight of noncommercial drivers. Late last year, we published a study on liquid pipeline control and data acquisition systems, and we also published a study on general aviation flights in bad weather. In January of this year, the Board issued a special report on emergency medical services (EMS) flights that resulted in a number of safety recommendations to the FAA. We undertook the special report after investigating fifty-five EMS accidents over the three-year span between January 2002 and January 2005.

We also have a number of important accident investigations in progress. These include:

- ⌘ The February 8, 2006, fire involving a UPS DC-8 cargo airplane at Philadelphia International Airport.
- ⌘ The December 19, 2005, Chalk's Airlines passenger seaplane accident in Miami, Florida, that killed all 20 on board.
- ⌘ The December 13, 2005, natural gas explosion in Bergenfield, New Jersey, that killed 3.
- ⌘ The December 8, 2005 Southwest Airlines runway overrun at Chicago's Midway airport that killed a six-year-old boy who was an automobile passenger.
- ⌘ The October 2, 2005, tour boat Ethan Allen capsizing in Lake George, New York, which resulted in 20 deaths.
- ⌘ The September 23, 2005, bus fire near Wilmer, Texas, that killed 23 people who were being evacuated due to Hurricane Rita.
- ⌘ The February 16, 2005, accident in Pueblo, Colorado involving a Circuit City Cessna Citation 560 corporate jet. The 2 pilots and 6 passengers were killed in the crash.
- ⌘ The February 2, 2005 accident involving a Canadair CL-600 corporate jet, at Teterboro Airport in New Jersey. The airplane overran the runway during an aborted takeoff resulting in 4 seriously injured persons.
- ⌘ The November 28, 2004, crash of a Canadair Challenger airplane during takeoff from Montrose Regional Airport, Colorado. There were 6 persons aboard, 3 of whom were killed. Among the passengers were NBC television executive Dick Ebersol and members of his family.
- ⌘ The October 1, 2003, tractor-trailer collision with a specialty bus that killed 8 elderly passengers in Hampshire, Illinois.

In addition to domestic accidents, the Board often sends investigators to other countries to investigate aviation accidents, and I want to highlight this important responsibility. When a U.S.-manufactured, U.S.-registered, or a U.S.-operated aircraft is involved in an accident overseas, the Safety Board leads the U.S. participation in the investigation. Each year, our investigators participate in about 20 major foreign aviation accidents. For example, in August of last year, the Board sent a team to participate in the investigation of a Sikorsky S-76 helicopter that crashed into the Baltic Sea off the coast of Estonia. Also last year, the Board sent investigators to participate in the investigation of an Airbus A340 runway overrun in Toronto, and Boeing 737 crashes in Indonesia, Nigeria, and Greece. Also, last summer, the State Department asked the Board to send a team to assist in the investigation of the crash of a Russian-built M-172 helicopter near the Sudan/Uganda border. The crash killed 14 people, including Sudan's First Vice President John Garang. Our involvement in this investigation has helped allay fears among the Sudanese people that the aircraft was brought down by a criminal act. Our foreign work is vitally important to aviation safety because some countries may lack the technology and expertise that we possess, and it protects U.S. interests by ensuring that a proper and fair investigation results when American-built and American-registered aircraft are involved in

accidents in other countries. Also, because many of the accidents that happen in other countries could have happened here, our participation in these investigations results in major safety improvements for the domestic fleet.

Each investigation is important, but our goal is preventing future accidents, saving lives, and reducing injuries. That is why we often say that safety recommendations are our most important products. Each year, the Board meets to determine which of its open recommendations should appear on its list of Most Wanted transportation safety improvements. Our 2006 Most Wanted list includes several aviation safety recommendations to the Federal Aviation Administration (FAA) urging them to reduce the dangers of in-flight icing, eliminate flammable vapors in transport category airplane fuel tanks, prevent runway incursions, require restraints for children under age two, and to improve the crashworthiness of recorders. The most important safety improvement needed for our country's railroads is positive train control. If the Federal Railroad Administration (FRA) required positive train control systems, it would prevent collisions and overspeed accidents. The Most Wanted safety improvements for the highway mode include improving motor carrier safety, preventing medically unqualified drivers from operating commercial vehicles, and enhancing the protection of bus passengers. The list also includes recommendations to the Department of Transportation (DOT) modal administrations to update the hours of service rules for transportation workers. In addition, our Most Wanted list includes recommendations to the states to enact laws that promote seatbelt usage, ensure child occupant protection, improve youth highway safety, and to eliminate hard-core drinking driving. The list also includes recommendations to improve school bus safety and make grade crossings and recreational boating safer.

