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CRITICAL LAPSES IN FEDERAL AVIATION ADMINISTRATION SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY ''PARTNERSHIP PROGRAMS''

(110–109)

HEARING

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

APRIL 3, 2008

Printed for the use of the
Committee on Transportation and Infrastructure



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U.S. House of Representatives
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Washington, DC 20515

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April 1, 2008

SUMMARY OF SUBJECT MATTER

TO: Members of the Committee on Transportation and Infrastructure

FROM: Majority Oversight and Investigations Staff, Committee on Transportation and Infrastructure

SUBJECT: Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory "Partnership Programs."

PURPOSE OF HEARING

The Committee on Transportation and Infrastructure will meet on Thursday, April 3, 2008, at 10:00 a.m. in 2167 Rayburn House Office Building to review the results of an oversight investigation. Two FAA Aviation Safety Inspectors, Mr. Charalambe "Bobby" Boutris and Mr. Douglas E. Peters, have provided T&I oversight staff with extensive evidence raising serious questions of conduct violating the Federal Aviation Regulations (FARs) in the inspection and maintenance program of FAA's Southwest Airlines (SWA) Certificate Management Office (CMO). According to the United States Office of Special Counsel (OSC)[1] and documents provided to the Committee, the whistleblowers' disclosures allege that FAA management employees have engaged in conduct, "which constitutes a violation of Federal law, rule or regulation, gross mismanagement, an abuse of authority and a substantial and specific damage to public safety." The evidence supplied by Mr. Boutris and Mr. Peters documents that the Supervisory Principal Maintenance Inspector (SPMI) for SWA, Mr. Douglas T. Gawadzinski, knowingly allowed the airline to operate aircraft in revenue passenger service in March 2007 (and possibly beyond), and well after the inspection deadlines on a mandatory FAA Airworthiness Directive (AD) and an unrelated required service interval check. The evidence also points toward a systematic pattern of FAA failure to exercise the required regulatory oversight in the SWA CMO and to ensure carrier compliance for years prior to this occurrence.

Beyond the SWA cases, there is evidence that there may be a pattern of regulatory abuse and that these regulatory lapses may be more widespread. On March 6, 2008, just prior to the originally

[1] OSC is an independent federal investigative and prosecutorial agency, whose basic authorities come from three federal statutes. the Civil Service Reform Act. the Whistleblower Protection Act. and the Hatch Act.

scheduled date for this hearing, FAA notified SWA of a $10.2 million civil penalty action for 46 aircraft that had over-flown the fuselage inspection AD for up to 30 months. On March 10, 2008, FAA Assistant Administrator for Safety, Nicholas Sabatini, sent a special team of FAA inspectors to do a thorough examination of SWA regulatory compliance. On March 11, 2008, SWA announced that it had placed three employees on "administrative leave," pending their internal investigation of this matter. On March 12, 2008, SWA announced it was grounding 41 more aircraft for "inspections." On March 13, 2008, the FAA issued a national order (N 8900.36) instructing all FAA regional Flight Standards Offices to conduct a "special emphasis validation of AD oversight."

EXECUTIVE SUMMARY

FARs require the immediate grounding of any aircraft that is past due mandatory AD requirements or required maintenance checks.[2] There are no exceptions to this rule.

The FAA maintains oversight of airlines through its Flight Standards Service, which is comprised of approximately 3,600 inspectors. This division reports to the Director of Flight Standards Service at FAA Headquarters ("HQ"), who reports to the Associate Administrator for Aviation Safety at FAA. The Associate Administrator for Aviation Safety reports to the FAA Administrator. Flight Standards is organized into Regional Offices and Certificate Management Offices (CMO). Each major airline is assigned a CMO that is responsible for overseeing a particular airline. The CMO reports to a Regional Flight Standards Director, who reports to the Director of Flight Standards at HQ. See the organizational chart attached.

FAA issues regulations such as ADs that require certain mandatory aircraft inspections at specific intervals. These ADs and mandatory inspections are specific to each type of aircraft, and the CMO for the airline is responsible for seeing that these mandatory inspections take place. The FAA relies heavily on "partnership programs" such as the Voluntary Disclosure Reporting Program (VDRP)[3] and the Aviation Safety Action Program (ASAP)[4] to motivate airlines, mechanics, and other operational personnel to self-disclose violations as means of identifying non-compliance with the regulations that the FAA otherwise might not have detected. There are incentives to airlines and certificate holders (in the form of immunity from the finding of a violation) for self-disclosing as a means of correcting compliance problems and detecting important safety-related trends. These programs are discussed in more detail below.

On March 15, 2007, SWA notified, by telephone, FAA SPMI Gawadzinski in the SWA CMO of a voluntary disclosure that potentially up to 100 aircraft were overdue the required inspection and compliance for one AD. Under VDRP guidelines, it was mandatory that the SWA non-compliance with the FARs should have immediately ceased on the date of disclosure. This clearly did not occur. Once airline maintenance officials were able to evaluate and define the scope of the problem, the number of aircraft involved was later revised to 47 aircraft.

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[2] 14 CFR 39.

[3] FAA Advisory Circular AC-00-58A, Voluntary Disclosure Reporting Program (VDRP), September 8, 2006.

[4] FAA Advisory Circular, Aviation Safety Action Program (ASAP), AC 120-66B, November 15, 2002.

On March 20, 2007, another 70 aircraft were self-disclosed as having missed a separate mandatory rudder check. Overall, 47 aircraft under the AD and 70 aircraft under the rudder check were allowed to keep flying with full knowledge of the FAA SPMI for a number of days until SWA could schedule them for inspections without disrupting their commercial schedule. Grounding these aircraft immediately, as required by the FARs, would have cancelled hundreds of SWA commercial flights.

The Manager of Regulatory Compliance for SWA, Mr. Paul Comeau, was a former FAA safety inspector in the SWA CMO until his resignation from the FAA in 2006 to assume his current position with SWA, in compliance with FAA ethics guidelines. Mr. Comeau was the SWA official who self-disclosed the violations to FAA. It is alleged that Mr. Comeau had a close working relationship with SPMI Gawadzinski when he was at the FAA overseeing SWA, and this relationship continued in his new role with the airline. There are numerous allegations that Mr. Gawadzinski was too close to the management of SWA, and these allegations gain credibility from the number of surveillance investigations that were interfered with by the SPMI.[5]

FAA AD 2004-18-06 requires the inspection of the Boeing 737 fuselage for cracks every 4,500 cycles[6] after the aircraft reaches 35,000 cycles.[7] This AD is one of a series of ADs pertaining to aging aircraft that require mandatory inspection procedures at specific intervals. This series of ADs was issued as a direct result of the 1988 accident of an Aloha Airlines Boeing-737, where the entire top of the fuselage separated due to cracking and metal fatigue.[8] Subsequent inspections after that accident found a large number of fuselage cracks in aging B-737s.

The mandatory maintenance interval check[9] required inspection of the standby rudder power control unit (PCU) for leakage every 12,500 hours and was issued as one of several related mandatory checks in response to two fatal B-737 accidents—United Airlines at Colorado Springs in 1991[10] and US Airways at Pittsburgh in 1994[11]—as well as multiple reports of un-commanded rudder movements on 737 aircraft.

For the fuselage AD alone, after the date of voluntary disclosure, SWA conducted at least 1,451 flights, potentially transporting as many as 200,000 passengers, on at least 47 aircraft. Under Federal law, the 47 aircraft should have been grounded until compliance was achieved. Additionally, 70 aircraft were overdue the rudder PCU inspections, but the number of flights conducted after airline disclosure is unknown, although many of them flew in commercial service up to 9 days past disclosure.

Some of these aircraft involved were overdue for 30 months before the airline self-disclosures. It should be noted that these are the aircraft for which airworthiness violations at SWA

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[5] FAA's internal investigation, "Report of Investigation," File No. ASW20070070.
[6] An aircraft "cycle" is defined as one takeoff and one landing.
[7] FAA Airworthiness Directive, AD 2004-18-06.
[8] Aircraft Accident Report, Aloha Airlines Flight 243, Boeing 737-200, N73711, near Maui, HI, April 28, 1988, National Transportation Safety Board, AAR-89-03.
[9] Boeing Commercial Aircraft Company, 737-700 Task Card 29-190-00-01.
[10] Aircraft Accident Report, United Air Lines Flight 535, Boeing 737-291, N999UA, in Colorado Springs, CO, March 3, 1991, National Transportation Safety Board, AAR-01-01.
[11] Aircraft Accident Report, US Air Flight 427, Boeing 737-300, N513AU, near Aliquippa, PA, September 8, 1994, National Transportation Safety Board, AAR-99-01.

have been documented at this stage of the investigation, and others could have been affected. In November 2007 (about 8 months following the disclosure by the airline), FAA senior HQ management asked the FAA SWA CMO for the follow-up inspections on the SWA aircraft in question.

It is important to note that the SWA CMO did not have any records showing that follow-up inspections were ever performed on the 47 aircraft. Neither the SWA CMO, nor FAA Regional, nor HQ organizations took any action to check that the aircraft had been brought into compliance with Federal law until nearly 8 months after the self-disclosure was filed by the airline. The FAA HQ follow-up inspection inquiries were made only after FAA HQ became aware of investigations initiated by T&I, and after our requests to the Department of Transportation Office of Inspector General (DOT OIG) to further investigate these matters. FAA initially refused to cooperate with requests for information by T&I Majority staff. The FAA internal investigation[12] was only obtained by T&I Majority staff under threat of subpoena in an October 5, 2007 letter from the Chairman of the T&I Committee and the Chairman of the Aviation Subcommittee.[13]

Documents supplied by both Boutris and Peters suggest that the maintenance and inspection record-keeping systems at SWA were deficient and did not meet regulatory standards, and the evidence demonstrated that Boutris and Peters had been warning regional FAA management about these record-keeping and inspection deficiencies for years. They alleged that efforts to increase the surveillance of SWA and to discipline the carrier were either repeatedly undermined, or no action was taken by local nor regional FAA Flight Standards management. Boutris provided 38 examples of problems communicated to regional FAA management, and he reports receiving no answer to any of his communications to the Regional Director of Flight Standards, Mr. Thomas Stuckey.

In January 2006, Mr. Boutris began reviewing SWA maintenance records with an emphasis on AD compliance requirements for the B-737-700 fleet. In the course of that review, he discovered numerous discrepancies with SWA aircraft AD compliance records, again determined that the airline's records did not meet FAR compliance requirements, and he informed the appropriate SWA maintenance official. Mr. Boutris also recommended to the SPMI that a letter of investigation be issued, but the SPMI, Mr. Gawadzinski, refused to issue the letter to the carrier.

In January 2007, Mr. Boutris was assigned to conduct an AD management safety attributes inspection (SAI). SAI inspections are required every 5 years by FAA policy, and the last inspection on SWA was accomplished in 1999. Mr. Boutris reported to FAA management that it was already 3 years overdue. Evidence supplied to the Committee, and interviews with the whistleblowers indicates that when SWA maintenance officials learned that Mr. Boutris had been assigned to lead the inspection, they met with Mr. Gawadzinski and actively sought his removal. Mr. Gawadzinski then instructed Mr. Boutris to delay the review until he gave permission for it to proceed at a later date. Mr. Boutris met with Mr. Gawadzinski's supervisor, Mr. Mike Mills, and told him he believed the airline was trying to influence the outcome of the investigation by "hand-picking" the inspector. Ultimately, Mr. Boutris was allowed to proceed with this long overdue inspection, and he believes

[12] FAA's internal investigation began in May 2007 and was closed in July.2007. It was later re-opened on October 2, 2007 and a "supplemental" piece was added on October 5, 2007.

[13] October 5, 2007 letter from Chairman James L. Oberstar and Chairman Jerry F. Costello to Acting FAA Administrator Robert Sturgell.

this led SWA to begin closely examining its own maintenance records, which led to the discovery of the AD over-flights, and subsequent self-disclosure under the VDRP.

Majority Committee investigators also interviewed FAA aviation safety inspectors overseeing other airlines. It was a common complaint that they found it difficult to bring enforcement action against airlines because FAA management appeared to be "too close to airline management." The most common response was, "I often don't even bother, because I know FAA management won't do anything with it." Unfortunately, most of the currently-employed FAA inspectors making these charges would not supply documentation or be identified publicly, citing fear of retaliation, and commonly stating, "it would be the end of my FAA career if I became a whistleblower, but I wish someone could expose how bad things are." When advised, in general, of the findings in the SWA CMO, no FAA inspector expressed surprise. However, it is clear that the level of interpersonal strife appears to be unique.

Under so-called regulatory "partnership programs" such as the VDRP[14] and the Aviation Safety Action Partnership (ASAP),[15] airlines and employees are encouraged to come forward and share violations in exchange for some level of immunity from the finding of a violation of FARs. However, once an FAA inspector has begun an investigation, those incidents under investigation are not eligible for disclosure under VDRP or ASAP. However, FAA inspectors in offices across the country allege to Majority staff that airlines have been warned when surveillance efforts are underway, and that the VDRP and ASAP programs are often utilized in ways that were not intended and that are not in accordance with FAA policy guidelines or FARs.

FAA Regulatory "Partnership Programs"

Traditionally, civil penalties under the FAA's enforcement program have always been considered a means to promote compliance with the FAA's regulations. They have served as a form of deterrence, not only because they can result in substantial monetary payments by certificate holders, but also they are typically announced publicly and can result in substantial negative publicity for an air carrier, as they have in the past.

A drawback of the traditional regulatory approach is that the FAA inspector workforce will never be large enough, given the size of the airline industry in the U.S., to oversee every aspect of maintenance and flight operations. Moreover, it was believed that the traditional civil penalty enforcement model led airlines to conceal incidents of regulatory non-compliance in an attempt to avoid the penalties and resulting negative publicity. In the past, it was common practice for airline management officials to warn employees against communicating with FAA inspectors.

In the 1990's, the industry and the FAA reached consensus that regulatory oversight should be conducted as a "partnership" with the industry. It was believed that airlines, pilots, maintenance personnel, and all other certificate holders should be provided with incentives for coming forward and disclosing cases of non-compliance that were not previously known to the FAA—making possible preemptive safety initiatives not possible using the traditional regulatory approach. As an incentive to encourage certificate holders to come forward and to share important safety

[14] See footnote 3.
[15] See footnote 4.

information with the FAA, the agency currently follows a policy of agreeing to forgo proceeding with civil penalty actions in exchange for self-disclosure. The guiding philosophy of this regulatory "partnership" approach is that important safety information will be disclosed that otherwise might have never been known to the FAA. However, it is important to note that each program was designed to operate under very strict guidelines, and these programs were never intended to be replacements for traditional civil penalty enforcement actions.

Today, these notions of partnership and the airlines as the FAA's "customers" have become firmly rooted in the FAA culture. The FAA's website prominently features the FAA's one sentence statement entitled "Our Vision" which states, "Our vision is to improve the safety and efficiency of aviation, while being responsive to our customers and accountable to the public."[16]

Two major "partnership programs" are VDRP[17] and ASAP.[18] Each is briefly summarized below.

VOLUNTARY DISCLOSURE REPORTING PROGRAM (VDRP)

The FAA believes that the open sharing of apparent violations and a cooperative, as well as an advisory approach to solving problems, will enhance and promote aviation safety. The overwhelming majority of the safety community strongly supports this basic tenant. Certificate holders will receive a letter of correction in lieu of a civil penalty action for covered instances of non-compliance that are voluntarily disclosed to the FAA in accordance with the procedures set forth in FAA Advisory Circular 00-58A. Once the letter of correction is issued, the case will be considered closed unless the agreed-upon comprehensive fix is not satisfactorily completed by the reporting entity. It is incumbent upon the FAA to monitor compliance with the comprehensive fixes submitted along the VDRP.

The guidelines for submitting a VDRP require an evaluation of whether an apparent violation is eligible, and the FAA must ensure that the following five conditions are met:

(1) The certificate holder has notified the FAA of the apparent violation immediately after detecting it and before the FAA has learned of it by other means.
(2) The apparent violation was inadvertent.
(3) The apparent violation does not indicate a lack, or reasonable question, of qualification of the certificate holder.
(4) Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation.
(5) The certificate holder has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. The comprehensive fix includes a follow-up self-audit to ensure that the action taken corrects the non-compliance. The self-audit is in addition to any audits conducted by the FAA.

[16] Federal Aviation Administration website, www.faa.gov/about/mission/.
[17] See footnote 3.
[18] See footnote 4.

AC 00-58A specifically precludes eligibility for VDRP, and exemptions from legal enforcement action, if the certificate holder informs the FAA of the apparent violation during, or in anticipation of, an FAA investigation/inspection or in association with an accident or incident. It is also important to note that FAA policy also dictates that any non-compliance reported after a FAA inspector has begun a compliance investigation is automatically not eligible for submission as a VDRP.

AVIATION SAFETY ACTION PROGRAM (ASAP)

ASAP is similar to VDRP except that it pertains to individual employees of airlines and aviation repair stations. The objective of ASAP is to encourage these employees to voluntarily report safety information that may be critical to identifying potential precursors to accidents. Like VDRP, safety issues are to be resolved through corrective action rather than through punishment or discipline. ASAP is designed to allow for the collection, analysis, and retention of safety data that would otherwise be unobtainable, and the program is intended as a database for the development of corrective actions designed to prevent the recurrence of the same types of safety events. Strict guidelines are also outlined as to whether an event is eligible for inclusion as an ASAP.

DETAILED DISCUSSION OF FAA SOUTHWEST CMO WHISTLEBLOWER ALLEGATIONS

Mr. Boutris and Mr. Peters filed for whistleblower protection with the U.S. Office of Special Counsel (OSC) in August 2007, after contacting T&I Committee staff, and this case was referred to the Secretary of Transportation on December 20, 2007 for investigation and response to the allegations.[19] In addition, they have provided substantial documentation to T&I staff. The Secretary of Transportation directed the DOT OIG to investigate the allegations on February 4, 2008, almost a year after they occurred. However, Majority T&I staff previously turned over the evidence to OIG in November 2007, along with a request to begin an immediate investigation.

Mr. Boutris and Mr. Peters disclosed to T&I staff that SPMI Gawadzinski, along with other collaborators, violated FAA policy and regulations pertaining to the maintenance of aircraft by airlines. The evidence suggests that these actions have led to "chronic, systemic, and repetitive non-compliance" with required maintenance procedures.[20] They charge that Mr. Gawadzinski knowingly allowed SWA to operate aircraft which were "not safe," as defined by FAA airworthiness standards.[21] The evidence also suggests that Inspector Vincent L. Collamore was aware that the aircraft were not airworthy, but did not challenge or report Mr. Gawadzinski's actions.

Mr. Boutris reported to Committee investigators that for the past three years he raised his concerns to Mr. Gawadzinski's supervisor, the SWA CMO Manager, Michael C. Mills. Mr. Mills supported Boutris' findings, and thus attempted to elevate the concerns to FAA Regional Management. Inspectors said that Regional Management consistently failed to take action. In fact, Mr. Boutris reports that 38 separate concerns were both e-mailed and hand-delivered to Regional

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[19] U.S. Office of Special Counsel, Report of Disclosures Referred for Investigation, OSC File Nos. DI-07-2793 and DI-2868, December 20, 2007.

[20] Ibid.

[21] By definition, if an aircraft is not in compliance with mandatory FAA airworthiness standards, and required maintenance intervals, the aircraft is considered unsafe for passenger service.

Flight Standards Director, Thomas Stuckey, and that he has yet to receive a formal response to any of them. Additionally, it is alleged that Mr. Gawadzinski made frequent references to his alleged connections with FAA HQ Flight Standards Director, James Ballough,[22] and that he used these references to intimidate others who attempted to challenge Gawadzinski's deviations from FAA national policy guidance.

FAA Order 8300.10, Inspectors Handbook, in the section under "inspector responsibility" states: "An inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act under the provisions of Section 605(b), FAA Act of 1958, as amended, is in dereliction of duty. This duty is placed specifically by Congress upon the inspector rather than upon the Administrator. If the inspector, after due consideration, still has any doubts regarding whether to ground the aircraft, the grounding notice should be issued."[23]

A Pattern of FAA SWA CMO and Airline Non-Compliance with Regulations

Mr. Boutris requested assignment to the FAA SWA CMO in March 2003. He was initially assigned responsibility for the inspection of aircraft engines at SWA. As a result of his review of the airline's AD compliance records for several aircraft engines, it was discovered that the type of documentation varied significantly in form and content for each engine, which made it difficult to track overall compliance, and is a violation of FAR Part 121.380(2) (VI). Mr. Boutris recommended to his supervisor, Mr. Gawadzinski, that a formal "Letter of Investigation" be sent in compliance with FAA Order 2150.[24] Mr. Gawadzinski refused and asked that a "Letter of Concern" be issued which constitutes a lower level of action and does not constitute a formal FAA investigation. Nonetheless, SWA did not disagree with Mr. Boutris' findings, and he worked with the airline for the next year to bring the engine programs into regulatory compliance.

In January 2006, Mr. Boutris was assigned responsibility for B-737-700 airframes and systems. He immediately began a review of AD compliance on the SWA fleet. He again discovered significant discrepancies in AD compliance records and again determined that the records did not meet the requirements of FAR Part 121.380. He shared his findings with SWA maintenance officials and again recommended to Mr. Gawadzinski that a Letter of Investigation be sent and was again refused. Instead, he told Mr. Boutris that an AD management safety attributes inspection (SAI) would be conducted to determine whether policy requirements were being met at the airline. The last SAI at SWA occurred in 1999, even though these inspections are required every 5 years.[25] The 1999 SAI included numerous negative findings that should have been tracked in follow-up investigations.

Approximately one year later in January 2007, SPMI Gawadzinski allowed the AD management safety inspection (SAI) to begin, which was now 3 years overdue. It is alleged that upon learning that Mr. Boutris would be leading the SAI, SWA maintenance officials met with Mr. Gawadzinski and attempted to have Boutris removed from the inspection team, in light of a Hotline compliant and subsequent required investigation, which was later proven to be erroneous. Although

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[22] Mr. Ballough is the FAA executive in charge of the entire Flight Standards Organization.

[23] FAA Order 8300.10, Inspectors Handbook. (On September 13, 2007, the entire contents of this document were incorporated into a new order FAA 8900.1).

[24] FAA Order 2150 provides guidance to Aviation Safety Inspectors on Compliance and Enforcement procedures.

[25] FAA Order 8400.10 (now superseded by Order 8900.11) requires an AD SAI every 5 years.

Mr. Boutris was allowed to remain as team leader, the SAI was further delayed, and Mr. Boutris again took his concerns to CMO Manager Mills, alleging that the airline was trying to influence the outcome of the investigation by hand-selecting an inspector more "friendly" to the airline.

The evidence collected during our the Majority staff's investigation suggested a pattern of giving preferential treatment to the airline that was apparently well known among FAA inspectors within the SWA CMO. Five witnesses in this investigation reported that Mr. Gawadzinski often discouraged other FAA inspectors from sending Letters of Investigation to SWA, despite their findings that would warrant such action. One inspector reported that the SPMI instructed him to alter a serious finding in the Program Tracking and Reporting System (PTRS) to reflect that the violation was initially found and disclosed under VDRP by the airline—a direct violation of VDRP policy guidance. Eight inspectors or former inspectors in the CMO told Majority staff investigators that Mr. Gawadzinski often seemed to be performing favors for SWA and appeared to be making decisions that benefited SWA.

Fuselage Inspection AD Over-fly and SWA Self Disclosure (VDRP)

On March 15, 2007, SWA informed the SPMI by telephone that on March 14, 2007, during an AD compliance review, the airline had identified a number of their aircraft that may have over-flown the inspection requirements of AD 2004-18-06. At that time, SWA believed that over 100 B-737-300 aircraft could be affected. AD 2004-18-06 requires inspections of the fuselage on the B-737-200, -200C, -300, -400, and -500 models that are, "necessary to find and fix fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane."[26] On March 19, 2007, SWA submitted a VDRP, which provided updated information previously provided on the telephone, and it was disclosed 47 aircraft were affected rather than the 100 originally reported.

