STATEMENT OF MARGARET GILLIGAN, ASSOCIATE ADMINISTRATOR FOR AVIATION SAFETY, FEDERAL AVIATION ADMINISTRATION, BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY, ON AVIATION SAFETY: UPDATE ON H.R. 5900. MARCH 20, 2012.

Chairman Cantwell, Senator Thune, Members of the Subcommittee:

Thank you for inviting me here today to update the Subcommittee on the Federal Aviation Administration's (FAA's) progress in implementing the safety enhancement initiatives in the Airline Safety and Federal Aviation Administration Act of 2010. Just last month, we remembered the third anniversary of the tragic accident of Continental Flight 3407. Over the past three years, the aviation industry, as with many other industries, has faced some tough economic challenges. During this period, we have remained vigilant in our oversight responsibilities to ensure that we continue to have the safest aviation system in the world, while also advancing aviation for the future. The provisions in the 2010 Act helped facilitate several of these major advancements, such as new flight, duty and rest requirements for pilots, and issuing a proposal to require air carriers to implement safety management systems. Although some of the provisions have taken longer than Congress anticipated under the provisions of the Act, we have made significant strides in accomplishing many of the objectives and I am here today to outline this progress for you.

Pilot Flight, Duty, and Rest Requirements.

In 2009, the Department of Transportation identified the issue of pilot fatigue as a top priority in the Safety Call to Action following the accident of Flight 3407. The FAA

launched an aggressive effort to create a new pilot flight, duty and rest proposal, which we issued in September 2010. On December 21, 2011, Secretary LaHood and Acting Administrator Huerta announced the completion of the final rule. This new rule provides the necessary protections for passenger airline pilots, allowing for responsible pilots to be fully rested and alert when reporting for duty, which is what the traveling public expects when they board an airplane. Using the latest fatigue science, the rule addresses cumulative fatigue and how flight schedules affect the body's 24-hour clock in calculating appropriate duty periods for pilots, providing pilots a greater opportunity for rest. Factors such as the time of day a pilot takes his or her first flight, the number of scheduled flight segments, and the number of time zones crossed, will now all be considered when determining how long a pilot can remain on duty without a rest period.

This rule also expands the definition of a flight duty period to include more than just flying the airplane. Flight duty periods are now more comprehensive, and include flight-related activities such as time spent in training in an aircraft simulator, and standing by on-call for flights at an airport. These duties are part of the workday, contribute to fatigue, and must be counted as part of the core job of flying the airplane. The rule also provides for a 10-hour minimum rest period before a flight duty period, which is two hours more than required under the old flight and duty time provisions. We have also addressed cumulative fatigue by placing weekly and 28-day limits on a pilot's schedule.

This rule provides the necessary flexibility to use fatigue science as it progresses to combat fatigue. Air carriers will be allowed to develop a fatigue risk management

system, which provides an opportunity to create an alternative model for combatting fatigue by incorporating the latest innovations in mitigating fatigue.

This final rule also establishes new fitness for duty requirements that serve as a reminder to both airlines and pilots of their professional responsibilities to ensure that rest periods are used appropriately and that pilots arrive at the start of an assignment alert and ready for work. In establishing these requirements, we took into account that off-duty activities do have an impact on fatigue for pilots, regardless of the type of activity, such as playing golf or commuting to work. We expect pilots to manage their off-duty rest to ensure they report ready for work. We expect the air carriers to support pilots who self-report fatigued and not assign them to duty.

Due to the complexity of the rule, completing this rulemaking effort took longer than expected. As many in Congress have noted, new rules may add new costs. As with discretionary rules, in instances where the FAA has been directed by Congress to issue a final rule, we are still required to do so in a manner in which the benefits resulting from the rule justify the costs. In evaluating this rule under this requirement, it became clear that applying this rule to cargo operators was not clearly justified compared to the benefits generated for this segment of the industry. The final rule does allow cargo operators to voluntarily adopt provisions of the rule, and some of these operators are already improving rest facilities for pilots. We have encouraged, and continue to encourage cargo carriers to continue improving their rest and fatigue related policies.

Safety Management Systems.

The 2010 Act required the FAA to issue a proposal to require air carriers to develop and implement a safety management system (SMS) within 90 days of the Act's enactment. The FAA met this statutory deadline and issued the proposal on October 29, 2010. It was published in the Federal Register on November 5, 2010 and the comment period closed March 7, 2011. As proposed, the SMS rule would give air carriers a set of business processes and management tools to examine data from everyday operations, isolate trends that may be precursors to incidents or accidents, and develop and carry out appropriate risk mitigation strategies. The FAA and industry recognize SMS as a holistic approach to safety that allows for trend spotting to help identify possible safety problems and correct them before they lead to accidents or incidents. In the proposal, the FAA described what an acceptable SMS might look like, not how the SMS requirements would be met. This allows air carriers to develop and implement an SMS that best matches the size and complexity of their own unique operating environments. SMS is not a substitute, however, for FAA oversight, inspection, and audits of air carriers to ensure compliance with existing regulations.

Pilot Qualification Standards.