Although open safety recommendations are important, standing alone they do not represent safety improvements. The results that we need are the actions of industry and government representatives to improve safety by implementing the Board's recommendations. When the recipients of the Board's recommendations respond, we carefully consider the actions taken and, if appropriate, close the recommendations by majority vote of the Board Members.

When we appeared before you during our last reauthorization cycle in 2002, the Board had more than 1,100 open safety recommendations and that many had been open for several years. About half of the open recommendations were to the DOT and its modal administrations. We have been working with all of the modal administrations to implement the recommended safety actions and to close the old recommendations. I am pleased to report that our safety recommendation acceptance rate is over 83 percent, and in 2005, the Board reduced the number of open safety recommendations to 810, the lowest number since 1971. We are proud of these numbers, but remain committed to holding our ground on each recommendation, ensuring that the most sensible safety actions are implemented.

Another issue that we pointed out to you when we last came forward for reauthorization was the state of relations between the Safety Board and the Coast Guard. At that time we had been working on a Memorandum of Understanding (MOU) for six years without being able to come to an agreement on investigating marine accidents. There was a need for a closer and more productive working relationship. I am pleased to tell you that the memorandum was finalized and signed in September 2002, and the MOU is working quite well. More importantly, our relations with the Coast Guard have improved tremendously in the last few years, and we look forward to continued partnership in the years to come.

When we were last reauthorized, our Academy in Ashburn, Virginia had not yet opened. In September 2003, the Academy staff took up occupancy in the new building, which has five classrooms,

office space, a large laboratory to house the TWA flight 800 reconstruction, and other laboratory spaces and meeting rooms. The facility is also home to one of our aviation regional offices. Finally, it also serves as the Board's continuity of operations (COOP) site, and as a backup COOP site for two other Federal agencies.

A part of the Academy's mission is to provide training on transportation safety and accident investigation. Since the Academy became operational, its staff has focused primarily on improving and expanding existing programs. In response to Congressional concerns about the use of investigative resources to support Academy courses, in 2006, Safety Board management significantly revised the philosophy for the Academy. We will focus upon developing and sustaining innovative and state-of-the-art training courses and programs. The Board will explore partnership and contracting possibilities that will yield higher returns, with decreased demands on NTSB investigative resources by relying more heavily on instructors from academia, government, and the private sector. This will also provide greater training opportunities for all NTSB staff. We also plan to establish Training and Academic Oversight Board composed of senior NTSB staff. The Oversight Board will oversee the curriculum developed by contractors and other third parties. We will also work with and review the operations of other government training facilities to ensure that we benefit from their experience and best practices. One of our goals is to more tightly integrate the Academy into the Safety Board's operation and ongoing work. To reflect this change in emphasis, we are considering changing the name of the facility to the NTSB Training Center.

Although it has been operational for just over two years, we are pleased that the Academy has made great strides in developing and delivering high quality programs that are highly relevant to the transportation community. During fiscal year 2005, we offered 31 programs, 14 of which were designed primarily for NTSB employees. Over 1,600 participants attended these programs, and the Board collected almost half a million dollars from tuitions and fees from the attendees, which included representatives from organizations like National Aeronautics and Space Administration's Engineering and Safety Center, Federal Bureau of Investigation's Evidence Response Team, and the Civil Aviation Administration of China. This new strategic and management vision will position the training center to move forward and to better serve the needs of the Board and its staff.

I want to take a moment to assure you of our continued commitment to investigating general aviation accidents. There has been some concern that we are not investigating as many general aviation accidents as we should. But I want you to know that we lead an investigation into every one of the nearly 1,800 general aviation accidents that occurs each year; however, our regional aviation investigators cannot travel to every accident site so we rely on some of the FAA's 3,500 inspectors to assist us. We ask these trained aviation inspectors to document the on-site findings and to collect evidence for us. Whether we travel to the accident scene or not, we still conduct the research, necessary interviews, and follow-up examinations required for an appropriate investigation. For each case, we write the report and determine probable cause. That is our mandate and we carry it out.

Reauthorization Request

The Safety Board is asking for authorized resource levels capable of funding 399 full-time equivalent (FTE) positions in fiscal year 2007, and 475 FTEs in both fiscal years 2008 and 2009. The necessary resource levels for fiscal years 2007-2009 are \$79.594 million, \$99.974 million, and \$104.844 million, respectively.