According to records supplied to both T&I staff and OSC, during a records review within a few days after the March 15, 2007 disclosure, Mr. Boutris discovered that SWA did not cease operations of the affected aircraft when the non-compliance with the AD was discovered. The affected aircraft should have been grounded on March 15, 2007 at the time of the original disclosure, but they continued to fly between that date and at least March 23, 2007, so that each aircraft could be routed to a maintenance base to complete the overdue AD inspections. Most of the 47 aircraft remained in commercial service on revenue passenger operations. Six of the affected aircraft were found to have significant (up to 4-inch) fuselage cracks. It should also be noted that although March 15, 2007 was the date SWA discovered that many airplanes were overdue. It was later discovered that the affected aircraft were overdue inspection for 30 months prior to the submission of the VDRP.

The FAA VDRP form has a section entitled "Did Non-Compliance Cease after Detection?" In the VDRP submitted by the SWA Manager of Regulatory Compliance, Mr. Comeau, to the FAA SPMI, Mr. Gawadzinski, Mr. Comeau falsely answered "Yes" for the response to that question, and Mr. Gawadzinski accepted the entry, even though evidence indicates that he knew it was not true. Allowing the affected aircraft to remain in passenger revenue service, and flying passengers with a known unsafe condition, as defined by the airworthiness directives is a violation of Federal Regulations.

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[26] See footnote 6.

There is no controversy or disagreement among FAA officials that flights of the affected aircraft should have ceased upon the date of discovery of the violation. SWA maintenance officials had a statutory responsibility to ground the aircraft without FAA prompting, and the SPMI had knowledge of the over-flights. The SPMI should have followed mandatory FAA guidance under FAR Parts 39.7 and 39.11 and enforced the cessation of operations of all affected aircraft.

Mr. Kermit Teppen and Mr. Cecil Whitrock, who were Assistant Managers in the American Airlines (AMR) CMO, investigated this incident and they reported their findings in a memo on April 18, 2007 to SWA CMO Manager Mike Mills. They concluded that Mr. Gawadzinski neither ensured that the non-compliance ceased, nor did he inform upper management of this significant event stating that, ". . . the SWA CMO has a relaxed culture in maintaining substantiating data as well as any documents that would support any decisions made by the airworthiness unit."[27] In addition, the memo states that the "affected aircraft operated for roughly 30 months without being inspected" [emphasis added] and due to past events pertaining to B-737 aircraft skin fatigue, this should have been considered a serious safety issue. Additionally, in a memo entitled, "record of conversation" by Mr. Whitrock to regional FAA management, which was obtained by T&I staff, Mr. Whitrock said that Mr. Gawadzinski visited him and attempted to persuade him to change his findings.

Mr. Boutris continued his AD inspection (SAI) and met with SWA management on March 28, 2007. By the end of that meeting, he had documented 21 negative findings. He reported these findings to SPMI Gawadzinski, who instructed him not to enter them into the Air Transportation Oversight System (ATOS) database.[28]

On April 9, 2007, Mr. Mills advised Mr. Boutris that he was being removed from his position because of an anonymous complaint filed against him, per FAA guidelines. He was forced to cease all inspections. This began a pattern of harassment against Mr. Boutris, and this and other allegations against Mr. Boutris were found to be without merit seven months later. During the week of February 18, 2008, as the details of this hearing began to circulate within FAA offices, derogatory notes regarding Mr. Boutris were posted on the CMO bulletin board, were removed by management, and reappeared three different times. On March 10, 2008, Mr. Collamore was removed from the SWA CMO.

On February 22, 2008, Mr. Boutris' spouse received a package at their residence, which contained an article entitled, "How to survive the sudden death of your husband...." along with a hand-written note addressed to her suggesting, "Catherine thought youd [SIC] be interested!" Committee staff coordinated with the House of Representatives General Counsel, who requested that the Federal Bureau of Investigation (FBI) take the lead in the case with DOT IG assistance. The FBI interviewed Mr. Boutris and his spouse on the evening of February 22, 2008, the evidence was retrieved, and it is currently being analyzed for DNA and fingerprints in FBI laboratories.

The SAI inspection continued under Inspectors Collamore and Bassler, and this team reported 50 favorable findings and only 8 negative findings. Mr. Boutris again appealed to FAA

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[27] FAA Memorandum from Kermit Teppen/Cecil Whitrock, Assistant Managers, AMR CMO to Mike Mills, Manager, SWO COM, April 18, 2007.

[28] All investigative findings from FAA inspectors are supposed to be entered into the ATOS database, which is intended as tool to identify regulatory compliance trends at airlines.

regional management and asked for a review of the Collamore and Bassler findings. That regional FAA review found the Collamore and Bassler inspection contained conflicting findings, and it did not support the favorable review of SWA AD compliance.

Over-flights of Other Mandatory Maintenance Interval Checks (Rudder Leak Inspections)

In April 2007, FAA Inspector and whistleblower Peters became aware of a self-disclosure (VDRP submitted to FAA on March 20, 2007) that SWA had also over-flown a mandatory maintenance check of the Standby Rudder Power Control Unit Hydraulic System Internal Leakage Check on 70 aircraft. As with the disclosure associated with the fuselage inspections, SWA falsely disclosed that the non-compliance ceased upon the date of disclosure, even though later in the VDRP, SWA states that it will take the airline 14 days to complete the inspections. Obviously, it is impossible to say that the non-compliance ceased on the date of disclosure and at the same time disclose that it will take 14 days to complete the inspections. Again, under the FARs, it was mandatory that these aircraft be immediately grounded, but SPMI Gawadzinski accepted the VDRP and granted SWA the 14 days to continue the aircraft in revenue passenger service until they could, for commercial convenience, be routed to a location where the maintenance inspection could be accomplished and the schedule not interrupted.

Mr. Boutris reports that the non-compliance with this mandatory inspection went undetected for over one year. Although the VDRP was dated March 20, 2007 and indicated that SWA discovered this over-fly on March 19, 2007, the affected aircraft continued to fly in commercial service for 9 days after the date of detection. As with the fuselage inspection AD, there is no allowable provision or justification in FAA policy or in the FARs for continuing passenger operations while maintenance checks are pending or so that checks can be scheduled for commercial convenience. The matter was classified as closed by the FAA on April 10, 2007, and no follow-up was done to ensure tracking and completion of all the outstanding corrective actions, as required by the SWA CMO's Quality Procedures Manual and FAA policy. To date, FAA has taken no enforcement action on this matter.

RELATIONSHIP BETWEEN SWA FAA CMO AND THE AIRLINE

The systemic failures in the SWA CMO had been a long-standing concern prior to this incident and evidence shows repeated warnings to FAA Regional Flight Standards management. No direct evidence of FAA HQ knowledge has been obtained by T&I staff. Mr. Boutris, among others, had been warning of this "relaxed culture," lack of documentation, and non-adherence to procedures in the SWA maintenance program for years. Additionally, a July 26, 2005 memo entitled, "A Time for Change," written by CMO Manager Mills shortly after his arrival in the CMO, to all personnel in the SWA CMO states:

> We have noticed that many FAA approvals, certifications, and authorizations issued by this office have not followed handbook guidance. Our review of the files has revealed many instances where no paper trail can be established for critical regulatory transactions. There is also evidence that some of Southwest's manuals, bulletins, and checklists do not appear to exist in master copy and do not show approval signatures or an alternate approval protocol. There is also evidence that proper controls are not

> in place here or at the carrier to verify the currency of some of Southwest's manuals and bulletins.
>
> There are also indications that we may have retreated from the proper exertion of our influence and authority in some areas. It has been a long-standing and seemingly justified complaint of some of our inspectors that certain of Southwest's departments operate to a degree in a rogue manner, creating and publishing policies and procedures for vast numbers of Southwest employees to follow without benefit of prior coordination with the FAA principal.
>
> The relaxation into a level of coziness with Southwest did not occur overnight. Over time, familiarity with our counterparts at the carrier, combined with our intermingling with their freewheeling and informal culture, have perhaps influenced us to settle for winks, nods, verbals, and e-mails as acceptable methods by which we do our business as regulators. Who wouldn't find Southwest's easygoing camaraderie and jovial atmosphere appealing? What we want to avoid at all costs is a relationship so comfortable that the line of distinction blurs between the regulator and the regulated. . . . We are hired by the taxpayers to look over Southwest's shoulder and ensure they conduct their business with safety as the uppermost consideration at all times—nothing more, nothing less.[29]

Several witnesses will testify that SMPI Gawadzinski allowed SWA to keep the 117 non-airworthy aircraft in commercial service because of his personal relationship with Mr. Comeau, the Manager of Regulatory Affairs at SWA and former subordinate of Mr. Gawadzinski at FAA, and his overall level of "closeness" to SWA management. Mr. Boutris reports that in March 2007, he shared his concerns with FAA Security Special Agent David Friant, describing the safety concerns he had been voicing for the previous 3 years and the inappropriate interactions between SPMI Gawadzinski and the airline. FAA Security Special Agent Jay La Flair and FAA SW Region Supervisor Terry Lambert also interviewed Mr. Boutris in June 2007. Effective May 9, 2007, CMO Manager Mills, and SPMI Gawadzinski were temporarily reassigned.

In June 2007, Mr. Peters reported his concerns regarding inappropriate communications between SWA CMO inspectors and the airline. During his initial investigation of the fuselage inspection AD over-flights, Mr. Peters became aware that certain FAA inspectors were informing the airline about his access to SWA maintenance records, which he had the authority to access as an FAA inspector. Mr. Peters suspects that this exchange was to warn the airline about the details of his investigation. In addition, Mr. Peters was able to document that airline manager, Comeau shared a computer report detailing FAA employee' access to SWA's maintenance database. The fact that FAA inspectors shared details about the conduct of a FAA investigation with the subject of that investigation was highly inappropriate and suggests that a level of collusion was taking place between the regulator and the regulated. FAA Inspectors Stennis and Bassler admitted that they did share this information with SWA and were shown the report by Mr. Comeau, in the presence of CMO Acting Manager Robert Naccache.

A number of witnesses will testify that while many of the allegations have been investigated and documented, they are concerned that FAA has taken virtually no action to address the root

[29] Memo from SWA CMO Manager Michael C. Mills to all SWA CMO employees, July 26, 2005.

cause of these regulatory breakdowns or hold individuals accountable for knowingly violating FARs. Mr. Gawadzinski remained an inspector until a few weeks ago. As late as the week of March 3, 2008, Mr. Gawadzinski was assigned to the AMR CMO under the same FAA regional management. Mr. Collamore, who is alleged to have conspired with Mr. Gawadzinski, continued his duties as a SWA CMO partial program manager until the week of March 10, 2008 when he was removed, and as late as December 2007, was serving as the Acting SPMI in the SWA CMO. At a minimum, the evidence seems to demonstrate a long-term pattern of neglect that was reported to FAA Regional management with no significant corrective action taken.

DOES THIS PATTERN EXIST WITHIN OTHER FAA CMOS?

Majority Committee investigators conducted interviews with a number of FAA inspectors and retired FAA inspectors who are, or have been, assigned to CMOs overseeing other airlines. Most of these individuals were reluctant to provide their identities or evidence to T&I staff, but many did speak on condition of anonymity. The Professional Aviation Safety Specialists (PASS), which represents 11,000 FAA employees, including approximately 2,800 FAA Aviation Safety Inspectors,[30] also conducted numerous interviews with its FAA inspector members.

FAA Aviation Safety Inspectors are responsible for performing surveillance on aircraft operations and maintenance procedures for air carriers. FAA inspectors must perform in a role of "safety-enforcer" taking appropriate actions against violations of regulations. Both PASS, as well as many of the inspectors interviewed in this investigation, alleged that the "safety-enforcer" role has become increasingly overshadowed by the relationship between the FAA and airlines. A frequently heard complaint from current and former FAA safety inspectors is that these programs are often used as "get out of jail free cards."

As previously discussed, airlines are given the option to self-disclose a safety violation or non-compliance when they, internally and alone, discover the incident themselves. However, once a FAA inspector is in possession of evidence pertaining to a violation, that discovery is supposed to be handled as an enforcement case, and the airline no longer has the option to submit a VDRP.[31] PASS provided numerous examples to committee staff alleging that FAA inspectors, who were in the process of conducting an investigation, have been ordered by their front line managers to refrain from moving forward with investigations and thus allowing airlines to file a VDRP. The implication is that FAA managers are sometimes inappropriately communicating with airlines when an inspector is investigating an issue. It is not known how widespread these incidents are.

Many inspectors allege that there is pressure from management to not identify too many problems with an airline, suggesting that there may be "retribution" or reassignment as a result. PASS alleges to have several cases where an inspector has identified a violation and is then counseled by FAA management that they are straining relationships with a certificate holder. It is alleged that CSI has been exploited by some airlines seeking to remove individual inspectors from oversight of their certificate.

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[30] As of February 2007, the FAA lists the number of Flight Standards inspectors as 3,593. This figure includes first line field and office managers, and the PASS figure only includes inspectors who actually perform inspection functions in the field.

[31] See footnote 3.

Inspectors from several CMOs alleged that they have been ordered to change entries in various FAA enforcement databases, thereby allowing a clear path for the carrier to submit a VDRP and escape an enforcement action. Even in cases where FAA inspectors are permitted by management to move forward with enforcement actions, they often complain the process today has become so "convoluted and time-consuming," it can take an extended period of time to proceed. Several veteran inspectors reported to committee staff "they rarely even bother trying to file an enforcement case against an airline in the current environment because there is little chance anything will ever get done." If the many required hurdles are overcome, enforcement actions are often delayed until they are dropped. License suspension or revocation cases that are inactive for six months or longer are generally considered stale and often dropped. The DOT OIG issued a report in 2007 that noted, "FAA needs better procedures for responding and resolving safety complaints identified by inspectors."[32]

The General Accountability Office (GAO), in September 2006 testimony before the T&I Aviation Subcommittee, concluded that "it remains unclear the extent to which they [aviation safety oversight partnership programs] are achieving their intended effects." The GAO also noted that:

> FAA's enforcement program, which is an outgrowth of its inspection process, is intended to ensure industry compliance with safety regulations and is another important element of its safety oversight system. A key objective of FAA's policy of assessing legal sanctions against entities or individuals that do not comply with aviation safety regulations is to deter future violations. However, we found that recommendations for sanctions are sometimes reduced on the basis of factors that are not associated with the merits of the case, and the economic literature on deterrence suggests that the goal of preventing future violations is weakened when the penalties for violations are lowered for reasons not associated with the merits of the case. For fiscal years 1993 through 2003, we found that civil monetary penalties were reduced by 52 percent from a total of $334 million to $162 million. It is important for FAA to have effective evaluative processes and relevant data on its numerous safety programs so that the agency as assurance the programs are having their intended effect, especially as FAA's oversight becomes more indirect and as significant program changes are made.[33]

Since some of the details of this investigation were divulged and widely covered in the news media due to the rescheduling of this hearing (from March 12, 2008), the FAA has ordered a national audit of AD compliance. Since that announcement on March 13, 2008, at least six major U.S. airlines have announced the voluntary grounding of hundreds of aircraft for precautionary inspections including those related to AD compliance. FAA's actions with in the last two weeks and many airlines' responses suggest that the problem may be widespread.

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[32] "Actions Taken to Address Allegations of Unsafe Maintenance Practices at Northwest Airlines, Report Number: AV-2007-080, September 28, 2007.

[33] Testimony before the Subcommittee on Aviation, Committee on Transportation and Infrastructure, House of Representatives, Aviation Safety: FAA's Safety Efforts Generally Strong but Face Strong Challenges, U.S. General Accountability Office, September 20, 2006.

WITNESSES

PANEL 1

Mr. Charalambe (Bobby) Boutris
Aviation Safety Inspector and Boeing 737-700 Partial Program Manager for aircraft maintenance
Southwest Airlines (SWA) Certificate Management Office (CMO)

Mr. Douglas E. Peters
Aviation Safety Inspector and Boeing 757 Partial Program Manager
American Airlines Certification Unit, AMR CMO

Mr. Michael C. Mills
Assistant Manager, Dallas Fort Worth Flight Standards District Office (FSDO)

Mr. Paul E. Cotti
Supervisor, American Eagle Airworthiness Unit, AMR CMO

Mr. Robert A. Naccache
Ret. Assistant Manager, SWA CMO

Mr. Terry D. Lambert
Manager, Safety and Analysis Group, Flight Standards Division, FAA Southwest Region

PANEL II

The Honorable Calvin L. Scovel, III
Inspector General
U.S. Department of Transportation

The Honorable Scott J. Bloch
Special Counsel
U.S. Office of the Special Counsel

Mr. Nicholas A. Sabatini
Associate Administrator for Aviation Safety
Federal Aviation Administration

Mr. James J. Ballough
Director, Flight Standards Service, Federal Aviation Administration

Mr. Thomas Stuckey
Manager, Flight Standards Division, FAA Southwest Region

PANEL III

Mr. Herb Kelleher
Executive Chairman, Southwest Airlines Co.

Mr. Gary Kelly
Chief Executive Officer, Southwest Airlines Co.

Mr. Vincent Larry Collamore
Aviation Safety Inspector, SWA CMO

Mr. John Bassler
Principal Avionics Inspector, Dallas Fort Worth FSDO

PANEL IV

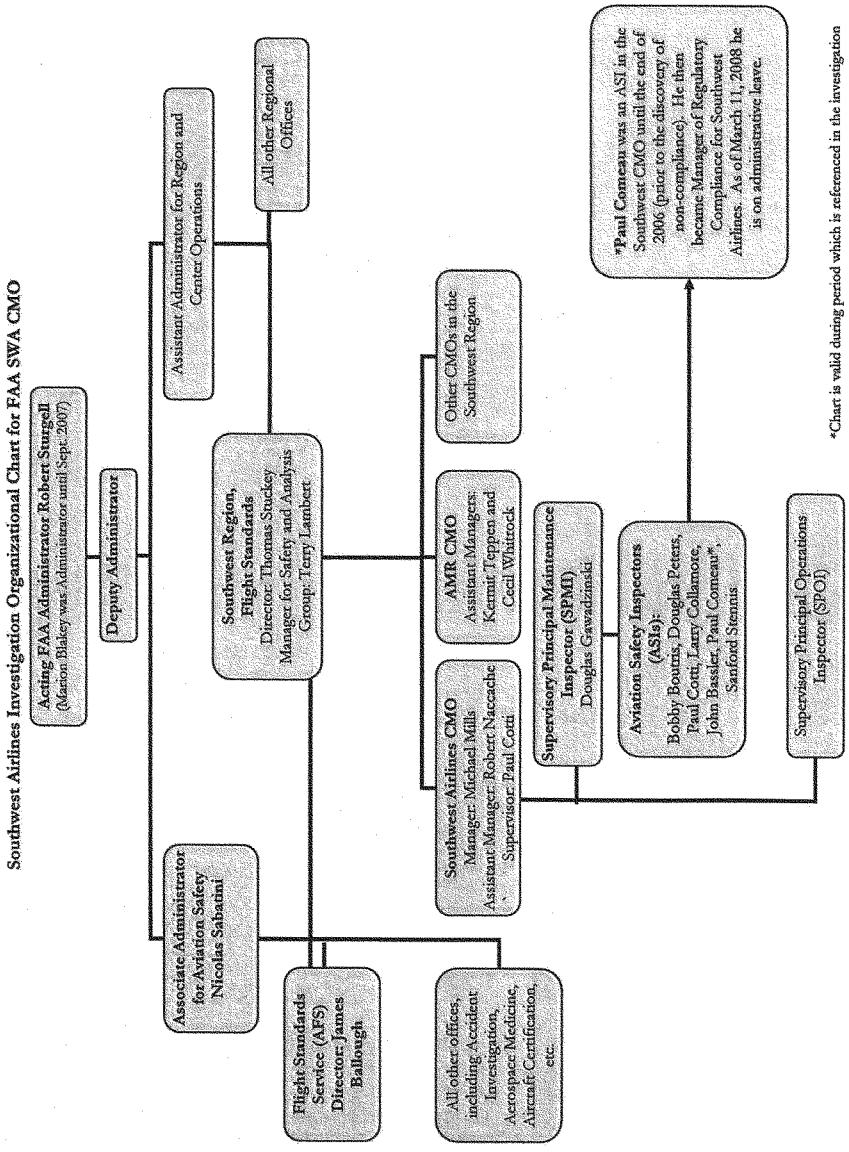
Mr. Tom Brantley
President, Professional Aviation Safety Specialists

Accompanied by
Ms. Linda Goodrich
Region IV Vice President, Professional Aviation Safety Specialists

Mr. Richard A. Andrews
Aviation Safety Inspector, American Eagle Operations Unit, AMR CMO
Professional Aviation Safety Specialists

Mr. Joseph P. Thrash
Ret. Aviation Safety Inspector, Continental Airlines CMO

Mr. Bill McNease
Ret. Aviation Safety Inspector, FedEx CMO


Southwest Airlines Investigation Organizational Chart for FAA SWA CMO
Acting FAA Administrator Robert Sturgell
(Marion Blakey was Administrator until Sept 2007)
Deputy Administrator
Associate Administrator for Aviation Safety Nicolas Sabatini
Assistant Administrator for Region and Center Operations
All other Regional Offices
Flight Standards Service (AFS) Director: James Ballough
Southwest Region, Flight Standards Director: Thomas Stuckey Manager for Safety and Analysis Group: Terry Lambert
All other offices, including Accident Investigation, Aerospace Medicine, Aircraft Certification, etc.
Southwest Airlines CMO Manager: Michael Mills Assistant Manager: Robert Naccache Supervisor: Paul Cotti
AMR CMO Assistant Managers: Kermit Teppen and Cecil Whitrock
Other CMOs in the Southwest Region
Supervisory Principal Maintenance Inspector (SPMI) Douglas Gavadzinski
Aviation Safety Inspectors (ASIs): Bobby Bouris, Douglas Peters, Paul Cotti, Larry Collamore, John Bassler, Paul Comeau*, Sanford Stennis
*Paul Comeau was an ASI in the Southwest CMO until the end of 2006 (prior to the discovery of non-compliance). He then became Manager of Regulatory Compliance for Southwest Airlines. As of March 11, 2008 he is on administrative leave.
Supervisory Principal Operations Inspector (SPOI)
*Chart is valid during period which is referenced in the investigation

OVERSIGHT AND INVESTIGATIONS HEARING ON CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY "PARTNERSHIP PROGRAMS"

Thursday, April 3, 2008

HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The Committee met, pursuant to call, at 10:00 a.m., in Room 2167, Rayburn House Office Building, the Honorable James Oberstar [Chairman of the Committee] presiding.

Mr. OBERSTAR. The Committee on Transportation and Infrastructure will come to order.

Before we begin the hearing which is the subject of today's session, I have a housekeeping item to attend to, to welcome the newest Member of the Committee on Transportation and Infrastructure, the gentleman from New Jersey, Mr. Sires, who replaces our former colleague from Indiana, the late Julia Carson. Mr. Sires, unfortunately, is still in New Jersey because they have a filing deadline for the November election, and he has to be there in person to do that. But he assured me that he will be an active, vigorous participant in all the work of the Committee as we continue our work.

Ms. Carson's untimely death created vacancies on the Subcommittee on Highways and Transit and on the Subcommittee on Railroads, Pipelines, and Hazardous Materials. The Democratic Caucus of the Committee on Transportation and Infrastructure unanimously recommended Mr. Sires fill these positions. So, pursuant to the rules of the Committee, I ask unanimous consent that Mr. Sires be appointed to the Subcommittee on Highways and Transit and to the Subcommittee on Railroads, Pipelines, and Hazardous Materials. Is there objection?

[No response.]

Mr. OBERSTAR. The Chair hears none. So ordered.

At the outset, I want to observe that we will have, as I have notified Members, only four opening statements, in order to expedite the business of the day and to assure that we hear all witnesses in timely fashion. So we will have four opening statements: mine; the gentleman from Florida, Mr. Mica; Mr. Costello; and Mr. Petri.