On February 29, 2012, we published a proposal that would substantially raise the qualification requirements for first officers (sometimes referred to as "co-pilots") who fly for U.S. passenger and cargo airlines, consistent with the mandate in the 2010 Act. The proposed rule would require first officers to hold an Airline Transport Pilot (ATP)

certificate, requiring 1,500 hours of pilot flight time. Currently, these pilots are required to have a commercial pilot certificate, which requires only 250 hours of flight time. Some other highlights of the proposed rule include requiring pilots to have a minimum of 1,000 flight hours as a pilot in air carrier operations that require an ATP prior to serving as a captain for a U.S. airline; enhanced training requirements for an ATP certificate, including 50 hours of multi-engine flight experience; and completion of a new FAA-approved training program.

In the 2010 Act, Congress clearly acknowledged that the measurement of experience in determining when an individual may be ready to serve is not limited solely to the number of hours flown. Rather, education and other commercial flying experience must also be considered. Consistent with the requirements of the 2010 Act, this proposal also allows pilots with fewer than 1,500 hours of flight time to apply for an ATP certificate with restricted privileges. As proposed, this certificate would only be issued to graduates of a four-year baccalaureate aviation degree program with 1,000 hours of flight time, provided they have obtained a commercial pilot certificate and instrument rating from a pilot school affiliated with the university or college. Former military pilots with 750 hours of flight time may also qualify for this restricted ATP certificate. In both cases, pilots with this restricted certificate would only be able to serve as first officers for U.S. airlines. They could not use it to serve as a captain in any commercial flying operation that requires an ATP, nor use it to teach other pilots. Pilots seeking a restricted ATP would be tested to the same standard required for full ATP certificates, and they would be required to have the equivalent minimum instrument time and night time flight hours as a full ATP certificate would require. The comment period for this proposed

rulemaking closes April 30, 2012, and we will work diligently to develop a final rule that addresses the safety initiatives required in the 2010 Act.

Crewmember Training Requirements:

In January 2009, one month prior to the Continental Flight 3407 accident, the FAA published a proposal to enhance training programs by requiring the use of simulation devices by pilots. The FAA received over 3,000 pages of comments in response to this proposal. Following the accident, the National Transportation Safety Board issued several recommendations related to training requirements for air carrier pilots. And the 2010 Act mandated some additional training requirements as well. In order to fully consider the comments, address many of the NTSB's recommendations resulting from the accident of Flight 3407, and incorporate the mandates of the Act, the FAA issued a supplemental proposal to permit interested parties to comment on the new requirements. The supplemental proposal was issued on May 20, 2011 and the comment period closed on September 19, 2011. The FAA is actively reviewing the comments to develop a final rule that addresses these training enhancements.

In addition to this rulemaking, in 2011, the FAA established the Stick Pusher and Adverse Weather (SPAW) Aviation Rulemaking Committee to examine upset prevention and recovery training and provide recommendations to address stick pusher and adverse weather events.

Mentoring and Professionalism:

The FAA recognizes the need to continuously improve professional standards to improve flightdeck discipline. On September 15, 2010, the FAA established an Aviation Rulemaking Committee to develop recommendations on appropriate leadership training and professional development requirements for pilots. That group of experts delivered its recommendations in November 2010, and the FAA has considered them in developing a rule to address the mentoring mandate in the 2010 Act. We have not met the statutory deadline for this proposal because we are evaluating how this effort aligns with existing rulemaking projects. We aim to find a set of proposals that appropriately balances effectiveness and resulting benefits, with regulatory burden and cost.

These rulemakings are very complicated, and in some cases, very expensive. As these rules progress, we are constantly evaluating how these provisions may best be leveraged to improve safety, while ensuring that the aggregate costs to society are not greater than these benefits as we are required to do.

We remain committed to aggressively addressing these safety enhancements while continuing with our daily oversight obligations. In the time since the passage of the 2010 Act, approximately 1.3 billion passengers have travelled on U.S. commercial airlines without a single fatality. At the same time, the FAA has overseen the safe management of the merger of 8 airlines, resulting in 4 new entities –each larger and more complex than ever before. While these mergers had a significant impact on FAA resources, they were handled efficiently and in a manner that ensures continued

compliance with regulations and safe operating practices. We have also approved and assisted in implementing the use of new technologies to support NextGen – making operations safer and more efficient. And every day our air carrier safety workforce of 840 dedicated professionals performed inspections, analyzed data, spotted areas for improvement and worked with air carriers to enhance aviation safety.

Our success in advancing these safety enhancements, while continuing to manage our daily safety oversight responsibilities and plan for the future, is due in large part to the dedication of safety-minded aviation professionals in all parts of our industry, including the FAA's inspector workforce.

In conclusion, we believe that the collective efforts of FAA, the airlines, labor unions and, of course, Congress, will continue to result in ensuring the safety enhancements identified in the 2010 Act are addressed. Safety is at the core of the FAA's mission, and we will always strive to make a safe system safer.

Chairman Cantwell, Senator Thune, Members of the Subcommittee, this concludes my prepared remarks. I would be happy to answer any questions that you might have.