We began fiscal year 2006 with the equivalent of 416 full-time employees on board. This is more than our fiscal year 2006 budget can support, so we have been allowing attrition to shrink this number to a sustainable level. We currently have 396 FTE on board, and we can sustain this number with our current budget. In the last two months, we have initiated some very important human capital planning to help us better prepare the NTSB for the future. Our planning indicates that to carry out the mission of the Board we need 475 full-time staff; consequently, this is the number that we have proposed for fiscal years 2008 and 2009. We recognize that this represents growth, but this staffing level is needed to allow us to investigate accidents appropriately and issue timely and effective safety recommendations.

Our reauthorization request also contains several proposals for specific legislative language that would improve the Board's operation.

The Board's last reauthorization legislation provided the authority for the NTSB to enter into contracts without competition when necessary to expedite an investigation. We are grateful to have been entrusted with this special exemption to competitive contracting rules, and we have judiciously used this authority, mostly for relatively small contracts for investigative services. For example, we have used the authority to contract for non-destructive imaging of aircraft components, as well as for marine vessel stability calculations. It can also be used to retrieve important – perhaps perishable – evidence while it is still available. This important authority expires on September 30, 2006, and we are asking that the sunset provision be deleted so that the special contracting authority becomes a permanent part of our legislation.

The Board also proposes that you authorize appropriations for our training center as part of the broader authorization for the agency, rather than as a distinct entity. As I mentioned, we are actively working to more fully integrate the center into our overall mission and programs, and we believe that a single authorization is consistent with this goal. Also, we propose incorporating the content of the training academy annual report into the Board's annual report to Congress.

The Board also asks to be authorized to credit all reimbursements as offsetting collections that would remain available until expended (this authority already exists for training center course fees). This would help us better manage our funds when we are reimbursed by third parties for accident services that those parties are required to provide. For example, airlines are required to fund disaster mortuary services when these services are needed at crash sites. To ensure the immediate delivery of these important services, the Board may commit its own funds immediately after an accident, and seek reimbursement later when there is time to sort out the financial responsibility. Also, we occasionally agree to conduct accident investigations on a reimbursable basis. For example, the Department of State is reimbursing us for conducting the investigation into the helicopter accident that killed the First Vice President of Sudan. Without a legislative change, these reimbursements may have to be redeposited into the treasury account, unavailable for use by the Board. We need the authority to carry forward reimbursements like these.

Our last proposal concerns paying for the services of the DOT Inspector General (IG). As you know, the Inspector General is authorized to review the financial management, property management, and business operations of the Board. The IG is reimbursed by the Board for the costs associated with carrying out these activities. Instead of the Board reimbursing the IG, we are asking that the IG's office be appropriated directly for its activities. This would facilitate better resource management, and I am pleased to report that the DOT IG concurs with our proposal.

As I close, I want to assure you that we are working hard to ensure that the people and resources of the Board are well managed. In fact, I am proud to tell you that in each of the last three fiscal years, our timely and accurate financial statements have received clean audit opinions from the DOT Inspector General.

There have been significant leadership changes at the Board recently. In March of 2005, Joe Osterman began serving as the Board's Managing Director, its highest-ranking career leader. Mr. Osterman is effectively leading a highly talented management team, and as I mentioned previously, under his leadership, the Safety Board has reinvigorated its focus on the completion of investigations and the production of accident reports.

In fact, over the past year, the Board has changed personnel in 14 of the top 24 leadership positions. These positions have been filled by highly qualified and experienced professionals from both within and outside the Board. Some noteworthy new members of the team are Jack Spencer, the director of our Office of Marine Safety, and Gary Halbert, our General Counsel. Dr. Spencer, an MIT-educated naval architect comes to us from the private sector, and Mr. Halbert – an accomplished attorney – recently retired from the U.S. Air Force. Both have hit the ground running and are already making important contributions to the Board. Also we are currently recruiting for a Chief Information Officer who will join the agency's management team with the responsibility of managing the agency's information infrastructure. We are improving our performance management system throughout the agency, and we have refocused our efforts on leadership, communication, and the Board's mission.

As I said at the beginning of my testimony, there are important things happening at the Safety Board every day. But we need the support of Congress to ensure that we have the resources needed to accomplish our mission. I thank you for the opportunity to appear before you today, and I am happy to respond to any questions you may have.