Mr. Miller, will you close the door?

Today's hearing is a continuation of the long-established practice and precedent of this Committee of overseeing the work of the government agencies and the programs under the jurisdiction of this

Committee. The Special Investigating Committee on the Federal-Aid Highway Program was established at the direction of Speaker Sam Rayburn in 1959, three years after enactment of the Highway Trust Fund and the Interstate Highway Program.

My predecessor, John Blatnik, whose portrait hangs in the corner of this room, was selected to head that Special Committee to inquire into fraud, corruption, abuse, and right-of-way acquisition practices, construction practices at a time when the Interstate Highway Program was just beginning, when unprecedented amounts of money were flowing from the Federal Government to State Departments of Transportation, which our Subcommittee investigative staff found had no internal audit and review procedures; where money was flowing out fraudulently to contractors; where Federal and State and local government officials were being paid off by contractors to sign off on shoddy or non-existent practices. Thirty-six people went to Federal and State prison as a result of those hearings over a period of six years.

The work of the Special Investigating Committee continued as the Committee was then restructured as a standing Subcommittee on Investigations and Oversight of the Full Committee on Public Works. It was a great privilege for me, years later, beginning in 1985, to Chair that Subcommittee through 1989, and later as Chair of the Aviation Authorizing Committee, and to continue the work of oversight, inquiry into issues of importance to the broad spectrum of activities of our Committee on Public Works, and then Public Works and Transportation.

Aviation has been a major focus of our oversight activities. Practically the first hearing I chaired as Chair of the Investigations and Oversight was an inquiry into the crash of Galaxy Airlines in January 1985 in Reno, Nevada, when 93 people died. Other hearings inquired into an uprising, a rash of near mid-airs.

At a time when the FAA was reporting that near mid-air incidents, aircraft coming too close to one another in the air, was down by 50 percent, we learned, through the AIMs reporting system, that, in fact, near mid-airs had doubled throughout 1984 and that there was a rising incidence of aircraft coming too close to one another and the FAA did not even have a standard for measuring near mid-air incidents of aircraft coming too close to each other.

Whistleblowers in the form of air traffic controllers, flight attendants, mechanics, pilots, came to the Committee with information about failures to uphold the highest standards of safety in aviation. With my Committee colleague, Newt Gingrich, first, and later Bill Klinger, Republican from Pennsylvania, we followed up on all those leads and we conducted intensive hearings and inquiries into aviation safety issues. As a result of those hearings, first of Galaxy Airlines, the FAA transformed its oversight into a holistic view; not looking at one piece here and one piece there, but requiring a holistic overall overview of aviation safety as conducted by the airlines and their maintenance practices.

The near mid-air series of hearings led to establishment and requirement of MTSI transponders in the terminal control area. After the tragic crash of two aircraft over Cerritos, California, our Committee colleague Ron Packard, Republican of California, and our Committee leadership moved to, by law, require establishment of

ground proximity warning systems and traffic collision avoidance systems on board aircraft, because the FAA either was not moving fast enough or, as they told us, that the regulatory process will take much too long. We did it, bipartisan spirit, through legislation.

And then there were incidents of, again, whistleblowers coming to the Committee, saying a foreign airline has a 747 at Boeing's headquarters in Seattle, where they are removing the over-wing exits in order to save weight and accommodate more passengers and fuel, and we think that is a serious safety violation. Flight attendants and mechanics brought it to our attention. In this very Committee hearing room we held a hearing on that subject with then FAA Administrator Don Engen waiting in the audience to testify.

We had testimony from Joan Jackson, the lead flight attendant in civil aviation's worst accident at Tenor Reef in the Canary Islands, testifying how, shrouded in fog, with two 747s crashing into one another, one after another flight attendant tried to get their passengers out the exit, only to one be decapitated, another see the chute melt in flames; and Joan Jackson led her 60 passengers out to safety through the over-wing exit. We had testimony from other flight attendants in other 747 tragedies where lives were saved because of the over-wing exits.

To his great credit, Administrator Engen, sitting right there in that front row, wrote out a note, sent it to the Seattle administrator's office—it was a regional administrator at the time—directing that the work be suspended on over-wing exit removals.

In the aftermath of Aloha Airlines, where 18 feet of an aircraft ripped off in flight, something that was not supposed to happen, had never happened, could not happen, did happen. The result of that tragedy in which the flight attendant was pulled to her death, the flight crew, remarkably, was able to safely land the aircraft.

I, working with FAA, called a worldwide conference on aging aircraft. The result of that was the Aging Aircraft Safety Act, in which Congress directed in-depth oversight of and maintenance on high-time aircraft; complete tear-down at 35,000 cycles and every 4500 cycles thereafter. Significant because in this incident, in this instant case with Southwest Airlines, violation of that airworthiness directive was the cause of the whistleblowing that we will hear about shortly.

Subsequently, the mysterious crash of 737 at Aliquippa, Pennsylvania, 132 fatalities. Again, the NTSB investigation ultimately found that it was an uncommanded rudder movement that caused that aircraft to crash. Because of that finding, the NTSB went back into its records and looked at other crashes and other incidents short of crash in which there was a movement they could not account for and attributed it back to the uncommanded rudder control and the power control unit within that. Significant because here again was an airworthiness directive compliance with which was avoided by Southwest in compliance with and in concert with FAA inspectors.

Other oversight hearings which we conducted resulted in changes in airport runway oversight by FAA and air traffic controllers dealing with runway incursions, and air traffic control staffing standards. In nearly every case of our oversight hearings we have

seen changes in practice, changes in airworthiness directives driven by a need to adhere to the highest standards of safety.

And I will say it and I will say it again, the opening paragraph of the FAA Act of 1958 directs the newly established agency "to maintain safety at the highest possible level." Not the level the airlines want to spend money on, not the level that they think is okay, but the highest possible level. That is the gold standard of aviation safety worldwide. That is what we expect the FAA to live up to, not some international standards organization, not something that RKO does, but that FAA is the gold standard for the world.

I made it clear when I took the Chairmanship of the Full Committee that oversight would be an important part of our work, and so it has become.

We are going to hear this morning from another generation of whistleblowers, dedicated professionals who have put their careers on the line in the interest of safety, willing to risk what is necessary in the interest of the safety of the traveling public. They will present testimony that Southwest Airlines, with FAA complicity, allowed at least 117 aircraft to fly with passengers in revenue service in violation of Federal aviation regulations. Documents they presented to our Committee, which I reviewed last summer and continuing through the fall, set in motion an inquiry into the most egregious lapse of safety I have seen in 23 years. The details will be forthcoming from the witnesses.

They suggest to me that the voluntary disclosure initiative instituted with good intentions by FAA, has migrated into complacency at the highest levels of FAA management, reflecting a pendulum swing away from a culture of vigorous enforcement of compliance toward a carrier-favorable cozy relationship. This shift from vigilance occurred at the very time that airline maintenance has been massively outsourced by airlines, by specifically network carriers except for American Airlines, with less FAA enforcement, less airline management involvement, and outsourcing to both domestic and foreign repair stations.

I understand full well from many years of doing this work that FAA probably could not hire enough. Maybe they have some 3,000 inspectors. Ten times that many might not be enough to conduct the in-depth, vigorous surveillance that is needed. But certainly more than we have now are necessary. And, yet, the partnership program FAA initiated with the airlines, that can be beneficial to safety, has drifted into a system that is inimical to safety. FAA needs to rethink its relationship with the airlines and with the other aviation entities which it regulates.

I was astonished to read off the FAA website their mission statement: "Our customers are people and companies requesting certification, other aviation services or information related to the products and mission of flight standards." The only customer, if you are going to use that term, of the FAA is the air traveling public. Airlines are not customers. FAA is not providing a service to them. Bedrock responsibility of the FAA is to ensure safety for the traveling public. FAA needs to clean house from top to bottom, take corrective action, hire more inspectors and give them a safety mission.

Congress should, and following these hearings will—I will—draft legislation—I hope we can have bipartisan concurrence on it—to establish a long post-service cooling off period for FAA inspectors before they are allowed to go to work for the airlines. This is something that FAA could do by regulation, but it would take them way too long to do it. Just as we do with other Executive Branch personnel, we should do it for FAA.

Senior management at FAA has to develop a better way to monitor local airline oversight offices and avoid lapses in compliance such as we saw with Southwest.

It is no mere coincidence that FAA's recently initiated audit began just after news of our hearing was revealed to the public. We are going to look in-depth at the factors that brought us to this point in the course of this hearing.

With that point, I yield to the gentleman from California, Mr. Mica.

Mr. MICA. Thank you for yielding and also thank you for convening a very important hearing this morning.

Probably one of the most important responsibilities we have as a Member of this Committee, whether it is Mr. Oberstar, myself, or any other Members here is making certain that we do conduct thorough oversight, and, particularly when it comes to aviation, that we ensure, as is the charter set forth for FAA, the highest standard of safety.

I do want to, though, assure the Members of Congress and the American people that we have developed and maintained the safest system of passenger aviation in the history of the world. Last year, we had over 735 million people fly. In fact, two-thirds of all the air traffic in the world took place within the boundaries of the United States. Since 2001, November 12th, we have not had a single aviation fatality in a large aircraft in the United States of America. That record is unparalleled, again, in the history of aviation.

But I think that today's hearing is very important because we have had a couple of people step out at probably some great personal risk and bring information to the Committee that, as good as the system we developed and put in place, we can't sit on our laurels; that, in fact, we have got to look at what we put in place. And, you know, I was a strong advocate of a risk-based inspections and also self-reporting system, and I think so far it has proven to work well.

But what we have from the individuals that we will hear from today is a wake-up call, a wake-up call that you can never just accept a standard or a protocol or a routine in government, and particularly where it involves safety, that you have to be constantly vigilant of the system you put in place and then take corrective action. So we are going to hear about what went wrong with the system we had.

We are going to hear about some relationships the Chairman described that probably are improper and that need to be corrected. We are going to hear about some revolving door relationships, too, that also need to be corrected. But what we have got to do is come up with positive changes that ensure that the record that we have had to date continues.

Now, again, I want to assure the American people the system is safe; we found some flaws, but this hearing is going to ensure that we continue that record and we correct the things that we found and we will hear today what has gone wrong. Just for example, last year, 43,000 people were killed in automobile accidents. Since the last major aircraft crash and deaths in 2001, over 200,000 people have died on our highways and millions injured. So just put all of this in perspective. But, again, we can't rest on our laurels.

I have tried to take a look at what went wrong, and I think that we have several problems, and at least three things need to be addressed. First of all, the system that we put in place was a self-reporting and risk-based system, which is a good system. What we didn't put in place is somebody to check those who are doing the checking; and I think that is what is missing in the system. We can't just rely on what we created to be, again, a self-policing, the fox guarding the hen house; we have got to have some independent check of the checkers.

The second thing that concerns me in all of this is if you look at the number of employees, we have 3800 people in FAA and inspections. They do about 7,000 commercial aircraft. We probably have enough people to do the job if everybody was on the job. I think we are going to hear—and we need to ask questions of Mr. Sabatini about—who are the people we have doing the job and how many people we actually have in place.

My observation is we have a serious problem with retirement, we have a serious problem with recruitment, we have a serious problem with replacement, and we also have a serious problem with looking at the number of people in administrative positions versus the people who are actually online conducting these inspections. So it is not always how many people you have, it is how you use the people that you have and if the positions are filled or will become vacant and then finding a way to replace them.

My third and last concern is we are here today, we are on our third extension of FAA reauthorization. Congress sets the policy; we have basically failed in our responsibility to pass FAA legislation reauthorization. We have not had an administrator at the FAA, a confirmed administrator since September of last year. This is particularly a very difficult return to what we experienced in the past.

I have been on the Committee for 16 years. When I came on at one point, we had five administrators in a very short period of time, and then we had no administrators or acting administrators for almost the same period of time. You cannot run a Federal Aviation Administration without someone at the helm.

And I have written every Member of the Senate before this hearing was convened or announced and asked them to take action on that. We have no deputy. It took us years to get a COO. The COO left. We have a new COO. So I am not a happy camper as far as the way FAA is rudderless, and, again, Congress has abdicated its responsibility to confirm or reject the President's nominee.

Out of all this, in closing, there is some good news, and the public and you can take confidence when you have an incident like this, as you have heard already, the planes are being pulled out of the sky, there are re-inspections, there are audits, there are re-

views. Everyone is going to "dot" there "I"s and cross their "T"s as far as safety is concerned, so in a bad situation some good things will happen.

But again, finally, the public has to be also assured in a time when airlines are being forced. I mean, they are really feeling the pinch. We had another one go down today. But the public has to be reassured that even when there is cost-cutting by airlines and cost attention to expenses, that safety will not be compromised by the Federal Government, which has that important responsibility.

So I look forward to working with the Chairman, Members of the Committee, those that are left at FAA, the industry, and others to make certain we restore confidence and correct problems with the system. Thank you.

Mr. OBERSTAR. I appreciate the gentleman's affirmative statement in favor of safety and concur on the points that he has made.

The gentleman from Illinois, Chair of the Aviation Subcommittee, Mr. Costello.

Mr. COSTELLO. Mr. Chairman, thank you. And, Mr. Chairman, I think you have given a very good summary of why we are here today and the issues before us. Therefore, I will submit my statement into the record and make some brief comments. But before I do, I want to follow up on Mr. Mica's comments. I think he has made very good points concerning the lack of an administrator and, secondly, the fact that the legislation that we passed through the House is pending in the other body.

So the two points that I would make is that we on this side, this Committee and the Subcommittee, as well as the House of Representatives, we have not failed in our duties. We have passed a reauthorization bill. It passed the House with bipartisan support on September 20th of last year. It is pending in the other body.

On the other issue of you have to have someone at the helm, an administrator, I agree with Mr. Mica, but I would also point out that many of these violations, when the inspectors were reporting these violations to their supervisors, we did have an administrator in office at the time. So I just want to, for the record, point that out.

First, Mr. Chairman, let me thank Mr. Boutris and Mr. Peters for being here, but for their persistence and dedication. We would not be holding this hearing today had it not been for their determination and their courage and their persistence. They were the ones who exposed the violations, and they should be commended for their actions.

It is a pretty sad day when employees of any agencies here in the Federal Government, when they have to seek whistleblower protections in order to do their job, let alone safety inspectors from an agency whose number one responsibility is protecting the flying public. The fact that Southwest failed to ground planes that should have been grounded is inexcusable, and they should pay a hefty fine.

However, this hearing today is not about Southwest Airlines; it is about the total failure by the FAA to perform sufficient oversight of its maintenance program. While Southwest's failure is inexcusable, the fact that FAA supervisors prevented FAA inspectors from

doing their job, preventing them from enforcing serious safety violations, is nothing more or nothing less than outrageous.

We need to know, this Committee needs to know, the American people need to know who at the FAA knew about these violations, when they learned about the violations, and why the FAA waited so long to impose a fine on Southwest. We also need to know what action will be taken by the FAA to prevent this from happening again in the future.

Mr. Chairman, we have seen a pattern at the FAA of being an agency that is reactive, and not proactive. Since I became Chairman of the Subcommittee in January of last year, I can tell you that sometimes you get the feeling that the agency is on autopilot until they are pushed into action, either by this Committee, the Aviation Subcommittee, the media, or, in this case, whistleblowers.

I can give many examples, but just to give you a few, the issue of runway incursions. The FAA acted when we were at the height of runway incursions back in 1999, 2000, and 2001. They put together a committee. The administrator and the secretary interacted with that committee, all of the stakeholders. They created an Office of Director of Runway Safety. But then, when the numbers started coming down, the FAA left the problem, walked away from it, and left the office vacant; and no more input or contact with the stakeholders.

Secondly, the issue of hazardous conditions in towers at the FAA. We have had reports and the FAA has had reports from air traffic controllers and their employees about the hazardous conditions at the air traffic control towers, the TRACONs and other facilities. They didn't act until the Subcommittee started to take action. In fact, they didn't even put together a list as to which facilities were in the worst condition in order to address the problem. In my judgment, they ignored the problem until we at the Subcommittee level held a hearing.

The issue of congestion and delays. It was when the Subcommittee held a hearing. We pushed the FAA, in my judgment, to addressing the issue by having the secretary and the President of the United States issue a directive to the secretary and the administrator to do something about congestion and delays.

And last—and there are many other examples—consumer issues like holiday travel and emergency contingency plans. You know, only after my call to the Secretary of Transportation saying, look, we anticipate, over Thanksgiving and the Christmas holiday, more people flying than ever before, do we have a plan to address this; are we going to bring airport operators and the airlines together to put a plan together? And I was told, boy, that is a great idea, we should do that. And I said, well, let's begin meeting and we will do it around your schedule.

The next call I got was, well, I am not going to be able to participate because I am working over at the White House to try to address the issue. And on the very morning that we held our Subcommittee hearing on the issue of holiday travel and congestion during that period the Secretary and the President made an announcement that he was directing the Secretary to come up with a plan.

It is very clear that the agency acts when they are pushed to act. You know, it is not enough to have safety regulations in place. We in this Committee, the Subcommittee on Aviation, and the American people expect the FAA to enforce these regulations.

As has been pointed out by the Chairman and others, we have the safest air transport system in the world here in the United States, but we can't become complacent and rely on the past.

Finally, Mr. Chairman, let me say that I have said it before and I will said it again, I have said it at Aviation Subcommittee hearings and I have said it over and over again, and I will say it again today: I want the FAA to know, I want the industry to know this Committee is not going away, the Aviation Subcommittee is not going away. We are going to fulfill our responsibilities of aggressive oversight on this issue and every issue. We owe it to the American people. That is our responsibility and we are going to live up to our responsibility.

With that, Mr. Chairman, I look forward to hearing from our witnesses today, and I thank you for calling this hearing.

Mr. OBERSTAR. I thank the gentleman for his comments and for his superb work as the Chair of the Aviation Subcommittee.

Ranking Member of the Subcommittee on Aviation, distinguished gentleman from Wisconsin, Mr. Petri.

Mr. PETRI. I thank my Chairman from Minnesota. And I would like to thank you for having this important hearing on the FAA's airline maintenance oversight and how they have discharged that responsibility. I will summarize my remarks and ask that the full remarks be made a part of the record.

Mr. OBERSTAR. Without objection, it will be included in the record.

Mr. PETRI. The roughly 6,900 employees of the FAA's Office of Aviation Safety, including some 3,800 aviation safety inspectors, oversee approximately 19,000 aircraft, including about 7,000 aircraft that make up the U.S. commercial airline fleet; over 500,000 pilots and approximately 5,000 repair stations. Their charge is as important as it is obviously large.

While it is true that we are enjoying the safest period in aviation history, due in no small part to the hard work of many at the FAA and at the airlines, we must keep a vigilant guard to protect safety because lives, as has been pointed out, depend on it.

Clearly, there were serious problems at the FAA's Southwest Certificate Management Office. The dysfunctional make-up of the office got in the way of proper safety oversight, and we are fortunate that no lives were lost.

As we listen to today's witnesses, we need to pay special attention to proposed recommendations to prevent such a situation from happening again. Our emphasis today also should focus on the future of aviation safety, on the "how it happened" so that we can fix the problem, not just on "what happened."

To this end, I am interested in hearing the Inspector General's recommendations after having fully investigated the events that occurred at the FAA's Southwest Certificate Management Office, as well as recommendations from our other witnesses.

Fundamental to this Committee's responsibility to safety is to ensure that the FAA has the proper number of inspectors to carry out

the mission of the Office of Aviation Safety. The FAA's Aviation Safety Workforce Plan, released Monday, indicates that 14 percent of the engineers and up to 35 percent of its inspector corps will be eligible to retire in budget year 2009, compared to 4 percent that actually retired in budget year 2007.

This Committee's FAA reauthorization bill included language requiring the Administration to develop an aviation safety inspector staffing model to account for retirement trends and ensure adequate staffing. For this reason, along with many others, I urge our Senate counterparts to move forward on their bill so that we can address these important aviation safety issues.

I thank the Chairman again for calling this important hearing and yield back the balance of my time.

Mr. OBERSTAR. I concur in the gentleman's appeal to the other body and to Mr. Mica's vigilant efforts with the other body, as we have all done, and hope that we can come to a point where we have a conference with the Senate and move the FAA reauthorization act.

We will now move to our first panel, ask members to rise, raise your right hand. Do you solemnly swear that the testimony you will give before this Committee in the matters now under consideration will be the truth, the whole truth, and nothing but the truth, so help you God?

[Witnesses respond in the affirmative.]

Mr. OBERSTAR. You may be seated.

Mr. Boutris, we will begin with you, but, at the outset, I want to express my great appreciation to all of the members of this panel for the public-spirited courage it took when you ran the length of administrative procedures to call to account the failing practices and came to no avail, that you had the courage to step forward and come to our Committee and say something serious is amiss. And I regret that a death threat ensued in that process, but I am greatly relieved that it is under investigation by law enforcement authorities. You deserve the gratitude of the flying public and of the Members of this Committee.

Mr. Boutris.

TESTIMONY OF CHARALAMBE "BOBBY" BOUTRIS, AVIATION SAFETY INSPECTOR AND BOEING 737-700 PARTIAL PROGRAM MANAGER FOR AIRCRAFT MAINTENANCE, SOUTHWEST AIRLINES CERTIFICATE MANAGEMENT OFFICE; DOUGLAS E. PETERS, AVIATION SAFETY INSPECTOR AND BOEING 757 PARTIAL PROGRAM MANAGER, AMERICAN AIRLINES CERTIFICATION UNIT, AMR CMO; MICHAEL C. MILLS, ASSISTANT MANAGER, DALLAS FORT WORTH FLIGHT STANDARDS DISTRICT OFFICE; PAUL E. COTTI, SUPERVISOR, AMERICAN EAGLE AIRWORTHINESS UNIT, AMR CMO; ROBERT A. NACCACHE, RET. ASSISTANT MANAGER, SWA CMO; AND TERRY D. LAMBERT, MANAGER, SAFETY AND ANALYSIS GROUP, FLIGHT STANDARDS DIVISION, FAA SOUTHWEST REGION

Mr. BOUTRIS. Thank you, Mr. Chairman. Good morning, Mr. Chairman and Members of the Committee. My name is Charalambe Boutris. I go by Bobby for obvious reasons. I have a

lot to say this morning, so if I speak too quickly and it sounds Greek to you, more than likely it probably is. However, I will do my best to ensure that everyone understands me.

For 20 years I worked in the aviation industry, performing aircraft maintenance and inspections for several U.S. major airlines and U.S. major cargo carriers. I also held several management positions, including Director of Maintenance.

In February of 1998, I was hired by the Federal Aviation Administration as an Aviation Safety Inspector. I am currently assigned to Southwest Airlines Certificate Management Office as the maintenance Partial Program Manager for the Boeing 737-700 aircraft.

For me, safety comes first and my job second. I am not a disgruntled employee; I am a person with integrity and I do believe that we should cooperate and collaborate with the airlines, but not to the point that we go outside our guidance and break the law. I have followed the chain of command, without any results.

I am here today because I am concerned for the safety of the flying public, which has been jeopardized by the abuse of authority and violations of the Federal regulations. I have summarized the information for my verbal testimony; however, I would like to inform you that details for this information which I am about to present were originally submitted to the Division Management Team at the Southwest Regional Office and, six months later, to the Office of Special Counsel. In addition, I have provided the Committee with a detailed written testimony.

Since 2003, I have been raising safety concerns regarding my Supervisor/Principal Maintenance Inspector Douglas Gawadzinski suppressing my inspection findings and his refusal to follow FAA guidance regarding chronic and systemic non-compliance maintenance issues that affect air safety.

The FAA issues Airworthiness Directives—we call them ADs for short—in order to address unsafe conditions for aircraft and their components. AD requirements are mandatory and by Federal regulations.

In December 2003, I was the Partial Program Manager for engines for Southwest Airlines. After reviewing the Southwest Airlines AD compliance records for several aircraft engines, I discovered the required AD compliance information was inconsistent and was difficult to track the AD compliance. This was contrary to Title 14 CFR Part 121.380.

