



U.S. Department
of Transportation

**Federal Aviation
Administration**

Office of the Administrator

800 Independence Ave., S.W.
Washington, DC 20591

January 14, 2022

The Honorable Jennifer Homendy
Chair, National Transportation Safety Board
490 L'Enfant Plaza, S.W.
Washington, DC 20594

Dear Chair Homendy:

The National Transportation Safety Board (NTSB) and the Federal Aviation Administration (FAA) are integral partners in aerospace safety and have a long history of cooperation and communication during investigations of aviation and commercial space transportation accidents and mishaps. I am writing to express concerns about the Notice of Proposed Rulemaking (NPRM) for Commercial Space Investigations that the NTSB issued for public comment on November 17, 2021.

Title 51 of the United States Code (U.S.C.) creates the current statutory framework for oversight of, and ultimately, regulation of commercial space flight. Under Title 51, the Department of Transportation (DOT)/FAA has statutory authority over all aspects of Commercial Space Launch Activities. Congress found that the public interest is best served by creating a separate legal, regulatory, and safety regime for commercial space flight. The FAA's authority, delegated through the Secretary of Transportation, to investigate commercial space launch mishaps is well established and codified in Section 50917 of 51 U.S.C., Subtitle V, Chapter 509, "Commercial Space Launch Activities." The FAA's Office of Accident Investigation and Prevention and the Office of Commercial Space Transportation work together in accordance with FAA Order 8020.11, "Aircraft Accident and Incident Notification, Investigation, and Reporting," for investigations of commercial space launch accidents or mishaps. The NTSB NPRM proposes duplicating DOT/FAA oversight authority and investigative procedures relative to accident investigations. Doing so introduces uncertainty relative to U.S. Government agency regulatory roles and responsibilities for commercial space launch and reentry oversight. Additionally, the NTSB NPRM proposes additional burdens on commercial space operators relative to accident or mishap investigations.

Historically, the FAA and NTSB have collaborated on commercial space accident or mishap investigations. The joint relationship has been governed by a series of three reimbursable agreements and/or memoranda of understanding (MOU) between the FAA and NTSB, executed between 1975 and 2004. To date, that working relationship has effectively served U.S. Government and industry interests and, with some updates, should continue to serve effectively. The FAA supports the NTSB's participation in accident investigations in this area and sees the tremendous benefit to all parties in continuing the current collaborative framework.

To avoid possible confusion and an unclear regulatory or safety regime for commercial space flight, we recommend consolidating and updating the three extant agreements into a new, single MOU, reflecting changes in Title 51 and the maturing commercial space industry since 2004.

We would like to continue the collaboration between the FAA and NTSB on accident investigations. We see this as an opportunity to update our agreements, clarify roles, and send a unified message to the emerging commercial spaceflight industry about accident or mishap investigations by the U.S. Government.

The FAA respectfully requests that the NTSB reconsider its recent NPRM. I encourage the NTSB to instead refocus on its current successful working relationship with the FAA and build on past successes to create an improved and unified effort moving forward. Together, the FAA and NTSB can conduct thorough and timely accident or mishap investigations that identify root causes and provide useful data for future FAA rulemaking in this area.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Dickson". The signature is fluid and cursive, with the first name "Steve" and last name "Dickson" clearly distinguishable.

Steve Dickson
Administrator