After long talks with my supervisor, Mr. Gawadzinski, on January 23rd, 2004, he allowed me to send Southwest Airlines a letter of concern, not a letter of investigation, as I wanted to and was required in accordance with our guidance. Southwest Airlines agreed with my findings and took one year to complete the project and bring the AD information into compliance.

In January of 2006, I became the PPM for the Boeing 737-700 aircraft. In reviewing the AD compliance records, I found similar discrepancies to the ones I had found with the engines two years earlier. I immediately informed my supervisor, Mr. Gawadzinski, of my findings and told him I wanted to send Southwest Airlines a letter of investigation, but Mr. Gawadzinski refused.

After going to him several times and insisting that we had to address the AD problem, Mr. Gawadzinski, in January 2007, assigned

me to perform the AD Management Safety Attribute Inspection—SAI for short. This inspection evaluates the content of the airline's manual system and procedures in meeting the regulatory and FAA policy requirements for AD management.

When Southwest Airlines found out that I was the assigned inspector for this inspection, for the SAI, the Southwest Airlines Director of Quality Assurance, Mr. Mats Sabel, and the AD compliance team leader, Mr. Bill Krivanek, had a meeting with my supervisor, Mr. Gawadzinski, and requested my removal from doing the inspection. Mr. Gawadzinski called me into his office and told me of this meeting. I went to the office manager, Mr. Mike Mills, and complained to him that it was obvious that Southwest Airlines wanted to cherry-pick the inspector for this inspection. Mr. Mills talked to my supervisor who then informed me to go ahead and do the inspection.

On February 26th, 2007, I informed the Southwest Airlines AD compliance team leader, Mr. Krivanek, that due to the fact that both of us already knew that Southwest Airlines did not have all the required procedures in place for the AD management, I was also going to look and review some aircraft records to ensure AD compliance.

Mr. Krivanek stated that he and my supervisor, Mr. Gawadzinski, had discussed what my assignment was, and reviewing aircraft records for AD compliance was not part of my inspection. I told Mr. Krivanek he was correct; however, due to my knowledge of the previous history with AD issues, I felt that reviewing some of the Southwest Airlines aircraft records for compliance was appropriate. Mr. Krivanek was not happy about that, but he agreed to meet with me on March 15th and start the inspection.

On March 15th, 2007, I went to Southwest Airlines and met with Mr. Chris Roth. Mr. Chris Roth informed me that Mr. Krivanek could not participate at the meeting because he was working on a project. I went to my supervisor, Mr. Gawadzinski, and told him that Mr. Krivanek could not participate with AD management inspection because he was working on a project. Before I had the chance to say anything else to my supervisor, he stated, "Yeah, they had some airplanes over-fly an AD and they are going through the records to find out how many."

At this point, it was obvious to me that since I had told Mr. Krivanek that, along with the AD management SAI, I was going to review some aircraft records for AD compliance, Mr. Krivanek had decided to have the aircraft records reviewed prior to my inspection and had discovered the AD over-fly discrepancies.

On March 22nd, 2007, while I was performing night surveillance inspections at Southwest Airline maintenance facility at Chicago Midway Airport, I witnessed a Southwest Airlines aircraft being repaired due to a crack that was found on the fuselage. After returning back to my office and talking with another inspector, I discovered that this aircraft was flying in revenue service with overdue AD inspections, with the knowledge of my supervisor, Mr. Gawadzinski. I immediately reported this serious safety issue to my office manager, Mr. Mills.

Due to my ongoing safety concerns with Southwest Airlines and the inadequate procedures for tracking and complying with AD re-

quirements, I preformed a review of the aircraft records and I discovered the following: On March 15th—that was the date I was supposed to start my inspection for the ADs—2007, Southwest Airlines informed my supervisor, Mr. Gawadzinski, that they had discovered that some of their aircraft had overflown the inspection requirements of Airworthiness Directive 2004-18-06. At the time, Southwest Airlines were not sure of how many aircraft were affected and estimated that the number could have been up to 100 aircraft.

The AD requirements that Southwest reported that were not being accomplished require inspections of the fuselage on their Boeing 737-300 and-500. On the first page of the AD it states: "This action is necessary to find and fix fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage and consequent rapid decompression of the airplane. This action is intended to address the identified unsafe condition."

FAA records show that besides the March 15 verbal notification, on March 19, also, Southwest Airlines, via the Voluntary Disclosure Reporting Program, reported the AD non-compliance again, but this time they informed Mr. Gawadzinski that their investigation had determined that there were 47 aircraft affected, not 100 as was originally reported to him on March 15. Even though Mr. Gawadzinski was aware of this unsafe condition on March 15th, 2007, he did not document anything until March 19th, when Southwest submitted the self-disclosure in writing.

In reading the VDRP report that was prepared by Southwest Airlines and accepted by Mr. Gawadzinski, under the Initial Notification, "Did Non-compliance Cease After Detection?" Southwest reported "Yes." However, this is not the truth. The aircraft records show that Southwest continued to operate the affected aircraft in a known unsafe condition and fly passengers until March 23rd, 2007.

From March 15th, 2007, the date that Mr. Gawadzinski was initially informed for this non-compliance, to March 23rd, 2007, while Southwest Airlines was performing the overdue inspections on these aircraft, and while these aircraft were still operating in revenue service, records show that six aircraft had cracks on their fuselage. Maintenance records show that one of these aircraft had multiple cracks, ranging from one inch to three and a half inches long.

This is enough evidence of a serious safety issue. When it comes to ADs, our guidance is crystal clear, and had Mr. Gawadzinski followed the FAA guidance, he should have notified Southwest Airlines that the affected aircraft could not be used in air transportation past the date that this non-compliance was discovered and initially reported to him on March 15th, 2007. What is also aggravating and brings this unsafe condition to the highest level of concern is the fact that, according to the VDRP report, at the time of discovery, the violation for compliance with the AD inspections had remained undetected for 30 months.

What is interesting here is that in reading the VDRP report, under the "Information of the Person Preparing the Comprehensive Fix" for Southwest Airlines is the name Paul Comeau. Mr. Comeau

is an ex-FAA inspector who was performing oversight inspections for regulatory compliance issues for the Southwest Airlines certificate at the Southwest Airlines CMO with Mr. Gawadzinski.

While working for the FAA, Mr. Comeau accepted a job offer from Southwest Airlines as the Manager for Regulatory Compliance. I believe that Southwest Airlines knowingly hired Mr. Comeau for his FAA connections with inspectors in our office and, to their advantage, placed him in the position that directly interfaces with our office on a daily basis in regards to Regulatory Compliance issues in dealing with aircraft maintenance.

I questioned Mr. Comeau's hiring by Southwest Airlines and I was told by my supervisor, Mr. Gawadzinski, that his hiring was cleared through our Regional Office. However, there is an ethics issue here and, as proven, a conflict of interest. In addition, in March of 2007, during an FAA security investigation, I gave Special Agent Dave Friant a statement regarding my concerns with the relationship of my supervisor, Mr. Gawadzinski, and Mr. Comeau. I stated that since Mr. Comeau was hired with Southwest Airlines, my supervisor was working directly with him, and I was being bypassed and kept out of the loop on reported safety concerns regarding my fleet.

I believe that this cozy relationship between Mr. Gawadzinski and Mr. Comeau played a contributing factor and allowed the 47 aircraft to remain in service and operate in a manner that would provide relief to schedule the AD overdue inspections at the Southwest Airlines' convenience while flying paying passengers. Mr. Comeau, being an ex-FAA inspector, should have known AD inspection requirements are mandatory and address unsafe conditions. They teach that to the FAA inspectors at the Academy.

Southwest Airlines is reporting that they are the ones that blew the whistle on themselves. That is correct. What they are not reporting is that at the time of discovery of the non-compliance, back on March 15th, 2007, Southwest Airlines was required by Federal law to immediately remove the 47 aircraft from service and comply with the AD requirements. But Southwest Airlines did not take immediate corrective action and kept the affected aircraft flying passengers with a known unsafe condition until March 23rd, 2007.

At the time of discovery, by not taking the 47 aircraft out of service and by not complying with the inspection requirements of the Airworthiness Directive 2004-18-06, Southwest Airlines failed to resolve an unsafe condition and, therefore, violated the requirements of Title 14 Code of Federal Regulations, Part 39.11, which clearly states: "Airworthiness Directives specify inspections you must carry out, conditions and limitations you must comply with, and any actions you must take to resolve an unsafe condition."

As it is stated in the AD, due to the past events pertaining to the Boeing 737, the skin fatigue and cracks could have resulted in a sudden fracture and failure of the skin panels of the fuselage, and consequently cause a rapid decompression which would have had a catastrophic impact during flight. This inspection requirements are the result of the Aloha Airlines accident in which a Boeing 737 aircraft, during flight, lost the top of its fuselage due to undetected cracks.

The requirements of the AD are stated on its first page as follows: "Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive."

There is no excuse for the actions of Southwest Airlines and FAA personnel. Mr. Gawadzinski did not have the authority to allow these aircraft to operate with a known unsafe condition past the date at which time the AD non-compliance was discovered and reported to him, March 15th, 2007. In addition, it was his responsibility to ensure that Southwest Airlines had taken immediate corrective action in taking these aircraft out of service.

FAA Order 8300.10 under Inspector Responsibility states: "An inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act under the provisions of Section 605(b) FA Act of 1958, as amended, is in dereliction of duty. This duty is placed specifically by Congress upon the inspector, rather than on the Administrator. If the inspector, after due consideration, still has any doubts regarding whether or not to ground the aircraft, the grounding notice should be issued."

Also, there is a similar statement under Title 49 of the U.S. Transportation law in the Air Commerce and Safety Section.

FAA inspectors are hired by the taxpayers to ensure airlines conduct their business with safety as the utmost consideration at all times. Allowing an airline to fly passengers on an aircraft with a known unsafe condition puts the lives of the flying public in jeopardy and, in my opinion, it is dereliction of duty and should be criminal.

The 47 aircraft with the overdue AD inspections were not the only ones that kept flying in revenue service and out of compliance. On March 20th, 2007, via the VDRP, Southwest Airlines reported to Mr. Gawadzinski that 70 of their aircraft had overflow the requirements of their maintenance program for the functional check of the rudder standby hydraulic system.

This required maintenance task is a very detailed and in-depth functional check which ensures the integrity of the hydraulic system for the standby rudder and its components. The hydraulic standby system provides hydraulic fluid under pressure to operate the rudder, among other components, in the event of a main hydraulic system failure. In the past, several catastrophic accidents have occurred with other airlines due to the malfunction of the rudder control system.

Even though the 70 aircraft had been flying out of compliance for over a year, at the time of discovery of the non-compliance, again, Southwest Airlines and Mr. Gawadzinski took no action and the 70 aircraft remained in service and operated in a matter that would provide relief to schedule the overdue inspections at the Southwest Airlines' convenience while flying passengers. In the VDRP report, Southwest Airlines, in part, states: "Due to availability of the equipment and man-hours needed for each aircraft, it will take approximately 14 days to complete this task on all affected aircraft."

But in reading the VDRP report that was prepared by Southwest Airlines and accepted by Mr. Gawadzinski, under the Initial Notification question "Did the Non-compliance Cease after Detection?," Southwest reported "Yes." However, this is not the truth. As I stated earlier, the records show that the non-compliance did not cease after detection, and the affected aircraft were allowed to fly in revenue service and out of compliance for an additional 10 days past the date of detection.

These 70 aircraft were part of my fleet, but my supervisor, Mr. Gawadzinski, kept me in the dark and worked this VDRP directly with Mr. Comeau.

In one of the statements that were made by the FAA regarding the operation of the Southwest Airlines aircraft in revenue service with the overdue AD inspections, it was stated that one FAA inspector looked the other way. I am here to report that more than one FAA inspector along the FAA management have been looking the other way for years. No supervisor can do what my supervisor was doing without the support from fellow inspectors, the support of the Division Management Team, who were fully aware of what was going on; and I believe the support of some people in Washington.

This should have been obvious. I was the only maintenance inspector that kept finding and raising the safety concerns since 2003. And when they were elevated to the Division Management Team, nothing was done. Every time I pointed out to Mr. Gawadzinski that he was not following our mandated guidance regarding safety violations in the presence of the office manager, Mr. Mills, Mr. Gawadzinski would respond that our guidance was outdated and that he was talking with Mr. Ballough, the Director of Flight Standards, who always informed him of the ups and comings. According to Mr. Gawadzinski, he spent a lot of time with Mr. Ballough at the Eastern Region during his executive leadership program.

Mr. Mills always looked into my safety concerns and supported my findings; however, every time he elevated them to the Division Management Team, he received no support. Under the circumstances that I just described, no matter how good of a manager a person is, without upper management support, the system makes him ineffective.

The FAA is a great organization with many good inspectors and managers, and I am proud to be part of it. However, there is no accountability throughout the ranks. As FAA inspectors, we have taken an oath to uphold the rules and regulations outlined in our mandated guidance, and we are told that safety is our job. If that is the case, then how come the FAA does not hold accountable the management and inspectors who look the other way instead of ensuring that the airlines conduct their business with safety as the utmost consideration? After all, we owe this to the taxpayers who put their trust in us. To this date, other than moving some personnel around, the FAA has taken no action.

The Southwest aircraft that I reported flying with the overdue AD inspections were not part of my fleet. The inspector, Mr. Collamore, who is the Partial Program Manager for those aircraft, had full knowledge of the serious safety issue seven days before I

did. He also had an obligation and responsibility to follow our guidance and the Federal Regulations and ensure that this unsafe condition was immediately addressed. But Inspector Collamore chose to take no action and went along with Mr. Gawadzinski's decision.

As for management accountability, after the removal of Mr. Gawadzinski from our office, the current office manager, Mr. Bobby Hedlund, promoted Inspector Collamore and gave him more authority by letting him act in Gawadzinski's position as Supervisor/Principal Maintenance inspector. I had a meeting with Mr. Hedlund and expressed my concerns, but he was not interested.

I wrote several e-mails to the Division Manager, Mr. Stuckey, raising my concerns and stating that instead of holding inspectors accountable for their inactions, the management was rewarding them and giving them additional authority. I requested a meeting and his immediate attention. Mr. Stuckey never responded. However, I received an e-mail from the Assistant Division Manager, Mr. McGarry, who informed me that management has the right to assign acting personnel to temporary supervisory positions.

We all hear statements that we have the safest air transportation system in the world. I believe that the safety we are enjoying today is the fruit of the aftermath of the Value Jet accident in the mid-1990s, which forced us to refocus and put in place new procedures. Unfortunately, that was done after the accident. I do not think that we should be taking credit for being reactive to accidents.

What is alarming is the fact that even today we are still being reactive. This is proven by the notice that the FAA issued two weeks ago, ordering FAA inspections of the airlines in order to validate AD compliance because of this hearing. Despite the fact that our databases are full of positive findings, the current events are proving us wrong by having hundreds of aircraft taken out of service with AD compliance issues. Where are the ATOS risk indicators?

Southwest Airlines is reporting that, according to Boeing, there was no safety issue regarding the 47 aircraft that were flying passengers with the overdue AD inspections in which six of them had cracks on the fuselage. It is nice of Boeing to offer an opinion for their largest customer; however, if aircraft manufacturers could predict accidents, we wouldn't have the safety requirements of this AD today.

In addition, consultants have been reporting that after reviewing the data, in their opinion, safety was not jeopardized. I am reporting to you that calling Boeing for an opinion or hiring a consultant is not an option, because neither one has the authority over the mandatory requirements of an AD, and that is the law.

The majority of the ADs are the result of catastrophic accidents, and, as the industry saying goes, "ADs are written in blood." I am very concerned because these safety issues affect the lives of the flying public, and, instead of being advocates for safety, some people are still trying to mud the water by down-playing this serious safety issue.

It is very sad that an FAA inspector has to become a whistleblower in order to address safety issues. But I would like to set the record straight because, for some reason, the FAA Biweekly news

is stating the following: "In the Southwest Airlines case of noncompliance, an inspector repeatedly raised issues with his supervisors, but he felt he needed to use an anonymous FAA hot line in order to be heard."

That is not the truth. I did not use an anonymous FAA hot line. These are serious safety issues, and I wanted the people that received my concerns to be able to get in touch with me; this way I could answer any questions they might have. For the record, I have been raising safety concerns for AD compliance and maintenance issues since 2003 on record and openly. I have followed the chain of command from my manager all the way to the Regional Office and the Division Management Team. Every safety concern, every inspection finding has my name on it.

What you will find interesting is that in late March of 2007, after I discovered that Southwest Airlines, along with the FAA, had allowed the operation of these aircraft with the overdue AD inspections in revenue service, and once everybody knew that I elevated this serious safety issue, I was removed from my position and was placed under investigation due to an anonymous complaint with allegations against me that was forwarded to our office through Mr. Gawadzinski from Southwest Airlines.

Along with the anonymous complaint, my office manager, Mr. Mills, received an e-mail from the Director of Quality Assurance, Mr. Mats Sabel—the same person who had previously requested my removal from doing the AD SAI inspections—requesting my restriction from Southwest Airlines property until this investigation and any other official investigation had been contacted. That day, Mr. Gawadzinski came to my cube and told me, with that type of allegations against me, he did not see a reason for me to stay in the office. I questioned the timing of the anonymous complaint, but I got no response.

From March 2007 to the end of August of 2007, I was hoping that the Division Management Team would do the right thing and look into my findings and safety concerns. However, they did not address anything. In July 2007, they closed the investigation regarding my documented safety concerns and they concentrated their efforts in silencing the messenger. By the end of August, I realized that the Division Management Team's interest was damage control and covering up the serious safety concerns.

By the end of August, I put a package together, the same package I had given to the Division Management Team six months earlier, and I sent it to the Office of Special Council, and again I went on record and openly identified myself. By the end of September 2007, after the Division Management Team found out that I had elevated the safety issues to Washington, they reinstated me back to my original position and they reopened the investigation regarding my reported safety concerns. I am here to report to you that all my findings and safety concerns have been validated 100 percent.

During the FAA town hall meeting in March 2008, Mr. Sabatini stated that the FAA is working on a solution to prevent this from happening again, and it is my understanding that the FAA is going to put in place a hot line process for inspectors to elevate safety concerns. But, with all due respect, I have a question here: If FAA

management did not respond when I openly, and on record, raised the serious safety concerns, how is the hot line process going to work? What we need is accountability throughout the ranks, and that will fix the problem. There is no need to burden the taxpayers with another hot line process.

Additionally, I would like to inform you that for years we had a similar hot line system in place that inspectors do not trust, because hot line complaints and safety issues end up on the FAA Administrator's desk, and then they are passed down to the local FAA Regional Office to be investigated. The Regional Office assigns the local FAA security, which reports to them, to conduct these investigations. FAA security does not have the technical background, and that is when the Regional Office controls the outcome by assigning the technical portion of the investigation to Regional FAA personnel that report to them also.

From my experience, I believe the priority of the Regional Office is damage control, and I see no interest in accountability or doing the right thing. At the end of the investigation, no matter what the evidence shows, it is disregarded by the Division Management Team, who cherry-pick the information from the investigation reports and, without looking at the big picture, they apply Band Aids instead of fixing the root of the problem.

I would also like to inform you that since the FAA put in place the customer service initiative, the partnership programs such as the Voluntary Disclosure Reporting Program and Aviation Safety Action Programs have become ineffective. We are told that the airlines are our customers, and if they do well we do well—more jobs for us. However, some of us have forgotten that we have another more important customer—the taxpayers—who put their trust in us to ensure that the airlines provide safe transportation for the flying public.

The airlines take advantage of the customer service initiative and they constantly remind us that they are the customer. The best way to put this is like you are going down the highway committing traffic violations and jeopardizing the safety of others, and when the police officer stops you and informs you that you are breaking the law by endangering people's lives and you tell the officer that he cannot document the violation because you are his customer. I know this sounds funny, but this is as close to an example as I can come up with.

We also have the customer service feedback line for the airlines, which gives them the opportunity and the tool to cherry-pick the inspectors that manage their certificate by praising the inspectors that go along with their wishes. However, there is nothing in place to support the inspectors that are intimidated by the FAA management and by the airline because they do their job by the book. In the performance of my duties, I have been asked by Southwest Airlines management to make a violation go away. In addition, I have been threatened by Southwest Airlines management that they could have me removed from the certificate by picking up the phone.

The airlines use the VDRP as a tool to circumvent the regulations and provide relief for themselves from maintenance and inspection requirements in order to keep their aircraft flying. A good

example of this is the Southwest Airlines VDRP report of the 70 aircraft that were flying in revenue service with the functional check of the rudder, which were overdue for over a year, and they used the VDRP report to continue flying the aircraft in revenue service and out of compliance for an additional 10 days past the date of discovery due to the shortage of manpower and equipment.

The ASAP program is also abused by maintenance personnel who are no longer held accountable. They are using the program for reasons other than its intent, and I will give you a couple of examples. In the past, Southwest Airlines mechanics were installing the wrong tire and wheel assemblies, B-737-300, wheel and tire assemblies, on the Boeing 737-700 aircraft. The first time this discrepancy was reported and accepted into the ASAP, the mechanic that was involved received human factors training and the tire and wheel assembly paperwork was revised for future installations by adding a paragraph as a note right above where the mechanic signs for changing the wheel and tire, questioning him or her to check that the proper wheel and tire assembly was installed.

The second time another mechanic installed the wrong tire and wheel assembly on another aircraft, the ASAP accepted the report and the mechanic also got human factors training. In addition, a new safety net was put in place by writing on all the tires with big letters on the sidewall indicating to what type of aircraft they belong to. The third time another mechanic installed the wrong tire and wheel assembly on another aircraft. The FAA again accepted his ASAP report, at this point I see accepting the first mechanic's report, but how can we say that by accepting the other two mechanics' reports into the ASAP we contributed to safety?

I can stand here and give you all kinds of similar examples, but the bottom line is that some mechanics are not as vigilant as they should be, and they do not worry about it because they know that they can always ASAP the performance of improper maintenance, even after an FAA inspector finds it. We need to refocus and ensure that these programs meet their intent, instead of being a get out of jail free card.

I hope the information I have provided today will help bring some overdue changes and help inspectors like myself to continue serving the public and give hope to the inspectors that have lost faith in the system.

Thank you for your time and for giving me the opportunity to raise my safety concerns in front of your honorable Committee.

Mr. OBERSTAR. Thank you, Mr. Boutris.

I will say to Committee colleagues that this is a lengthy, in-depth statement, but it was necessary to hear in every detail the journey of public interest and of safety that this panel made, and this witness in particular. You have to hear it all in its specific details.

Mr. Peters has a somewhat shorter statement, and after him we will limit the other witnesses to five minutes.

Mr. Peters.

Mr. PETERS. Good morning, Mr. Chairman and Members of the Committee. My name is Douglas E. Peters, and I am an Aviation Safety Inspector employed by the FAA and am currently assigned to the American Airlines Certificate Management Office, or CMO. I am the Acting Boeing 757 Partial Program Manager. I have been

employed by the FAA for a total of seven years, all of which have been in the Flight Standards Service. Prior to my assignment to the AMR CMO, I was assigned to the Southwest Airlines CMO from April 2001 through October 2007, holding the positions of Inspector, Assistant Principal Maintenance Inspector, and Data Evaluation Program Manager. I have an untarnished career at the FAA and, in February 2004, was selected as the Southwest CMO Maintenance Inspector of the Year.

Prior to my employment with the FAA, I worked for two major U.S. air carriers and I am a veteran of the United States Air Force. I have 27 years of experience in aircraft maintenance.

I have provided detailed records to the Office of Special Council, the Office of Inspector General, and the FAA Security regarding FAA employees of the Southwest CMO's participation and involvement in violation of Federal regulations, abuse of authority, and substantial and specific danger to public safety. I am not a disgruntled employee, nor do I wish to embarrass the FAA or ruin its reputation. I merely wish to truthfully describe the events that brought me here today.

At this time, I would like to take the opportunity and explain the events surrounding the Southwest AD overflight issue and explain how that event became the catalyst that brought us before the Committee.

In April 2007, the Southwest CMO conducted an internal investigation of the Voluntary Self-Disclosure that was submitted by Southwest Airlines to the FAA regarding an AD overflight that was accepted by PMI Douglas Gawadzinski. I was the lead inspector on that investigation. During the investigation, the Division Management Team instructed Office Manager Mike Mills to hand over the preliminary results of the investigation to an audit team who were on-site in our office.

At that time, my investigation was ongoing and incomplete; however, I had discovered that several aircraft had been operated in an unsafe condition beyond the date of March 15th, 2007, three of which had cracks in the area inspection required by the AD. A fourth was found to have cracks at a location outside of the inspection area called out in the AD.

The audit team was constructed of management personnel from other offices within the Southwest region. Following the audit team's conclusion of the AD overflight investigation, a memo from FAA Managers Teppen and Whitrock, dated April 18th, was given to Manager Mills stating that Southwest Airlines had indeed operated 47 aircraft in an un-airworthy condition and that the PMI condoned such operation. Additionally, the memo stated "Southwest CMO has a relaxed culture in maintaining substantiating data as well as any documents that would support any decisions made by the airworthiness unit." PMI Gawadzinski was the supervisor for that unit.

Following the memo by FAA Managers Teppen and Whitrock, on May 8th, Mike Mills called the entire office to an all-hands meeting where the Assistant Division Manager for Flight Standards, Ron McGarry, temporarily removed both Manager and PMI pending an investigation and announced Bobby Hedlund as the Acting Man-

ager of the CMO. Neither Mills nor Gawadzinski attended that meeting.

June 11th, 2007, at approximately 1:00 p.m., Acting Manager Bobby Hedlund stopped by my office. That was during the time frame of the FAA's initial internal investigation of the AD overflight. I was typing my written statement to FAA Security Special Agent Jay LaFlair and I informed Hedlund that I would be sending him a memo regarding unethical actions taking place by inspectors in the Southwest CMO. He agreed to look into the matter once he received the memo.

Before Hedlund left my office, I told him that I thought writing my concerns about unethical actions was the right thing to do. He stated and agreed that we should always do the right thing, and that is what his father had always told him to do. He got out of the chair and walked over to my bookcase, where I keep pictures in frames. He picked up a picture of my son that was taken next to an aircraft and said, "This is what's important, family and flying." He then pointed to a picture of my family and said, again, "This is what is important." On the way out the door, he made the following statement: "You have a good job here and your wife has a good job over at the Dallas FSDO. I'd hate to see you jeopardize yours and her's career trying to take down a couple of losers."

June 14th I sent the previously described memo to Acting Manager Bobby Hedlund. As of today, I never received a formal response to that memo.

On June 14th I submitted a 15-page written statement following a two-day interview where I was interviewed by FAA Security. Special Agent Jay LaFlair and Flight Standards Manager Terry Lambert conducted the interview. During my sworn statement, I described over two and a half years of PMI Gawadzinski's improprieties, unethical actions, abuse of authority, and misuse of government resources along with relaxed oversight of Southwest Airlines. I also included in my statement several instances where his subordinates were engaged in unethical actions as well.

In July 2007, I made my first contact with Congressional staff personnel at the T&I Committee. I informed them of the situation in the office and that I believed that Southwest Airlines was at risk due to the lax oversight that they had been under in the absence of accountability actions with regard to FAA personnel. I also informed them the conditions were basically the same following FAA Security investigation that had taken place in June. There was a serious divide within the office. The divide consisted of those who followed national policy and those who were loyal to Gawadzinski. I provided a copy of the AD overflight disclosure to substantiate my initial concern.

After waiting nearly two months for corrective action to occur by either the Division Management Team or the Flight Standards Director, James Ballough, for the improprieties identified by the FAA security investigation, it was evident that no action was being considered by FAA senior management personnel, leaving a strong underlying tone that the happenings of the Southwest CMO were not only condoned, but possibly sanctioned.

In August 2007, after gathering additional facts and documentation following the FAA security investigation that occurred in June,

Inspector Boutris and I filed disclosures with the Office of Special Council. We supposed the OSC and the T&I detailed documentation which substantiated our safety concerns and supported our disclosures. The poor condition of the Southwest Airlines regulatory maintenance oversight was a risk that neither Inspector Boutris nor I was willing to accept.

On August 28th, during a telephone conversation with T&I Congressional staff personnel, I was informed that a call had been placed to FAA Headquarters to the Director of Flight Standards, James Ballough. Mr. Ballough was not available to take the call; however, a message was left regarding the events at Southwest Airlines and he was encouraged to return the call. During the next few weeks, several unsuccessful attempts and messages were said to have been made by T&I personnel to contact the Director during the time period between August 28th and mid-September.

According to T&I staff personnel, the FAA initially refused to cooperate with a request for information regarding this matter. Only under threat of subpoena in an October 5th, 2007 letter to Acting Administrator Sturgill from Chairman Oberstar and Chairman Costello was the documentation from the FAA internal investigation obtained.

September 9th, 2007, Acting Manager Bobby Hedlund called a Southwest CMO for an all-hands meeting where Division Manager Tom Stuckey and Assistant Division Manager Ron McGarry were present. The meeting was called to announce that Bobby Hedlund was selected as the permanent Manager of the Certificate Management Office and that Mike Mills had accepted a position as Assistant Manager at the DFW FSDO. To my knowledge, that was the first visit by the Division Manager to address the CMO in over two years. He spoke about change and made reference to the train leaving the station, and if anyone didn't want to be on that train, he might be able to help them in making arrangements for that person or persons to work in another location.

At the close of the meeting, I asked to speak to him. Mr. Stuckey and Assistant Division Manager Ron McGarry visited me in my office. I stated to the Division Manager that I did not want to be on that train and that I had put in a request for reassignment to the AMR Certificate Management Office. I also stated that he was about five months too late. I made reference to the divide in the office and how Gawadzinski's previous subordinates with one other inspector had engaged in unethical and inappropriate actions in May.

I presented a copy of the June 14th memo that I had given to then Acting Manager Hedlund. He briefly scanned over the memo and handed it to Ron McGarry. They both acknowledged my request for reassignment and stated that they would have to talk to the manager of the AMR CMO, but the final decision would be entirely up to him.

On October 14th I was reassigned to the AMR CMO as the Acting Boeing 757 Partial Program Manager.

Only under the watchful eyes of the T&I Committee, the OIG, and the OSC did this gross misconduct by FAA management personnel and the Southwest CMO, Regional, and Headquarter levels receive the close scrutiny that was warranted.

It didn't have to come to this. Or maybe it did.

As a follow-up to the FAA town hall meeting which was held March 18th, ironically, one year following the AD overflight Self-Disclosure by Southwest, it was evident that management personnel with the responsibility and the authority to take appropriate action proved themselves unworthy to being custodians of the public trust. The proof was provided by their blatant disregard and failure to respond to significant safety events that were constantly reported in both verbal and written form to the Division Management Team.

Mr. Sabatini made several points in his FAA town hall meeting which I agree with, first being that we have identified a risk. However, I am not confident that the risk defined by him is accurate. Secondly, I also agree that what is in the media is troubling, and I believe that, as an agency, appropriate action does indeed need to be taken. After being a key witness to the lack of concern for public safety through the intentional and blatant disregard of national policy, I do not have the confidence that all responsible individuals will be identified and held accountable.

There have been public statements made that indicate FAA is conducting damage control to protect the agency's reputation, while clouding the issues surrounding the impropriety that occurred in the FAA's Southwest Region and was known by FAA senior management. There is evidential proof that there are more involved than just one man or a few individuals. It is my earnest plea that this Committee take the accompanying data along with the factual testimony that is being voiced today to draw conclusions and submit a plan of action that not only restores faith in the FAA, but also dispels any fears or concerns that the American citizens might have towards aviation safety.

The implications that this is all the doing of one man is simply a misnomer. This one man, Douglas Gawadzinski, was fueled and energized by others around him who were willing to disregard policy. We operate on a documented and carefully un-engineered system of rules and orders, and at no time is any one of the individuals involved permitted the self-appointed power to make determinations contrary to that guidance.

In the aforementioned FAA town hall meeting, Mr. Ballough described the events surrounding Inspector Boutris' claims. He stated, "There were indicators, there were warning signs that we should have picked up that go back for a period of over two years, at least." Southwest Airlines, yes, I agree we have identified a risk and a breakdown. Regarding Boutris, it wasn't at the inspector level. Regarding Manager Mills, it wasn't at the CMO manager level. These two individuals were raising safety concerns to the Division Management Team for over two years.

In addition to meetings by CMO Manager Mills with the Division Management Team personnel, e-mails and memos from Boutris and myself, several WEAT Team visits occurred. WEAT Team was a term used for Workplace Evaluation Assessment Team, where other FAA Management personnel would come to visit and assess the environment within the office. These are the office audits I spoke about earlier today. I personally communicated my concerns during the past three years to WEAT Team members. The audit

that occurred in April 2007 revealed several shortcomings regarding the lack of approval documentation for Southwest Airlines' maintenance program.

The flying public and Southwest Airlines deserves to hear the truthful facts surrounding the lack of oversight at this carrier. They also deserve to board a flight without having to worry if the FAA inspector responsible for the oversight of that carrier has allowed them to knowingly fly in an unsafe aircraft. They deserve to fly in a plane knowing that when known safety concerns are brought to FAA Divisional, Headquarter levels, that they are not ignored and pushed aside until the threat of subpoena has been made by Congress.

In conclusion, let me say that I feel it is my duty to see this matter through in hopes of the Committee assessing the information and making the determination of what needs to happen next. The unethical actions that have been identified and permitted, as well as the known unsafe conditions, have gone on for too long. The fact that FAA senior management knew about these issues within the Southwest CMO is undisputed.

I have received unsolicited encouragement from field inspectors all throughout the agency, with many of them revealing examples of the same types of mismanagement that we are discussing today. Not only for my sake, but for theirs, I feel empowered and compelled as a United States citizen, and having the privilege of being a Federal employee, to stand up for the rights of all aviation safety inspectors. I am thankful for the opportunity to come before you and explain the obstacles that we face on a daily basis, placed upon us oftentimes by our own agency that hinders us from our first and foremost duty: safety.

As for Southwest Airlines as a whole, it is my opinion that your company was led down the wrong path by a handful of individuals both within your ranks and ours. Unfortunately, these individuals have negatively impacted your company's reputation and put passengers and crew at risk. I am not sure how long it will take to recover from this, but I am sure that if any company can do it, Southwest Airlines can. You have a great company and your reputation will shine again.

Thank you, Mr. Chairman and Members of the Committee.

Mr. OBERSTAR. Thank you, Mr. Peters

I think the American public should take great heart from the courage demonstrated by these two witnesses and, as we will see, from the others in this panel, but also from the depth of conviction with which they give their testimony. And I just want to say, parenthetically here, Mr. Peters' statement I do not have confidence that all responsible individuals will be held accountable, I make the observation that Mr. Gawadzinski, about whom you heard devastating testimony, is still an FAA inspector. He has been removed from the Southwest Certificate, transferred to the American Airlines Certificate as CMO at $100,000 a year pay.

Mr. Mills.

Mr. MILLS. Thank you, Mr. Chairman, Mr. Mica, and honorable Members. My name is Michael Mills. I am currently Assistant Manager of the Dallas-Fort Worth Flight Standards District Office in Fort Worth, Texas. I have been employed with the FAA for al-

most 13 years, including 6 years in management. Prior to my employment with the FAA, I worked for 28 years as a commercial airline pilot, and much of that time was spent in airline operations management. I have accumulated more than 15,000 hours of accident-free flying, and in my employment with the FAA I have enjoyed a blemish-free employment record until May 8th, 2007, when I was abruptly removed from my position as Manager of the Southwest Airlines Certificate Management Office.

My removal occurred within a matter of days after I had discovered and reported to my superiors that Southwest Airlines had overflown critical safety inspections of some of its aircraft and that one of my subordinates, the Principal Maintenance Inspector, Douglas Gawadzinski, had apparently suppressed this information.

Inspectors Boutris and Peters, along with one of my supervisors, Paul Cotti, all of whom are appearing with me today, were instrumental in discovering and analyzing the records that led to my initial reporting of these overflights to the regional level and my call for an investigation in early April 2007. I applaud their courage in exposing this episode, especially in light of the humiliating treatment that I have received as a result of my actions. These are honest, hard-working men, proud of what they do, and who attempted to work within the system to have their concerns addressed. They saw in me someone they could trust, and I decided to help them. My dismissal for doing so was a fate that certainly was not lost on them, so it is no surprise that they sought the whistleblower protection that was available.

Even considering the damage to my reputation at the hands of my superiors, I am still proud to be a part of this agency and its important mission.

The partnership concepts that are the subject of this inquiry have some use in the FAA toolbox, but this unfortunate episode bears stark evidence that the success of these partnerships is highly dependent upon the integrity of those persons engaged in the process and the propriety of their actions.

I was appointed Manager of the Southwest Airlines Certificate Management Office by Tom Stuckey, the Southwest Region Flight Standards Division Manager. After a few months on the job, it became clear to me that the oversight mission of the office towards Southwest Airlines was considerably degraded by virtue of the informality of its business and the coziness between some of the inspectors and their counterparts at Southwest Airlines.

I also found that the FAA Principal Maintenance Inspector, Douglas Gawadzinski, one of four supervisors who reported to me, appeared to be unusually lenient with the carrier in several areas, especially enforcing Federal aviation regulations. He had also accrued among the office staff a number of adherents to his philosophy of accommodation for the carrier.

He professed to have been enlightened to this approach through personal relationships he convincingly purported to have had at FAA Headquarters with Flight Standards Director James Ballough and Associate Administrator Nicholas Sabatini, whose names he frequently dropped, describing them as his mentors and the sources of this line of thought. As I was and still am a strong advocate of regulation enforcement, Gawadzinski considered me an impedi-

ment to his cause, and I became a source of great irritation and conflict for him.

My assessment that the CMO's oversight and enforcement posture had deteriorated led me to publish a memorandum entitled A Time for Change, setting forth my goal of refocusing the office toward a more business-like oversight model.

Mr. Chairman, I am running out of time. Would you like for me to continue?

Mr. OBERSTAR. If you could summarize the rest of your statement, please.

Mr. MILLS. Okay.

Counseling Gawadzinski had proved futile and my attempts to document his actions were met with a warning against doing so from my supervisor, Ron McGarry. This exemplified a pattern of protection of Gawadzinski from above my level. That I was unable to penetrate into the Southwest Airlines AD overflight occurred in March 2007.

My full testimony recounts the numerous occasions that I reported to my superiors the concerns I had for the PMI's actions, most of which were initiated through reports from Mr. Boutris. The record will show these warnings and requests for assistance were ignored, shelved, or responded to with smokescreen events like office audits or forced mediation, but did nothing to address the safety implications of what I was reporting.

Finally, in late March, when I became aware of Gawadzinski's role in allowing Southwest to fly unsafe airplanes contrary to an AD, I reported the circumstances to my superiors and called for an investigation. Soon afterward, I found that Gawadzinski had allowed Southwest to overfly required rudder system inspections and did also suppress this information, which I reported to my superiors. Their response was a chilling telephone call where I was informed that the region wanted to keep this matter very quiet and low key. Within five days I was removed from my position as Office Manager.

In my view, my actions over the period of my tenure as Southwest CMO were focused on the elimination of a serious deficiency in the maintenance oversight of the carrier, an imperative I felt I could not ignore even though I could not be sure of its impact on my career. My actions were met with indifference or roadblocks at every turn from the regional level. The price of my effort to ensure safety, however, was not recognition, as perhaps might be expected for the first management official to report the incidents, but the humiliating ejection from my job under circumstances that could only invite questions as to whether it was a coverup attempt by the region.

Within a few weeks after my removal, and still very concerned about these matters, I wrote a prophetic e-mail to the Office Manager who succeeded me at the Southwest CMO. I had no idea then just how poignant my remarks would turn out to be. In the message I mentioned that I suspected the region was soft-peddling these events, and then I wrote, "My feeling is that this will likely not remain low profile, nor quiet. My advice to you as my successor would be to ensure that you are fully conversant with these two events, among others you may ultimately discover, and take what-

ever measures are necessary to validate the adequacy of Southwest's control over its maintenance program."

Because of the illumination of this unfortunate estimate, Mr. Sabatini has announced that he will take steps to improve employee communication at all levels, including a mechanism to encourage employees to take their concerns to a higher authority when there is a failure in the chain of command. Time will tell as to whether this will be effective, and I would add to that initiative a recommendation that higher level FAA managers be rotated periodically so as to lessen the likelihood that a dysfunctional management team perhaps too willing to give in to outside influence can perpetuate what in this case can only be termed a hoax on the flying public.

I thank this honorable Committee for the opportunity to present this information.

Mr. OBERSTAR. Thank you very much, Mr. Mills. Your last comment about rotating high-level personnel comes right along with the earlier proposal I made of limiting the revolving door.

Mr. Hayes?

Mr. HAYES. Mr. Chairman, if I could interrupt just a moment. I have a statement from the Southwest Airline Pilots Group that I would like to submit under unanimous consent for the record. They are obviously a very important part of the whole safety program and not knowing what time constraints are going to do, I would like to give it to you.

Mr. OBERSTAR. Without objection, the material will be included in the record, along with the testimony from Southwest Airlines.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. OBERSTAR. Mr. Cotti.

Mr. COTTI. Good morning, Mr. Chairman, Members of the Committee. My name is Paul Eugene Cotti. I am currently an Airworthiness Unit Supervisor in the FAA's AMR Certificates Management Office. I have been in the FAA Flight Standards Service for nearly 18 years, four as a Principal Inspector and over three now as a frontline supervisor.

My work experiences prior to the FAA include a variety of aviation maintenance-related positions in commercial and military aviation. Like so many in the FAA Flight Standards Service, I care very deeply about ensuring the safety of the flying public and for FAA's success in achieving the objectives of its critical mission. I am honored to be appearing before you today.

I served as the Geographic Unit Supervisor in the Southwest Airlines CMO from March 2005 to May 2007. During that entire period, the Office's management team was often divided on matters relating to the management and oversight of the Southwest Airlines operating certificate. This division can be summarized as being between management officials that insisted on adherence to the stated and implied intent of FAA orders and those that insisted on exercising degrees of latitude and discretion that often fell well outside of the parameters of those orders.

Under the banner of collaboration with the airline, the latter group, whose most important or prominent member was the Supervisory Principal Maintenance Inspector, did so in a manner that

was often contrary to FAA orders and at times openly hostile to the requirements of transparency and accountability.

Proper collaboration with airlines can be an effective method for collectively reducing risks and improving safety; however, in this case, it was engaged in an environment in which regulatory compliance could be delayed or gained only through deals which under the best of circumstances only provided to the traveling public that to which it is already entitled to on a continuing basis. It is unfortunate that the resistant group was not as committed to collaboration with the office manager as it apparently was to the airline. Had they done so, the events and conditions that ultimately resulted in these hearings would have been avoided.

By virtue of his important position, the PMI's erroneous decisions and opinions were unfortunately afforded a significant degree of legitimacy by the airline. Consequently, a distinct contrast was created between the PMI and the resistant group on one hand and the compliant management officials and inspectors, such as Boutris and Peters, on the other.

This had a very detrimental impact on how the airline perceived the hazards and risks that were discovered and presented to them by FAA personnel that were attempting to follow FAA orders. By his words and actions, the PMI presented a distorted view of FAA expectations and a very negative example to his subordinates. Over time and for various reasons, the PMI's resistance to transparency and accountability was in turn adopted by a number of other inspectors in the office as well. This further exacerbated divisions in the office and had a very detrimental impact on the office's productivity and effectiveness.

The expectation to follow FAA orders was specifically expressed and elaborated on many times by the office manager. It was also expressed by the Regional Division Manager at every management conference attended by the Office Management Team during the above period. In light of their obligations and such frequent admonitions from their chain of command, I am at a loss to understand how the PMI or the resistant group could have possibly justified their actions, or why those actions went uncorrected for over two years.

Although the office's Geographic Unit, which I supervised, provided airworthiness and operations inspection services to the principal inspectors, it was deliberately designed by the FAA as a separate work unit, with its own supervisor and with a line of responsibility and authority that was direct to the Office Manager. This design constituted a control to ensure that, from a supervisory standpoint, the Geographic Unit was independent of the PMI and the other two principal inspectors.

The PMI, and at times the Principal Avionics Inspector, were openly adverse to that organizational design, and particularly so when I, as the Geographic Unit Supervisor, insisted that the unit follow FAA policies that resulted in inspection and enforcement outcomes that did not meet with the PMI's personal desires. Regulatory violation findings by the Geographic Unit were often met with active or passive resistance from the PMI. On more than one occasion the PMI or one of his direct reports improperly contacted one of my subordinates to undermine my position with regards to

regulatory enforcement in order to effect an outcome that was outside of the FAA's orders.

The PMI was also openly critical of my efforts to improve the deficient safety inspection and enforcement performance of a number of my direct reports. I concluded from his behavior that the PMI was threatened by inspection and enforcement outcomes which he personally could not influence and control, regardless of the fact that those outcomes would fully conform to FAA policies.

On quite a few occasions, responsible inspectors such as Boutris and Peters brought disconcerting airline events or circumstances to the manager's attention, apparently, because they were unable to garner the level of acknowledgment and support from the PMI that was necessary for appropriately addressing those matters. A number of the issues they brought forward were especially alarming because they represented precursors for aviation accidents.

When the PMI failed to display appropriate reactions to the manager's resulting inquiries, he often tasked the assistant manager and me with conducting objective reviews in order to determine the validity of the inspectors' concerns. The results of those reviews were dutifully reported back to the manager and further exposed the scope and nature of the office divide with further discoveries that certain investigative enforcement and airline safety oversight related processes were being mismanaged. Examples included failures to take required enforcement action in response to discovery of regulatory violations by the air carrier.

It must be understood that I am referring to all levels of enforcement, including simple administrative actions. There were concerns with how voluntary disclosure and aviation safety action programs were being administered; there were efforts by the PMI and his ASAP representatives to prevent dissemination of de-identified ASAP information to the manager, who is responsible for approving continuation of that program; there was misapplication of the ATOS surveillance process; and there were concerns with the manner in which Southwest Airlines maintenance time limitations for maintenance tasks were approved and documented. When the results of these reviews were brought to the PMI's attention, he was hostile, close-minded, and resistant to efforts to professionally discuss and take actions appropriate to those concerns.

The most glaring example of the PMI's failure to follow FAA orders involves the manner in which he responded to the now well-known voluntary disclosure from the airline that it had grossly overflown a structural inspection Airworthiness Directive. The prohibition against further passenger flights until the AD was accomplished should have been immediately and specifically conveyed to the airline, and enforced as necessary. Such a response should be clear to any journeyman inspector and a natural reflex for someone in the critical position of Principal Maintenance Inspector.

The FAA's voluntary disclosure and aviation safety action programs can be beneficial to the traveling public and to the airlines and individuals that fundamentally commit to the requirements of those programs. However, the effectiveness and long-term legitimacy of those programs is dependent on sound understanding of responsibilities, proper exercise of authorities, and on effective efforts to detect and correct abuses.

Throughout the above period, I communicated my concerns through appropriate channels and maintained the expectation and faith that FAA machinery would engage and appropriately correct the PMI and those that were driving the office divide by their resistance to authority and accountability. Unfortunately, I do not believe that the scope and source of the serious safety and compliance-related differences in the Southwest Airlines CMO were ever properly acknowledged or understood outside of the CMO during the above period.

My observations concerning events and conditions within the Southwest CMO ended with my transfer to the AMR CMO in May 2007.

I trust that my statement and responses to any questions are helpful to this distinguished Committee and its processes. Whatever the outcome of these hearings, I am also hopeful that the outstanding service and everyday commitment to aviation safety by so many others in the Flight Standards Service is not forgotten by those that we constantly strive to faithfully serve. Thank you.

Mr. OBERSTAR. Thank you very much, Mr. Cotti. The web, it seems, gets ever more intricate.

Mr. Naccache.

Mr. NACCACHE. Good morning, Mr. Chairman and Members. In response to your invitation, it is an honor and privilege to be here to provide you with my testimony.

First, if I may, now that I have retired, I would like to take a minute to introduce myself and state some of my credentials. My name is Robert Andre Naccache. After more than 20 years of service in flight standards, I recently retired in November 2007 from the FAA as an Assistant Manager of the Southwest CMO.

During my tenure with the FAA, I served about three years as a Principal Inspector for 129 foreign carriers, six years as a Principal Operation Inspector for several 129 supplemental air carriers operating domestically and internationally, eight years as a Supervisor for Certificate, airman certification and carrier certificate and surveillance, and, lately, three years as an Assistant Manager at the Southwest CMO. While with the FAA, I was presented the Southwest Region's Field Inspector of the Year Award in 1994. I also twice received the Southwest Region's Supervisor of the Year Award for the year 2001 and 2003.

Prior to my career with the FAA, I was an airline pilot for 17 years, flying overseas Boeing 707 and the Boeing 747, as a captain, between Europe, Asia, Australia, and the U.S. Before that, back in my mid-twenties, I was an FAA-certified flight instructor for three years. This gives me over 40 years of experience in the field of aviation.

Now let me tell you that I care a great deal about the FAA. It is an excellent agency, unmatched anywhere else in the world. And, trust me, I have experience of that, flying overseas. The majority of employees produce outstanding work for aviation safety. The FAA guidelines are well conceived. The air transport industry and the FAA created partnership program as a means of addressing safety problems and to prevent potential safety hazards; however, they need to be consistently and fairly implemented across the board.

This has been the problem in Southwest Airlines Certificate Management Office. Of the FAA partnership programs, I notice the abuse of authority of the following two, discussed in my written testimony. They are voluntary disclosure reporting program and Memorandum of Understanding addressing airman certification. Very important.

Mr. Mike Mills and I were assigned to the Southwest Airline Certificate Management Office simultaneously as Manager and Assistant Manager, respectively, on November 14th and 15th of 2004. It was not long until we noticed that there was a lack of substantiating data records, correspondence and other reporting documentation related to certificate management. In addition, we also noticed that the Principals, two or three of them, were not adhering to FAA policy and guidance when it came to enforcement actions.

My attempts to correct these issues were always met with intense resistance, especially from the Principal Maintenance Inspector. As our concern about the Principal Maintenance Inspector and other inspectors' relationships with the carrier increased, the Manager tried in vain, through numerous meetings and memos, to correct the situation. Some of these inspectors are still working at the Southwest Airlines Certificate Management Office.

After communicating several times to the Regional Office about this issue, the Manager was told it was a personal problem between the Principal Maintenance Inspector and himself. Ultimately, the Regional Office prepared an agreement of cooperation which management at the office were told to sign. The last version of this agreement was signed in January of 2007.

Two months later, in March of 2007, Southwest Airlines flew several aircraft without compliance with an unworthiness directive. After self-disclosure by the carrier under the VDRP program, this violation continued with the knowledge of the Principal Maintenance Inspector and probably other inspectors. Allowing Southwest Airlines to continue operation of these aircraft in passenger revenue service by the Principal Maintenance Inspector is an abuse of authority. I am not sure whether the other two Principals knew or not. This was a serious safety issue because cracks were found in the aircraft fuselages.

About the same time there was another case of Southwest Airlines operating aircraft without complying with the required inspection concerning the standby rudder power control unit. One airworthiness inspector who became aware of these violations tried to do the right thing and kept insisting to follow the agency guidelines. He was shunned as a troublemaker and, for a period of several months, was suspended by the Regional Office from any work related to Southwest Airlines. The manager sent repeated requests to the Regional Office for assistance. The last one relating to the power control unit was sent the first week of May of 2007. A few days later he was removed from his position and replaced by the Principal Operation Inspector at the time.

I have more details in my written testimony.

On the operation side, guidance and policy were not followed in the approval of a Memorandum of Understanding concerning airman certification. According to Order 8400.10, now 8900.1, South-

west Airlines is not qualified to have a designee program; therefore, not eligible to have a Memorandum of Understanding for training of FAA Aircrew Program Managers.

Despite their lack of qualifications, Southwest Airlines has been approved by the Regional Manager's Office for many years to have a Memorandum of Understanding which does not limit the training to an Aircrew Program Manager as specified in the Order I mentioned earlier. But this approval allows all FAA Operation Inspectors, including FAA management, to receive all required training and to obtain a type rating at the carrier's expense. I believe that this improper approval was a blatant abuse of authority by higher management, leading to conflict of interest and unethical practices and, in addition, endangering the public safety. This is well detailed in my written statement.

In conclusion, we need to make sure that the job is done in a manner consistent with FAA policy guidance and directives. I believe that abuse of authority and regulatory partnership programs should never be allowed because this will lead to serious consequences. Thank you very much.

Mr. OBERSTAR. Thank you, Mr. Naccache. Certainly, against your extraordinary professional background, that is very compelling testimony. Thank you.

Mr. NACCACHE. Thank you.

Mr. OBERSTAR. Mr. Lambert.

Mr. LAMBERT. Thank you, Mr. Chairman. My name is Terry Lambert. I have been a Federal employee for 37 years. I have been an Aviation Safety Inspector with the FAA since February 1998. Those years, I had six years in management. I have been assigned as a Manager of the Safety Analysis and Evaluation Branch, ASW-290, Southwest region since April 1st, 2007. During the last year, I have spent almost 100 percent of my time investigating the issues within the Southwest Certificate Management Office.

As you have heard, there is no way I could present all these findings in a mere five minutes; therefore, I will summarize a few of the most serious.

In April 2007, the Southwest Region Division Management Team assigned ASW-290 to investigate into the Southwest Certificate Office based on the following: a technical evaluation conduct in April 2007; Workplace Evaluation Assessment Team report from 2005; a review of letters of concern by Bufford Eatmon in December 2005; AD 2004-18-06 overflight review conducted in April 2007 by Kermit Teppen and Skip Whitrock; and a memo from Bobby Boutris dated April 30th, 2007, sent to the Office Manager, Mr. Mills. Here are some of the results:

The technical evaluation team discovered 42 issues in the office. The office file system was almost non-existent or not current. The office did not maintain the proper documentation of approvals or rejections. The office relied on documents that Southwest Airlines maintained in their online system as historical documents. Southwest Airlines called Mr. Gawadzinski, the SPMI, Supervisory Principal Maintenance Inspector, on March 15th, 2007, and informed him of AD issues on 100 aircraft. Gawadzinski encouraged Southwest to self-disclose the issue. Southwest filed a Voluntary Disclosure on March 19th, 2007.

The initial report stated it would take until March 21st, 2007, to complete the inspections; it actually took until March 23rd. The report did not state which aircraft were affected. Southwest Airlines stated the non-compliance issue had ceased. A review of log sheets by ASW-290 indicated that Southwest continued to operate the aircraft in passenger operation between March 15th and March 23rd, 2007, and flew 1,241 flights during that time with passengers onboard. Southwest's comprehensive fix did not include any changes to the AD management system. Mr. Gawadzinski was the only inspector to address the disclosure and accepted Southwest's actions. The Teppen-Whitrock report had similar issues with the AD, but only two aircraft were reviewed.

A review of 29 letters of concern issued by Gawadzinski indicated at least five of the letters should have been letters of investigation. Mr. McGarry, from the Southwest Region, instructed Gawadzinski to stop sending letters of concern and send letters of investigation, as required. Mr. Gawadzinski continued to send letters of concern. The Southwest Office appeared to be divided between those that supported Mr. Gawadzinski and those that support the Office Manager, Mr. Mills.

Mr. Boutris wrote a memo to Mr. Mills on September 16th, 2005 with some of the same concerns as his April 2007 memo. Mr. Boutris stated that Gawadzinski removed the letterhead from a letter of investigation so he could personally go to Southwest to resolve the violation. Mr. Gawadzinski instructed Don Back to change his paperwork so that Southwest could voluntarily disclosure an issue that Mr. Back had found. Mr. Gawadzinski allowed Southwest to make changes to approved manuals without FAA review. The review substantiated Mr. Boutris' concerns addressed in his memo.

Safety Attribute Inspection 1.3.6 AD Management had not been accomplished since 1999. In 1999, there were a multitude of no responses. Mr. Boutris was assigned the inspection and had approximately 20 no responses when he was put on desk duty as a result of an anonymous complaint received by Southwest Airlines. The inspection was assigned to John Bassler and Larry Collamore. They did not use any of Mr. Boutris' information. When completed, Mr. Bassler had seven no responses and Mr. Collamore had zero. The inspection was reassigned to a regional team.

Southwest Airlines overflew a rudder PCU check inspection in March 2007. Southwest voluntarily disclosed the issue to Mr. Gawadzinski; however, they continued to operate 70 aircraft while the inspections were being accomplished. All this information was contained in Executive Summary submitted to the Division Management Team in May 2007.

In June 2007, ASW-290 was assigned by Mr. Ron McGarry to assist Security with conducting an investigation to a hot line complaint against Mr. Gawadzinski. Mr. McGarry requested that ASW-290 provide technical assistance to the security inspector, take notes, and provide a summary. The following was discovered during the interviews.

Mr. Gawadzinski stated that he should have grounded the aircraft, but he chose not to. Mr. Comeau stated that Gawadzinski did not tell him to ground the aircraft. Mr. Gawadzinski insisted he as-

signed the Voluntary Disclosure to Mr. Larry Collamore. In his first two interviews, Mr. Collamore claimed Mr. Gawadzinski never told him anything about the self-disclosure.

Mr. Collamore changed his statement in his third interview, indicating that Mr. Gawadzinski had told him as soon as Southwest had called. Mr. Collamore said he did nothing because Mr. Gawadzinski did not assign him any tasks. Mr. Gawadzinski showed favoritism to Matt Crabtree, an inspector in the office, when he paid out of his pocket for Mr. Crabtree to attend training.

Office management has not effectively dealt with the issues in the office. A summary of these events was given to the Division Management Team in June 2007. It was also noted that Mr. Gawadzinski continually suppressed the work efforts of Mr. Boutris and his ability to do surveillance.

These are a few of the issues that have been and are being worked at the Southwest Regional Office. Mr. Gawadzinski's actions, his relationships with Southwest employees, and the actions of other inspectors that have supported Mr. Gawadzinski is outside the guidance and authority entrusted to FAA employees. This has affected the oversight of the Southwest Airline Certificate.

Thank you, Mr. Chairman and Committee Members.

Mr. OBERSTAR. Thank you, Mr. Lambert.

I would note for the record that Mr. Lambert, as a member of management at FAA, is in effect here testifying against his boss, and that takes enormous courage to do that.

I thank all of the panel, all members, for the courage you have shown in coming forward, I will say it once again, for your public-spirited defense of aviation safety.

The FAA would have us believe that what took place was an isolated incident and has been contained. In fact, the testimony we have heard substantiates that, clearly, this is not an isolated aberration attributed or attributable to a rogue individual, but, rather, a systematic breakdown of the safety oversight role of the FAA. It is misfeasance, malfeasance, bordering on corruption. If this were a grand jury proceeding, I think it would result in an indictment.

The FAA has incorporated into its oversight system, for a variety of reasons, what is called the ATOS, Air Transportation Safety Oversight System. That is supposed to be a rating, supposed to be a structure, a system for tracking safety and, through record-keeping, identify shortcomings. I think the result of ATOS is that inspectors are spending more times looking at databases than doing hands-on inspection. This is not new. This goes back to the mid-1980s, when FAA inspectors were telling me they were spending more time inspecting paperwork than engine work; more time processing papers than spending time on the floor of the maintenance shops and observing the work being done.

So I have a question for Mr. Boutris and Mr. Peters. What has happened here? Has the ATOS broken down? And let's look at the chronology. March 6th, after revelation of our Committee inquiry and your representations and documentation to the Committee, FAA imposes a $10.2 million fine on Southwest; March 10, a special FAA team is sent to investigate Southwest; March 11, Southwest puts three employees on administrative leave; March 12, Southwest grounds 41 aircraft for inspection; March 13, FAA issues

a national order to all flight standard district offices to conduct a special emphasis validation of AD oversight; American Airlines grounds 200 aircraft, 200 MD-80s, for further inspections; U.S. Airways loses a part of a wing panel in flight; United Airlines grounds its entire 777 fleet for further inspections; Delta Airlines grounds its MD-88s for further inspections; Northwest holds back its 757s for slats inspections; and Southwest grounds another 38 aircraft for further inspections.

If ATOS is so good, why has it failed? Why have these incidents come to light only after what your testimony has submitted here took place? Mr. Peters.

Mr. PETERS. Yes, sir. Unfortunately, ATOS is a generic oversight system that applies to an air carrier that might operate, let's say, 10 aircraft of one specific fleet type or model. That also applies to an air carrier that might be considered a mega-carrier, with over 600 aircraft and maybe six different types of fleet types. I say it is generic that the tools are the same; however, in this particular element, AD management, it is considered a high criticality element, and those generic procedures apply to both small carrier, large carrier. High criticality requires an inspection twice a year. Of course, the Principal Maintenance Inspector responsible for that can increase that number based on the number of different fleet types and the number of different models that they operate.

ATOS doesn't really address that. Our guidance is weak when it comes to the larger carriers that operate different types of fleets of aircraft and they operate them whether in or outside of the United States. It is generic and I don't believe that it is adequate, our policies and procedures.

Mr. OBERSTAR. Thank you. I have long felt that it is insufficient. It is a useful tool, but insufficient, and in this case, combined with the Voluntary Disclosures, resulted in a major failure of safety.

Mr. Lambert, were you ordered to destroy your notes after FAA Region learned that our Committee was investigating the incidents about which you testified?

Mr. LAMBERT. If you are referring to the notes that I took during the investigation?

Mr. OBERSTAR. Correct.

Mr. LAMBERT. Yes, sir, I was.

Mr. OBERSTAR. Who issued that order?

Mr. LAMBERT. I believe it was in October of 2007, and it would have been Mr. Steve Douglas.

Mr. OBERSTAR. Thank you.

Mr. DEFAZIO. And who is Mr. Steve Douglas, Mr. Chairman? Who is Mr. Steve Douglas?

Mr. OBERSTAR. Mr. Douglas is? State for the record his title.

Mr. LAMBERT. He would be one of the Assistant Division Managers at the Southwest Region.

Mr. OBERSTAR. Southwest Region, yes. We have that information in our files.

In light of this testimony, what changes do you recommend in the Voluntary Disclosure and the ATOS systems? Mr. Lambert?

Mr. LAMBERT. One of the changes I would make is we need to train the inspectors on how to do the inspections, rather than how to do the computer work associated with those inspections. It is not

just a matter of putting it into the computer; it is a matter of doing the inspection.

Mr. OBERSTAR. Thank you. Over-reliance on system rather than people doing inspections, putting their nose into the work. It is not a matter of going around and demeaning, saying, well, we don't need people going around kicking tires and putting hands on fuselage. That is demeaning of the role of inspector. And you are right about the degree and extent of training.

I will withhold at this point.

Mr. Petri.

Mr. PETRI. Thank you very much, Mr. Chairman.

I am interested in getting a sense of this. It is a very traumatic thing for the agency and for the individuals involved. Is it in part a difference of philosophy, of trying to do things completely by the book, when the book may be outdated, as opposed to creating an ethos of safety and working together for a common end? Is this underlying this at all, a difference in sort of management philosophy here, or is it malfeasance by an individual? I don't know who would like to testify to that. Mr. Mills, you would be in a position, I think.

Mr. MILLS. It is my opinion that there is a necessity that is clear to Washington Headquarters that, based on the ever-increasing airline industry and the failure of the FAA oversight capability to keep up with that, some mechanism needs to be put in place in order to allow the airlines to take a bigger role in their oversight, and I believe that is why ATOS was created, because we simply can't be everywhere to do everything as inspectors.

I do not believe any of the people who run the FAA are opposed to regulatory enforcement. I think perhaps that we may have gone too far toward considering airlines as customers and being customer-friendly. But in an effort to be everywhere and do everything we can, I believe that is why this model was created.

And there are different schools of thought within the FAA. There is the old school of thought that says enforce the regulations and make life difficult for those operators who don't comply with them, and the school of thought that was represented by the Principal Maintenance Inspector was that this was outdated and we needed to secure the cooperation of the operators in order to have some degree of effectivity in our oversight.

In my view, ATOS needs to be a tool. We need to surveill based on risk, but we also can't have the advice that it is the be-all and end-all. I know of some inspectors who believe that, when they are sent out and assigned a task under ATOS, that they can't look at anything else but what they are specifically assigned according to the risk.

There is also the element that it is easy to answer a question yes when a question is raised by ATOS as to whether an airline has a specific thing that it is supposed to have, and it is sometimes hard to say no because it creates a great deal of extra paperwork and it often causes the carriers to display some difficulty with the FAA. So inspectors are human beings; some of them respond poorly to that. I think the model may need to be revised.

Mr. PETRI. Let me just say it clearly is a management problem if you have honest and very hard-working, able inspectors who question the integrity of the framework in which they are oper-

ating, not entirely, but in some respects here, and that is not healthy. If there may be differences in philosophy, then that is management's job to work with people so that they understand what that is and have confidence in it; and if there are differences, that they are treated and dealt with, rather than intimidating people or pushing them under the counter, and this seems to be one of the issues here.

Mr. MILLS. It is a training issue, largely, I believe.

Mr. OBERSTAR. We have a vote in progress, but there is time for further questions, and I will turn to Mr. Costello.

Mr. COSTELLO. Thank you, Mr. Chairman.

A question for all of our witnesses. Do any of you have evidence or reason to believe that the issues that have occurred at this CMO is occurring in other parts of the Country? Is this widespread or is it unique to this CMO? Mr. Boutris?

Mr. BOUTRIS. Well, sir, I cannot speak for the other offices because I don't have any experience with the other offices, but the observation that somebody can make, including our CMO, is if our ATOS databases are doing the job they are supposed to do, why do we have all these hundreds of airplanes taken out of service? In my opinion and belief—and I have lived it—management can control the outcome of the ATOS database.

If you are a principal and you send me out to do the job, I will come back with at least several noes, because no airline has all the procedures they are required to be there. So if I came back and put no in the database, then you, as a Principal, will have to do a risk analysis; you will have some red on your dashboard and you have to take action. If you send Inspector B out that is going to give you all the yeses, you can sit back and say my dashboard looks good. So you can manipulate the system and by that have the results you want. And I believe that what I am stating is the result, when you see all these airlines grounding airplanes, they are under ATOS also. Shouldn't the Principal have something on his dashboard saying, hey, we have something wrong here?

Mr. COSTELLO. The other members of the panel, do you have either evidence or reason to believe that this is happening at other CMOs? No?

Mr. COTTI. Mr. Costello, ATOS, or the Air Transportation Oversight System, is based on system safety principles, and those principles dictate that, in order to have appropriate safety measures in place or to have an appropriate level of safety, that you have to have controls in place and that, more than anything, you have to factor out the human being as much as possible from the equation because that is where a lot of the errors occur.

I think, in response to your question, what happened at the Southwest CMO, from my perspective, was unique in that it was so out of line—and I have been to a number of different offices around the Country—it certainly was unique, and it was gross as compared to some of the things I have seen elsewhere. But thinking in terms of system safety and the human element, this could have occurred in any office, because our current design is still pretty heavily dependent on the human being.

Mr. COSTELLO. Mr. Boutris, you specifically say in your testimony that you were told by Mr. Gawadzinski that you were not to enter information in the ATOS system. Is that correct?

Mr. BOUTRIS. That is correct, sir.

Mr. COSTELLO. Why do you think he told you that?

Mr. BOUTRIS. That was referencing the AD safety attribute inspection I had started and the one that Southwest had requested for me to be removed from. The first two inspections I did on two different dates——

Mr. COSTELLO. My question is, though, why do you think he told you not to enter the information——

Mr. BOUTRIS. Because, in my opinion, my supervisor knew that in a week from there I was going to be under investigation and, therefore, would be knocked from the database.

Mr. COSTELLO. Very good.

We have got a vote, so, very briefly, if you will keep your answers concise.

Each of you and the IG reviewed to two different camps, one loyal to Mr. Gawadzinski and the other to Mr. Mills. Was Mr. Stuckey and the Regional Office aware of these two loyalties and these two camps?

Mr. PETERS. Sir, I believe they were, and that is evident by the office audits that were conducted and the WEAT Team visits that were conducted during the past two years prior to the AD event. And I think Mr. Lambert's testimony that he briefed the Division Manager May 2nd of similar events, I know that in my security investigation I explained the divide in that as well, and I believe that he briefed the Division Management Team.

Mr. COSTELLO. Do either of you believe that this went up to Headquarters in Washington, that they had knowledge of the divide?

Mr. PETERS. I know that they did as far as mid-September they did, because that was the date that I contacted the T&I staff, and they had requested to speak to Mr. Ballough. So I can only say that date for sure.

Mr. COSTELLO. And that was in 2007, September of last year?

Mr. PETERS. Yes, sir.

Mr. COSTELLO. But you have no knowledge or no reason to believe that Headquarters knew about it before then?

Mr. PETERS. I don't.

Mr. COSTELLO. Mr. Boutris?

Mr. BOUTRIS. The only thing, as I stated earlier, sir, was that every time I went to my supervisor with non-compliance issues which were direct violations of the Federal regulations, I bring my manager in, Mr. Mills, and I will quote the regulation, I will present my findings, and my supervisor will state that my guidance was out of date. Well, we are talking about Federal regulations here, so he is telling me they were out of date. And he was talking to Mr. Ballough on a daily basis; we have him the ups and comings. So, to me, right there will say that he had communication with Mr. Ballough.

Mr. COSTELLO. The final question before I run out of time here, just so everyone understands the time line here,—we have the time line in front of us, but so everyone understands the time line—

when did you, Mr. Boutris or Mr. Peters, first raise the issue, your concerns that Southwest was out of compliance with AD? When was the first time you raised the concern?

Mr. BOUTRIS. Are you talking about the flying aircraft or with out of compliance with having the required procedures in place to manage the AD compliance?

Mr. COSTELLO. Both.

Mr. BOUTRIS. I started the process that Southwest Airlines did not have the proper procedures in place and that were required back in 2003. They accepted my findings and it took them a year to bring the engine AD compliance records into compliance with 121.380 14 CFR. In 2006, when I changed positions and I had the airframes and systems for the 700 aircraft, I found the same discrepancies, and that is when my supervisor did not want to send Southwest Airlines a letter. And after going to Mr. Mills and asking my supervisor we have to deal with it, he assigned me the inspection. That was the same inspection that Southwest Airlines requested my removal and that was the same inspection that Mr. Gawadzinski instructed me not to put the negative findings in the database.

Mr. COSTELLO. And can you explain for everyone the difference in the two letters, the letter that you wanted to write versus the letter you were directed to write?

Mr. BOUTRIS. Our guidance does not provide any information or does not really identify what the letter of concern is. This is something that some principals or supervisors or management come up with. You call it the letter of concern. Our guidance is crystal clear: according to Order 2150, we have to document the non-compliance—or even if it appears as non-compliance.

So even if it appears as non-compliance, we have to send to the carrier a letter of investigation. That does not mean there is a violation. What it means is we think there is a violation. It appears there is a violation.

You do the investigation. You can close it with no action. You can close with administrative actions. You can close it with civil penalty. But you have to document what you think might be wrong at the time that you looked at it, and this way you can go back if you have previous violations or future violations and compare your findings.

Mr. COSTELLO. You were told not to send a letter of investigation.

Mr. BOUTRIS. Yes, sir. That was also told in front of Mr. Mills, my manager, and that is when Mr. Mills.

There is a memo and I have testimony. Starting 2005, I sent an e-mail to my supervisor, copied Mr. Mills on it: I will no longer send Southwest Airlines letters of concern because I have sent so many on the same previous issues and through my surveillance I was finding the same problems that were not fixed. In addition, I was finding new ones.

That e-mail is part of my testimony.

In addition, my supervisor, after I sent the e-mail out, he grounded me. He told me I cannot do any more surveillance. So I went to his office. I went to my manager's office, and I said: According to my PD, the position description, part of my job is to manage

the program and also do surveillance inspections to ensure Southwest Airlines is following their procedures.

His response to that was: I have other inspectors for that.

I do have an e-mail from him, stating that my area of inspection is Dulles. Well, that is the only place that Southwest Airlines flies.

Mr. COSTELLO. I thank you, and I thank you, Mr. Chairman.

Mr. OBERSTAR. A further way of answering your question is to say very simply that a letter of investigation has consequences that can result in fines. A letter of concern does not.

Mr. BOUTRIS. Yes, correct. Yes, sir, that is correct, but the letter of concern is nowhere identifying our guidance.

Mr. OBERSTAR. That is right. That is correct.

The Committee will stand in recess, pending the votes on the House floor, and we will resume 20 minutes after the last vote. The panel, since they are under oath, will be sequestered by the Committee staff.

[Recess.]

Mr. OBERSTAR. The Committee will resume its sitting.

At the time that we broke for the votes, Mr. Costello had concluded his questioning, and now we turn to Mr. Hayes of North Carolina, a pilot, a diligent Member of this Committee.

Mr. HAYES. Thank you, Mr. Chairman.

This is a very important hearing. I think we have established several things. That is serious mistakes in oversight have occurred on the part of the FAA and on the part of Southwest Airlines, and I am confident that we will move aggressively on the part of everyone involved to correct the situations that have been pointed out in great detail.

As others have said, thank you for the testimony from our first panel.

I would like to pick up, if I may, on a question that Mr. Costello asked. I think it is very appropriate to make sure that we understand and have the right answer. His question, if I remember correctly, was: Do you think the problem that we have uncovered and discussed today is system-wide or restricted to the area that you all have been covering?

There was yes and one acknowledgment, but I would like to ask the panel that across the board. Mr. Boutris, would you?

Mr. BOUTRIS. That was in regard to if this problem exists in other CMOs and other FAA offices here?

Mr. HAYES. Correct. That is basically the question.

Mr. BOUTRIS. Basically, the only thing I can say is what I responded earlier, that the ATOS program can be manipulated and the person that looks at the dashboard.

Mr. HAYES. Just a yes or no.

Mr. BOUTRIS. No.

Mr. HAYES. Mr. Peters? Okay, no.

Mr. PETERS. I think potentially it could, however.

Mr. HAYES. Well, obviously, it could, but do you think this is a system-wide problem of this extent?

Mr. PETERS. Maybe not to this extent.

Mr. HAYES. Okay. And, Mr. Mills, you shook your head a minute ago as it is not a system-wide.

Does anybody disagree? Let's not belabor it.

All right. My point is we want to correct the problems that we have identified from this hearing, but we also want to make sure that the perception of the flying public is not mistakenly headed in the wrong direction because of the issues we talk about today.

The facts are very clear that aviation in general, whether it is airline or general aviation, is in the safest period in its history and that is what we all strive for. The airlines have a similar record now of that type of safe operation. It is far safer than driving.

So my point, again, is to make sure that people who are flying or thinking about flying know how much effort goes into keeping everything safe.

I have been flying for 40 years. Those of you who are sitting behind the microphones there know that every time the pilot does a pre-flight, he is an inspector. Now he doesn't have everything dissected but, as someone said earlier, it is important to focus on the fact that there is a culture of safety that exists, that wraps around the entire issue. It doesn't necessarily start with anybody, but everybody has their part to play.

So, as important as this hearing is, I hope, again, that the main end result is we take a situation that has been brought to light, correct it, correct the problems that may carry over. But there are people and there are machines and there are subjective issues and there are objective issues. So, again, the perspective is we can always be a little bit safer, but we are flying in the safest time in history.

Mr. Mills, what is the main takeaway today for the FAA and for the airlines?

What is the action plan? What is the first thing we do when we walk out that door?

Mr. MILLS. Well, I think the initiatives that I espoused in my testimony would be worthwhile, a rotation of senior managers to ensure that if something like this doesn't happen due to entrenchment.

Mr. HAYES. Cordial but not cozy, is that what we are saying?

Mr. MILLS. Yes. I think it was my memo that coined the term, coziness.

Mr. HAYES. Yes.

Mr. MILLS. It was pretty clear to me what was cozy and what wasn't.

And, to answer your question earlier about whether this is pervasive, I don't really think it is. I think there may be some degrees of problems among other offices, but this is a unique situation where we had a rogue inspector who simply could not be corralled and made to go in the right direction and appeared to be protected at every turn.

Mr. HAYES. Okay. Thank you. That is very important.

I just had something I wanted to finish up with, but I can't remember what.

Oh, in the letter that I submitted, Mr. Chairman, from the pilots, they pointed out a very important issue. They, as pilots, are obviously concerned as much, if not more so, than anybody because they are responsible for their own safety and the safety of their passengers. The pilots, in the case of Southwest and other airlines, are very, very diligent in doing their part.

I don't know about you all as flyers, but as somebody flying an airplane I have a good relationship with the mechanics that are turning the wrenches. I think that is appropriate. There is a relationship, cordial, businesslike, not cozy.

Mr. Chairman, thank you, and I can't yield back my time. I don't have any.

Mr. OBERSTAR. I thank the gentleman for his observations. He is a pilot of long standing, and he has been diligent in participating in the work of the Aviation Subcommittee and the Full Committee.

I do have to point out that my definition of safety is the relative absence of risk. It is not whether the whole system is working well, but is there risk, what is its relevance and how wide is that risk and how wide are we establishing the margin of safety.

When you have an egregious breakdown as occurred in the instance that we have heard about this morning, in excruciating detail, then there is the possibility that it creeps to the rest of the system. The purpose of hearings of this nature and oversight of this kind is to ensure that it does not creep.

We now go to Mr. DeFazio, former Ranking Member of the Aviation Subcommittee and one who has had a longstanding interest and participation in aviation issues.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Chairman, quite frankly, I am alarmed at what I have heard today, and I am just going to recount a little history because we have very short memories around here.

When I first came to Congress, there was something that was referred to as the tombstone mentality at the FAA which is we went after problems, after a bunch of people had died.

I got involved in the 737 rudder problem very early on before the second plane went down, when the FAA was still saying, oh, it was some weird rotor wind or the pilot had a heart attack or whatever. We found out we had a severe mechanical problem that was very occasional but, unfortunately, very fatal. That took quite some time.

I fought for years to get over-wing access after the Manchester flight when it was demonstrated that if you don't have adequate access over the wings, people die piled up like cord wood. It took years.

It took them six months in Britain. It took us years.

Then the whole issue of since I have been here I have been trying to get OSHA coverage for flight attendants, which not inconsequentially would provide for a safer environment for the passengers, but the agency refuses.

Now a lot of this is embedded in history, and the history was the agency was charged with promoting something it inherited from the CAB, promoting the industry and regulating safety. From the time I first came here, I said you can't do both those things. It doesn't work.

I had administrators say, oh, no, no problem. No problem.

Then finally after the Value Jet tragedy, it was recognized that that wasn't working, was it? And so, I got legislation that Mr. Costello, Mr. Lipinski and I had introduced with the support of Chairman Oberstar inserted into the FAA Bill that year that stripped away the dual mandate.

Now I am going to get to a question, but this comes from Mr. Boutris' testimony because, as I was listening to him and reading this, I thought, have we rolled back the clock to the dual mandate era? Are we promoting? Is this a result of customer service initiative?

When you said in here, what is alarming is the fact that even today we are still being reactive. This is proven by the notice that the FAA issued two weeks ago, ordering FAA inspections on the airlines in order to validate AD compliance because of this hearing.

Then you ask about ATOS. I also had at least three meetings with Nick Sabatini, as Ranking Member, expressing the same concerns as the Chairman, saying, I don't get how this ATOS thing is going to work. I want people out there watching, on the ground, monitoring and doing real inspections.

A computer system to monitor a computer system. As we heard from Mr. Boutris if you are told not to input something into that computer system, well, it just goes away, doesn't it, or maybe something worse happens.

Then you said down at the bottom of that page, the majority of ADs are the result of catastrophic accidents and, as the industry saying goes, ADs are written in blood.

So I guess my question would be to the panel: Did the FAA take seriously the change in the law that I made in 1996, stripping away the mandate to be a promoter and to be a regulator in the public interest for public safety? Were we making progress?

I knew there was a long culture. I knew it would take time. Were we making progress up to 2003 or did nothing ever change or did 2003, with this customer service initiative which came from an Administration that hates government, is contemptuous of government and hates regulation even more?

The customer service initiative, to me, is clearly intended to say, we are not going to regulate really. You are our customers, and we wouldn't want you to be upset with our scrutiny.

If you read through the directive and Marion Blakey's speech and all that, it becomes apparent.

So the question is, to anybody on the panel, did 1996 make a difference when we changed the law? Was there a cultural difference evolving?

Were we becoming more a regulatory agency and less a promoter of the industry up to 2003, and did 2003 mark a sea change with the customer service initiative and the culture of the Bush Administration and all the political appointees pushing to be customer-friendly to those people we are supposed to be regulating?

Mr. Boutris?

Mr. BOUTRIS. I will take that question, sir, and I think it is a very good question. What you are saying, I agree with you 100 percent. I have been in the aviation industry for 30 years, 20 outside the FAA and 10 with the FAA.

What you eliminated, which was fostering promoting aviation and trying to regulate at the same time, was excellent. However, I think the facts are proving, but another thing came in, the customer service initiative which took its place. So, yes, we are promoting safety through customer service, and I believe we cannot do both.

I believe that the airlines are our customer, and I will do anything in my power to help them out like I did with the engines when I found the problem. I worked with them for a year.

However, we have forgotten the most important customer which is the taxpayers. We have taken an oath that we are going to ensure that the airlines provide safe public transportation.

Are we doing that? Well, from what I gave you, on our side, I don't believe we are doing that.

And I do, though, with all due respect to Mr. Hayes, I want to go back because he said the answer was no.

Actually, my answer was not no. The answer was yes because if ATOS was working when the notice came out to do the compliance for the ADs, he shouldn't have any airplanes grounded, but he had hundreds of airplanes grounded. So this is not just Southwest.

So, with all due respect, to Mr. Hayes, I just want to say my answer was yes. It was not no, and I know it was cut short.

But if the system was working, a lot of these principal inspectors should have a lot of red lines on the dashboard, the ATOS dashboard having risk indicators. This way, they can do these inspections prior to you having this Committee hearing, and there was another knee-jerk reaction.

Let's issue the notice and see how things are going out there. Let's take the polls. Well, the polls were not well. I want to tell you that the patient is not that well.

Mr. DEFAZIO. Thank you.

Anybody else want to reflect on whether the customer service initiative could be part of the root cause here and/or whether or not we ever saw a cultural changes resulting from the change?

Were people aware of the change in the law? Was it made aware to people in the agency when I changed the law in 1996? Were people aware of that, that we had stripped away the promotional mandate?

Anybody?

Yes, you were. Okay.

Does anybody think that things just never changed or we kind of got set back as Boutris thinks by the so-called customer service initiative, which again created this sort of conflict?

Mr. Mills?

Mr. MILLS. Well, I think the, excuse me, the customer service initiative did set us back because I remember when we started promoting this. I was mandated to go to every single operator in the Dallas district office. It took me weeks to drive to all those places and hand them materials that made them understand how friendly we are now and how we want their concerns to be elevated through this mechanism.

Mr. DEFAZIO. You had to hand deliver this package?

Mr. MILLS. Yes, sir.

Mr. DEFAZIO. I want to hear this. Continue, but if you could also relate to me how often you were able to get around in an inspector's capacity to all of those same folks.

Mr. MILLS. I was not able to do that, sir. I was the manager at the time.

Mr. DEFAZIO. But in this, were you ordered to go see them all?

Mr. MILLS. Yes.

Mr. DEFAZIO. Okay. So you were not able to get there in a capacity of oversight and inspection because there were just too many of them.

Mr. MILLS. Right.

Mr. DEFAZIO. But you were torn away from those other duties to hand deliver a package that could have been mailed or they could have gotten on the internet about the customer service initiative.

Mr. MILLS. That is correct. We had to visit them personally.

Mr. DEFAZIO. Anybody else want to comment on this thing?

Okay. Thank you, Mr. Chairman. I am over my time. I will have more questions later.

Mr. OBERSTAR. Mrs. Capito.

Mrs. CAPITO. Thank you, Mr. Chairman. I think that I will hold my questions until later. I appreciate it.

Mr. OBERSTAR. Mr. Moran.

Mr. MORAN. Mr. Chairman, thank you very much.

I appreciate the testimony I heard earlier today, and I am glad to have the opportunity to ask a few questions.

Let me initially direct my line of questioning to Mr. Mills. I am thinking about how we go forward from, this point in time, and you point out the value of the self-disclosure programs, but that it is highly dependent upon the integrity of those that are implementing that disclosure program. In your opinion, who is in the best position to exercise the oversight of the Voluntary Disclosure Reporting Program, at what level, what position?

How do we prevent what you describe happening from happening again?

Mr. MILLS. I am not sure that at the journeyman inspector level is the place for it. Perhaps, those individuals could be participants, but I think there needs to be more review at an upper level of that. I am not sure what level.

But it is, in this case, something that was terribly abused, and I would say I would start perhaps at the manager level, office manager level.

Mr. MORAN. Can you briefly describe for me the scenario?

When you say it was seriously abused in this circumstance, describe for me, again, that scenario. Where was the failure?

Mr. MILLS. Well, the failure was on the part of the principal maintenance inspector who, because of his cozy relationship with Southwest, was not only accepting the self-disclosures but encouraging the operator to file them so that they wouldn't have to, so that he wouldn't have to file enforcement actions against them. Of course, enforcement actions are a matter of record and self-disclosures are not.

So that, I hope that answers your question.

Mr. MORAN. It does.

The supervisory principal maintenance inspector that you just mentioned, his personality you talked about and his inference of his connections, rapport with those in more senior positions. Does that accurately describe what you testified to earlier?

Mr. MILLS. Yes, it was a very strange situation. I presumed that much of his hype, self-hype, was just that, self-hype, but there were certain instances that occurred during my relationship with him

that led me to wonder if, in fact, some of his purported support might have some legs.

For example, I do know that Mr. Gawadzinski and Mr. Ballough were engaged in some sort of assessment of the staffing of my office, and I found that out as the second hand, and I always wondered why Mr. Ballough didn't afford me the courtesy of letting me know that that was happening.

On another instance, we were attending, excuse me, a conference at Southwest Airlines headquarters where Mr. Sabatini was speaking, and our management team from the office was invited, and we sat at separate tables. Mr. Sabatini and his entourage sat at one table, and we sat at another one. And, Mr. Gawadzinski abandoned our group and went over and sat with Mr. Sabatini and his entourage for the duration of the conference.

And, of course, that was not lost on our management team or Southwest Airlines for that matter and probably gave him a good deal of imprimatur in terms of his success in thwarting what we were doing.

Mr. MORAN. The effect this appearance of this relationship had, what is the consequence of that appearance?

People believed that there was a relationship that may affect their jobs if they crossed?

Mr. MILLS. Absolutely and, of course, for Southwest Airlines, that gave him a certain degree of appearance of influence that he might not ordinarily have had.

For my office, the people in my office who reported to him, it certainly elevated his stature in their eyes and made life a lot more difficult for me.

Mr. MORAN. Did he do things that would merit his termination and, if so, why was he not terminated?

Mr. MILLS. On at least five occasions, I sent to the regional office, and I have records of it, instances of misdeed that he was doing that certainly warranted an investigation, and it was not until I reported the Southwest overflight of the AD, that investigation actually occurred to my knowledge.

Mr. MORAN. Mr. Mills, thank you very much.

Mr. Chairman, thank you for allowing me the time.

Mr. OBERSTAR. Mr. Carney, the gentleman from Pennsylvania.

Mr. CARNEY. Thank you, Mr. Chairman.

We just came off of our votes and I was down on the floor, speaking with a number my colleagues, and they really had question as to why all of a sudden American and Delta and United pulled significant chunks of their fleet down for inspections all at once. We hear about the creep in the system, and certainly I have to echo Mr. DeFazio's concerns about this.

I would like your assessment on why this is going on now, suddenly, Mr. Peters.

Mr. PETERS. Like I spoke about earlier, ATOS is generic and it was designed to be generic for all 121 carriers. I believe the FAA ensured that all 121 carriers would fall under the ATOS oversight program sometime in 2007 or early 2008.

In doing so, the baseline inspections that were required by ATOS in the early days, the baseline requirement for inspections was a little bit higher, and I don't know the numbers exactly. But if we

are to base our oversight system on data alone and then we have reduced the requirement for the data, the data points being inspections, how can we say that we have raised the bar?

I mean it seems like we are complacent with the fact that we are at the safest time ever. If we are not looking enough, which is evident by last week's groundings, how can we say we are safer or we have raised the bar?

I mean it is pretty obvious to know that these generic requirements, they do apply to small carriers and they do apply to large carriers, and ATOS brings a lot of good questions and discoveries when doing these inspections. There really is. There are some really great tools.

However, I don't believe it has been properly executed for carriers like the larger carriers where you have got several fleet types, engine types and several different types of operations. You can't look at that and use those baseline data points that you would for a smaller operation that might fly domestically.

Our guidance is it is almost like an assumption that we should automatically increase our surveillance activity based on the number of aircraft that we have, and we do have risk indicators, but the risk indicators only raise it to a level of high which is still a baseline requirement of two inspections per year.

Had we been doing more, I think we would have found the problems that we found last week throughout the past history and several years prior. But this basically happened all at once where we were going to look at them all, and I think it is evident that our oversight, at least of the AD management, which was the only one that we looked at last week, is inadequate.

Mr. CARNEY. I am trying to get a sense then. Do you think that this is coincidental with the announcement of today's hearing or did today's hearing startle enough folks to say maybe we ought to take a look at our airplanes?

Mr. PETERS. I think we looked at it after the media coverage. The FAA decided to reassure the public that we didn't have a problem. Unfortunately, with all the groundings, it had a negative effect.

Mr. CARNEY. Yes, it did, absolutely.

This is for all of you. Do you believe that the regional management team was trying to play down the seriousness of any of these issues?

Mr. Mills?

Mr. MILLS. Without question. The phone that I got just prior to my dismissal couldn't have been more cryptic. When the staffer says, under his breath almost, Mr. McGarry wants to keep this very quiet and very low key, what else could that mean? I was dismissed five days later.

Mr. NACCACHE. I was his assistant, and I agree with that.

Mr. CARNEY. Anyone else?

Okay. Mr. Cotti, you state in your testimony that Mr. Gawadzinski "often took positions and made decisions that defied FAA logic." Could you please elaborate?

Mr. COTTI. Sure. For that entire two-year period, issues would pop up such as the application of our enforcement policies, things like how we managed our inspection oversight program, that he ex-

pressed positions or made decisions that just made no sense in the context of the issue or how it was governed by our guidance.

Things like the aviation safety program information where mechanics can disclose to the agency that they have done something wrong and if it fits certain criteria, in the interest of safety, the FAA accepts that information.

He took a position—where de-identified information, information where the mechanic's name had been removed and the core safety information remained—he took the position that that information went into a black hole where no one outside of this very small event review committee, which is made up of the airline management, the labor group and the FAA, that the information could not be shared in any way outside of that group.

And when the manager, Mr. Mills, attempted to rectify that situation so that that data could be used for the purpose with which it was intended, he was very resistant to that.

Mr. CARNEY. Did they defy the law, never mind FAA logic? I know you are not a lawyer, but I am asking.

Mr. COTTI. Right. I don't know that it violates any sort of law. I mean each situation would be looked at differently, but certainly it was contrary to our policies and, as I expressed earlier, it just didn't make any sense. Why would you tightly guard and prevent that information from being disseminated to appropriate folks when that was the whole purpose of gathering that data?

Mr. CARNEY. Thank you, Mr. Chair. I am a little over my time. Thank you.

Mr. OBERSTAR. That is quite all right.

Ms. Hirono.

Well, first, Mrs. Capito, do you have any?

All right. The gentlewoman from Hawaii, Ms. Hirono.

Ms. HIRONO. Thank you, Mr. Chairman.

I think what really is described here is the too close relationship, of course, between the regulators and the regulated with people who come from the private sector, i.e., working for airlines, moving into the FAA as employees and vice-versa, not to say that that in and of itself is a problem.

I realize that the Chair has said that maybe one of the ways that we can prevent too cozy a relationship is to rotate the assignments. Do any of the panelists have any other suggestions on how we can prevent the too cozy relationships from arising?

Mr. MILLS. I think perhaps Mr. Sabatini has a good idea in having some mechanism through which lower level managers can have a voice unfettered by a dysfunctional superior. I am not sure how that would work, but it seems to me that newspapers have ombudsmen. I can't say the word, ombudsmen.

Ms. HIRONO. Ombudsmen.

Mr. MILLS. And there are many entities out there where you have a no-fault avenue to take your concerns.

In the case of the Southwest region, it was unwritten but understood policy that we would never go outside the chain of command without some serious repercussions. And, at the point where I was, I wasn't sure who was connected to what, concerning Mr. Gawadzinski. So I was very careful in whom I should speak to and

fearful of the consequences that might occur if I did get out of that loop.

Ms. HIRONO. Any of the other panelists care to respond?

I know, Mr. Boutris, in your testimony, you raised some concerns about that kind of a system when you, yourself, were so clear in what you were pointing out.

I have another question especially to the first three panelists. As more and more of our aircraft maintenance is outsourced, do you have concerns that this makes it even harder for the FAA to maintain the kind of oversight over maintenance because so much of the maintenance is out of our Country?

Mr. BOUTRIS. I believe that we should be concerned about that. I hear statements and I read that the regulation applies the same way if you do maintenance in this Country or if you do maintenance in another country. Well, I can tell you the requirements are not the same.

In this Country, the aircraft mechanics have to take a drug and alcohol test. In other countries, there is no requirement for that.

Also, in our Country, the mechanics have a duty time where they have to take time off after so many days. There is no requirement in other countries to do that. So we do have differences.

As for oversight, it is harder to go and perform surveillance, but on the same token I don't want this to sound like every country that offers aircraft maintenance is bad because a lot of countries out there that offer aircraft maintenance are a lot better than, sometimes, our own maintenance.

But for surveillance, for me, I participated three times for oversight for different repair stations. I want to tell you that that was part of the work group when they came out to do these team inspections on the repair stations because, for example, I am on Southwest Airlines. If Southwest Airlines sends engines or their aircraft, for example—well, in Brazil, for example, Southwest Airlines has a contract with General Electric. The engines go to Brazil GE and that is where some of the engines get overhauled.

Now if I went over there for Southwest Airlines, I did my inspection for Southwest Airlines, I came back, and I reported my findings based on the regulation and the Southwest Airlines procedures. Now if somebody worked for American Airlines, they go down there to do the same thing. If you work for Continental, you go down there to do the same thing.

So they came up to do the team inspections. Instead of sending 100 people, you just send a team of people. And then you can take that report and, based on that, you can look at the findings.

Well, my question to the work group was when they were in the process of coming up with this team inspection was when I go down there or any repair station outside the United States, one of the questions specifically states: Does the repair station follow the air carrier's procedures?

As you know, the air carrier's procedures take precedence over the regulation because we approve some of them, and we make sure that they follow the regulation and they meet the regulation, and that is why the procedures are approved.

So my question was, if I go to Brazil, for example, and look at GE engines that Southwest has in house for overhaul, I answer

that question just specific for Southwest, that GE is following Southwest Airlines' procedures.

Now how can you tell the inspector who works for Continental Airlines you have to accept that answer because I don't know what Continental's procedures are. I know what the regulations are, but each airline has above and beyond procedures in place for that.

So the answer to that was from the group leader, that well, that is why they have CASS in place which is a Continuous Analysis and Surveillance System for an airline. So they are going back then to self-policing themselves. So if you are going to accept the answer from their program for the CASS program, why go and do the inspection at all? Just accept their whole inspection then.

So you see there is disconnect there, and as of today that is what is happening. We are sending team inspectors out there to do team inspections, and then you look at their findings, and then you accept what they have found. However, you are not ensuring that your airline is really part of it.

Ms. HIRONO. Mr. Chairman, is my time up?

Mr. OBERSTAR. Your time is expiring.

Ms. HIRONO. I saw a hand.

Mr. OBERSTAR. If you have a follow-on comment, you may do it.

Ms. HIRONO. Well, I saw a hand going up, Mr. Peters, and really briefly if you care to comment.

Mr. PETERS. Well, it will be brief, and I would like to respond to that.

If we are having trouble seeing the carriers in the Country, how can we effectively oversee carriers that are outsourcing their maintenance?

The inspection team that would go and inspect this foreign repair station to the air carrier's standards would have to be very familiar with that particular air carrier, and in the ATOS world that is an air carrier specific briefing that is a requirement by each certificate office that oversees the carrier that they are assigned to.

So, how can we say that it is an equivalent level of inspection when we have inspectors that do a great job in an international field office that might go in once a year for recertification of that repair station, not know American or Southwest or United or whatever the carrier's procedures are?

It takes quite a bit of time and effort. These carriers are so complex and their maintenance program is embedded in several different areas throughout the carrier manual system. For us to go in there and give it a one shot quick inspection, calling it a recertification and not knowing how the system works for that particular carrier, I don't think we could honestly say to the Committee or to the flying public that it is an equivalent level of safety.

Ms. HIRONO. Thank you.

Thank you, Mr. Chair.

Mr. OBERSTAR. Mr. Moran.

Mr. MORAN. Mr. Chairman, thank you again.

I am sure, at least if the way things normally happen in Congress happen again in regard to this issue, we will have a discussion about resources to the FAA budget, money, allocations.

Is what we are talking about here in this discussion today, is it related exclusively to management, to personnel, to management

style, practice and operator's manuals and instructions? This is a management issue, not a funding issue, is that accurate?

Mr. PETERS. We are not. Down in the field level, we don't really know the particular budget issues, but I can tel you that for the fleet that I am responsible to manage, from the maintenance aspect, we are severely understaffed.

Mr. MORAN. As a result of that being severely understaffed, is the consequence the one that we are talking about today or this is a totally different topic?

Mr. PETERS. Well, I will be real honest with you. The notice that was put out last week, every issue that I had on my fleet, I had to put it to the back burner.

Prior to that, the aircraft that I am responsible for was basically generating occurrences around the Country, and one of them is in the news today about the 757 windshield crack. All of those investigations, they take resources. I mean they require myself and possibly another inspector to go and investigate those occurrence or incidents that happen throughout the Country.

We have got our surveillance, our regular surveillance duties that we are required to do along with managing the certificate. So if we are just reacting to the fires, we can't assure the air carrier or the flying public that—I don't want to say that they are safe because, of course, they have a process in place that is designed to keep them safe, and it is not getting the intention that we need due to the lack of resources that our surveillance and investigations require.

Mr. MORAN. So volume and staffing levels are an issue.

Mr. PETERS. I would say they are. I couldn't say truthfully that they are not.

Mr. MORAN. But the circumstances that we are exploring with you here today, they have occurred not as a result of lack of money but a lack of management. Is that fair?

Mr. PETERS. I think so.

Mr. MORAN. Anyone disagree with that?

Okay. Thank you, Mr. Chairman.

Mr. OBERSTAR. I would call it a failure of management, not a lack of management.

Mr. MORAN. You are a more precise wordsmith than I, and I agree with your choice of words.

Mr. OBERSTAR. Mr. Hall.

Mr. HALL. Thank you, Mr. Chairman.

Forgive me, Mr. Naccache, if this is a repeat of a question you have already been asked, but can you describe the type and level of harassment that was inflicted on Mr. Boutris and Mr. Peters for reporting things they thought were problems that needed to be reported?

Mr. NACCACHE. The description is it was very intense.

Mr. HALL. I will just try to keep this brief and little more general. We hear testimony about national security issues relating to aviation, and it seems that the FAA is trying to encourage and we are all trying to encourage a culture or an atmosphere that would lead people to report problems that they see when it comes to national security, i.e., terrorism.

I am just curious why we don't have the same emphasis regarding reports of safety problems like, for instance, skin fatigue and cracks that could have resulted in the sudden fracture and failure of the skin panels of the fuselage, consequently causing a rapid decompression which would have a catastrophic impact during flight. That is a physical threat to the physical security to the passengers and the crew.

It seems to me that everyone, the FAA, certainly the airlines and the industry, ought to be at least as concerned about this as they are about on time arrivals or food service. What is more important to your image as a company and what is really more important to the agency, to the FAA, in terms of their charge?

I am just curious what and maybe, Mr. Lambert, you would like to take a stab at this. Has this changed at all? What can we do to change it in terms of encouraging, not punishing, the reporting of problems that may actually be threats to safety of passengers and crew?

Mr. LAMBERT. Well, I think we have systems in place for that, maybe not adequate, but the systems we have in place don't take into effect a manager or supervisor that totally decided not to comply with the rules the FAA has provided in the authority they are given. I don't know that we have anything that can fix that right now.

Mr. HALL. Mr. Naccache, do you care to?

Mr. NACCACHE. Yes, I do agree with him.

And I remember concerning Mr. Boutris and Peters I sent an e-mail—let me see just a second here—on April 19 to all the supervisors. I was then Acting Manager. I sent an e-mail on April 19, directing them to do their part in reducing tension in any perceived adverse action concerning Mr. Boutris who was the subject of a recent anonymous letter.

He could not have a private phone conversation without everything said being repeated around the office, and Mr. Boutris was to come to my office often and complaining. So I directed the supervisors that day the directive to make sure that they were sharing this information with their employees and to try to stop that.

Then I had some other information that Doug Peters was to come and let me know that some of the inspectors always gave him dirty looks, rudeness towards them. They were also badmouthing them to the carrier.

Mr. Boutris was also put as a persona non grata in all maintenance meetings, which I was kind of shocked, and I discussed it with Mr. Gawadzinski. Apparently, Mr. Boutris informed me that day that one of his peers, Mr. Crabtree, requested that he not be present at any of the maintenance personnel meetings since he was shown that he had this letter, anonymous letter against him. They didn't want him around to participate in any of the personnel meetings.

Mr. HALL. Well, thank you, sir.

My time has just expired, and I just wanted to comment that on the passenger side I have seen signs in airports telling the public if you see something, say something. I have seen the same signs in New York City subways, by the way. We are, on one hand, trying to tell the customers and the passengers to speak up if you see

something wrong, but when our inspectors, when they try to do the same thing, they are harassed and, in effect, told to be quiet or removed from their positions.

I, and I assume other Members of this Committee, will be working to make sure that the FAA helps guide the airlines and themselves in the direction of encouraging openness and honesty in the interest of safety and the security and airworthiness of the planes.

With that, I yield back. Thank you, Mr. Chairman.

Mr. OBERSTAR. I thank the gentleman.

Chairman Costello.

Mr. COSTELLO. Mr. Chairman, thank you.

Mr. Chairman, I could ask a lot of questions. I think we could probably keep this panel here for another few hours. I am anxious to get to the next panel actually, but let me make a couple of comments.

One is a follow-up to my friend from Kansas, Mr. Moran, who asked the question, is this a matter of funding or is it a management personnel issue.

I would just like for the record for people to understand that numerous times when the Administration and representatives, both the Administrator and others representing the FAA have testified before the Aviation Subcommittee, we have asked that question: Do you have adequate numbers? Do you have adequate inspectors in order to do the job or do you need more?

The answer has always been we could always use more, but we have adequate numbers.

I have said, if you need more, tell us, and we will attempt to provide the funding so that you can hire more inspectors.

They have never come back, to my knowledge, with a number, certainly not to me and certainly not to this Committee.

So I want to make that very clear, that it is not a matter of the Administration or the FAA requesting additional inspectors. We have asked that question. They have said, we have adequate numbers.

Number two is that I think it is worth noting that in the reauthorization bill that we passed on September 20th in the House, that we have historical levels in the reauthorization bill to accomplish a number of things including hiring additional inspectors because it is our belief and certainly my belief that we need to hire additional inspectors.

I wanted to make both of those points on the record so that they were not missed.

Thank you, Mr. Chairman.

Mr. OBERSTAR. Mr. DeFazio.

Mr. DEFAZIO. Yes, Mr. Chairman, I don't want to keep the panel. I mean they have been very generous with their time, but I wanted to go back again to Mr. Boutris' testimony.

I think the question is, at least among us—we may hear differently from some of the Administration witnesses—there is a larger problem than one rogue guy, and the question becomes how do we deal with this more systemically.

I guess one of the proposals is to have a hot line, and I thought Mr. Boutris' criticism of that was pretty well taken. I would like him to comment, and others, where you say if management doesn't

respond when I openly and on the record raise serious safety concerns, how is a hot line going to work?

I guess the answer is they say, well, you go higher up in the agency. But then you go on to say, well, basically, I had a similar hot line system in place that inspectors do not trust because hot line complaints on safety issues end up on the FAA Administrator's desk.

Then they are passed down to the local regional office. The local regional office assigns FAA security who doesn't have technical expertise, and then the technical portion is reassigned to regional people who might be part of the problem to report on. In the end, not much happens.

Can anybody else? Mr. Boutris, do you want to expand on that at all and anybody else who wants to comment on problems with the existing hot line?

Because if the idea, if the solution is to establish yet another hot line, it sounds like this is a problem that needs to be addressed and maybe it needs to be somewhere outside of political appointees like the Administrator and other folks. Maybe there needs to be a whole—I don't know. Could you address that?

Mr. BOUTRIS. Well, sir, I stand behind what I say there. If we already have one system and inspectors like myself don't trust it, why burden the taxpayers on another system, no matter what you call it?

Like you stated, what I have in my testimony, I openly and on record, for years now, I have been raising safety concerns, and I got nobody's attention. How is the system gong to work? I do not know.

But to me, what I want to state here is accountability and like I stated there, I will state it again, there is no accountability throughout the ranks in the FAA.

Case in point, I have the new generation 737s. This fleet that was affected was not my fleet. The partial program manager that is the inspector for that fleet also was fully aware of the unsafe conditions seven days before I did, the same time that Mr. Gawadzinski was aware. So we cannot just hold Mr. Gawadzinski responsible.

That inspector was in charge for that fleet, and he had knowledge at the same time that Mr. Gawadzinski had. He should have raised the flag, followed Title 49, followed our handbook on our responsibility which states: An inspector, who becomes aware of an unsafe condition on an aircraft that has been operating or about to be operated, must take immediate action.

Did that inspector take that action? I don't think so.

Why should that be seven days later?

Mr. DEFAZIO. Where is that inspector now?

Mr. BOUTRIS. I am sorry, sir.

Mr. DEFAZIO. That inspector?

Mr. BOUTRIS. That inspector is Mr. Collamore, and what really I don't understand was after they removed Mr. Gawadzinski, the new manager that took Mr. Mills' place promoted him in Acting Supervisor/Principal Maintenance Inspector.

I wrote to Mr. Stuckey, e-mail after e-mail after e-mail. You are rewarding inspectors that look the other way, and I have a problem with that because the safety concerns I raised, they were seven

days later. Had this inspector done what I did, the airplanes wouldn't be flying for seven days because Mr. Mills would have grounded them.

So, to answer your concern, I think we need to start with accountability.

Mr. DEFAZIO. Okay. Anybody?

Yes, Mr. Peters.

Mr. PETERS. Mr. DeFazio, I know it might seem like harsh words when I said that the management personnel with the responsibility and authority have proved themselves unworthy to be custodians of the public trust. That is my, that is coming from my heart. I really don't.

Mr. DEFAZIO. You can see you feel very deeply about this.

Mr. PETERS. Well, it is sad. It is sad that it has come to this, but it has, and we have to face reality. That is why Mr. Boutris and I were so persistent in getting the information forward to the Committee so that we can take appropriate action.

If you are asking us what the appropriate action might be, I don't think the FAA can be trusted to police itself in regards to this matter that you spoke about, with a hot line, I don't see how that would help.

An external organization, I don't know what you would call it. Maybe we have an organization in place that could do that. Maybe give them more authority to come in and inspect what do, where we would have to provide evidential proof this is how we determined and this is how we got to where we are at in our inspections.

Mr. DEFAZIO. That is something to think about, Mr. Chairman. I liked your earlier idea on a legislative fix, but I think that is someone who would not be in that political chain of command and would be more responsive perhaps to these concerns.

Mr. OBERSTAR. I think that is a very important line of consideration and one that we will have to explore. To address this issue takes more than one fix. It is going to take maybe a series of actions that will result in a change in the culture of the FAA.

This lingering question about manpower, workforce and ATOS, I just go back to 1986, following the hearing our Subcommittee held on Galaxy Airlines. Here is this so-called airline. It had one flying Electra and two Hangar Queens from which parts were scavenged to supply the flying aircraft.

When we uncovered all the wrongdoing behind the scenes of the management of that so-called airline, FAA rushed in half a dozen inspectors to oversee Galaxy, leaving a major air carrier in the Southwest FSDO with only a skeletal maintenance oversight crew of FAA inspectors.

They were, in effect, making the FAA the maintenance provider for this scummy airline, and I say that with deliberate intention. I know, well, I won't go into the disreputable operation of that carrier.

So I went then to my good friend, Mr. Mineta, who was Chair of the Aviation Authorizing Subcommittee and said, when the appropriation bill comes to the House floor, I want you to join with me in offering an amendment to increase funding for the inspector workforce of FAA. He did. We offered an amendment to provide an

additional $10 million a year to hire at least an additional 1,000 inspectors.

The amendment passed, survived the Senate and conference, signed by the President and the FAA began expanding its workforce. We need to do that again. We need to expand that workforce.

But when I made that move, it was with full participation and compliance—I shouldn't say compliance—full partnership with the FAA top level management at the time. They said, you are right. We are understaffed. We need the help. Help us do this.

We need that same attitude today instead of what Mr. Costello referred to a little bit ago.

I want to come back to one of the fundamental issues here, and that is the voluntary self-disclosure. A non-compliance issue is eligible for self-disclosure without penalty if it is found by the airline first, correct? With no prior knowledge by the FAA, correct?

That is a very fine line. If you have someone within the FAA who is tipping off the airline, then they can get to first base before the ball gets there. Is that right?

Isn't that a little bit of what happened here?

Aren't there some non-compliance issues that have been filed over the last couple of weeks that were previously allowed to be submitted as self-disclosure even though FAA knew about it? That then would have made them ineligible, isn't that correct?

Don't nod because that can't be recorded in the testimony.

Mr. BOUTRIS. Yes, sir. It is correct. If the FAA finds out about non-compliance first, the airline cannot self-disclose the violation.

Mr. OBERSTAR. All right. We are going to explore this voluntary self-disclosure in more detail at the next panel.

I also want to come to the customer service initiative. After what we have heard today, my opinion is that it ought to be withdrawn, repudiated, torn up, thrown away, and we ought to start fresh. I wonder what you think about that.

Mr. COTTI. Mr. Chairman, I would be careful on throwing out the baby with the bath water. I believe that program has some merit, and in those cases where it did not work as advertised I think it would be more appropriate to rectify those situations.

Mr. OBERSTAR. You wouldn't throw it out. You would modify it.

Mr. COTTI. Yes, sir. I would put tighter controls on how it is being used.

Mr. OBERSTAR. All right.

Mr. Lambert?

Mr. LAMBERT. Yes, sir. The customer service initiative was initially put in place to where if there was a disagreement between an inspector and a carrier, that it could be elevated to get the right guidance approved or whatever they needed.

It has become a complaint system. If an air carrier doesn't like a principal's decision, they do it in a CSI because they know it will eventually get to you guys and they will get a decision in their favor more than likely because it becomes political at that point.

It needs to be modified and used as was intended to get the guidance, the proper guidance to resolve the issue at the lowest level.

Mr. OBERSTAR. Thank you.

Other comments from other panel members? Mr. Peters?

Mr. PETERS. Well, last week, when I was conducting the AD inspections for my carrier, when I returned, I read an e-mail that referred to my carrier as a client. It is a little troubling for me to understand where I stand as an inspector, as a regulator when I am dealing with my client which, to be honest with you, I have never been trained on anything to do with a client other than enforcing the regulations. So it is kind of a gray area for some.

I think it does have some benefit, like Mr. Lambert said, where we do work with a carrier and, if they need for resolution, they certainly need to have the avenue to raise their level or to raise their concern to somebody within the agency if they are not getting the proper response.

But the client and customer initiative, as it is being used today, I don't see the value.

Mr. OBERSTAR. This is a multi-modal Committee. We have jurisdiction over all the modes of transportation except elevators. There was one year when there were more fatalities in elevators than there was in aviation. That was about 15, 20 years ago.

[Laughter.]

Mr. OBERSTAR. In the rail safety arena, in 1994, 1995, 1996, I found an astonishing practice between the freight railroads and the Federal Railroad Administration in which there were similar Railroad Safety Advisory Committees.

The railroads sat down nicey-nicey, patty-patty with the Federal railroad inspectors while the members of the railroad brotherhoods—the signalmen, the maintenance workers, the conductors, the locomotive engineers—were saying there are serious safety problems on the railroads that are not being addressed because the Federal railroad inspectors are hand in hand, hand in glove with the railroads. I exposed that at a hearing and raised holy hell, put it this way, with the Administrator of FRA.

The result was they changed that system. They didn't use the term, customer, but instead of treating the railroads as a partner, they changed their mind set to: We are here to oversee safety. Our responsibility is to assure that you are running your railroad in a safe manner for employees, for the cities through which you operate and for the freight that you are carrying.

And we need that same change of attitude. I don't think that the role of the FAA is to consider the airlines as their customer. They are not a service organization to serve the airlines. Airlines are a service organization to their passengers. If there is a culture of customer, then it has to be by the FAA to the air traveling public.

I think we need, yes, Mr. Cotti, I think some sort of cooperative arrangement where the airlines voluntarily bring information forward but one that is done within a regulatory framework.

In the end, the airlines have the primary responsibility. There must be a culture of safety in the corporate board room. It must permeate the whole organization and so with the FAA. It has to start at the top.

Every one of you witnesses here has shown that you have that culture of safety, that you have it in your soul and your heart and your spirit on every day and every piece of action that you take, and I want that demonstrated at the top in the FAA.

As long as the FAA thinks of the airlines as their client, thinks of the airlines as their customer, that culture of safety is not going to take hold and not going to permeate the organization.

Oh, Ms. Johnson has arrived, our Chair of the Water Resources Subcommittee. At this time, the Chair recognizes the gentlewoman from Texas.

Ms. JOHNSON. Thank you, Mr. Chairman, and thank you for holding this hearing.

I ask unanimous consent to put my statement in the record.

Mr. OBERSTAR. Without objection, so ordered.

Ms. JOHNSON. I apologize for having to leave out earlier, but I just want to be very quick with this.

As I see the problem, I put most of the blame on FAA because if FAA inspects and reports it to the right avenue, then I cannot understand why an airline would not take heed. So what I would like to hear from you is where is the kink? Is it the buddy system? What is it?

Where does it fall off the line? Anybody or all?

Mr. COTTI. Ms. Johnson, I would submit that it becomes an issue of integrity. I think a lot of the issues we were talking about today have had to do with the integrity of one or several individuals. Integrity is one of the core values of our organization.

And, I think there is lots of ways to look at this, but this wasn't rocket science. This was there was an opportunity to make a decision, and the wrong decision was made, and I think it goes down to integrity with individuals

Ms. JOHNSON. Do you think rotating employees?

I know that it takes a certain amount of expertise for the inspectors, but it seems to me that when people stay in one place a long time they kind of get accustomed to letting things slide based upon the fact that they don't think it will be immediately that of a problem.

I have been trying to think through where we start. Do we prohibit FAA employees from going to work for a private airline for at least two years after they leave FAA or what do you think?

I know it has to start from the top, but it has not started from the top, it seems to me. So I am trying to deal with the problem.

Mr. MILLS. Well, I think that would certainly be a step in the right direction. In this particular case, the employee who left the FAA and went to work for Southwest Airlines certainly raised the question in my mind about propriety and, because of that, I asked for an investigation of that instance.

So I think it would be very helpful to have a waiting period before an inspector leaves the FAA and goes to work for industry.

Ms. JOHNSON. Anyone else? Do you concur?

Mr. PETERS. Yes, I do.

Ms. JOHNSON. Thank you, Mr. Chairman.

Mr. OBERSTAR. Thank you, Ms. Johnson.

I don't want to leave an impression here about whether the situation under discussion today with Southwest and the FAA is limited only to this particular FSDO.

Even if there were problems only with Southwest, it is clear that we have a structural problem at FAA. The problem at the operating level between the maintenance inspector and the air carrier

is evident in the testimony, but the chain of command above the inspector level was at fault, and that suggests that it could well be at fault elsewhere in the FAA and other Flight Standards District Offices. Correcting the problem at the top has to be our primary concern.

I want to thank this panel for their candor, their integrity, for putting public service ahead of private interest and personal interest, for risking yourselves for the safety of the flying public. You have done aviation and aviation safety an immense service. Thank you.

The panel is dismissed.

Mr. BOUTRIS. Thank you, sir.

Mr. OBERSTAR. Our next panel consists of the Honorable Calvin Scovel, Inspector General of DOT; Scott Bloch, Special Counsel, the U.S. Office of Special Counsel; Mr. Nicholas Sabatini, Associate Administrator for Aviation Safety at FAA; Mr. James Ballough, the Director of Flight Standards Service; Mr. Thomas Stuckey, Manager, Flight Standards Division, FAA Southwest Region.

I ask you all to rise, raise your right hand. Do you solemnly swear that the testimony you will give before this Committee in the matters now under consideration will be the truth, the whole truth and nothing but the truth, so help you God?

[Witnesses respond in the affirmative.]

Mr. OBERSTAR. You are sworn in, and we thank you for your presence at the hearing.

Mr. Scovel, we will begin with you.

TESTIMONY OF THE HONORABLE CALVIN L. SCOVEL, III, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION; THE HONORABLE SCOTT J. BLOCH, SPECIAL COUNSEL, U.S. OFFICE OF THE SPECIAL COUNSEL; NICHOLAS A. SABATINI, ASSOCIATE ADMINISTRATOR FOR AVIATION SAFETY, FEDERAL AVIATION ADMINISTRATION; JAMES J. BALLOUGH, DIRECTOR, FLIGHT STANDARDS SERVICE, FEDERAL AVIATION ADMINISTRATION; AND THOMAS STUCKEY, MANAGER, FLIGHT STANDARDS DIVISION, FEDERAL AVIATION ADMINISTRATION, SOUTHWEST REGION

Mr. SCOVEL. Thank you, Mr. Chairman.

I apologize, but if I may request what I hope will be a minor departure from protocol. I know the Committee's time is limited. I estimate, however, that I will need about eight minutes for my oral statement in order to inform the Committee of our findings, our conclusions regarding FAA's programs and our recommendations.

Mr. OBERSTAR. We do not want to limit witnesses arbitrarily by time. I want you to give your testimony and what you think is necessary in your oral remarks. Your written testimony, of course, will be part of the record, and I have read all of that already anyway, but please proceed.

Mr. SCOVEL. Thank you, Mr. Chairman, Ranking Member Petri, Members of the Committee.

At the request of this Committee, we are reviewing FAA's handling of whistleblower concerns regarding Southwest Airlines' failure to follow a critical FAA airworthiness directive or AD. As you heard from the first panel, these are serious matters.

Let me clear. The events at Southwest Airlines and the actions of an FAA inspector represent significant breakdowns in safety oversight that unnecessarily increased risk to the traveling public. We also have concerns about FAA handled the matter, and we are deeply troubled by the treatment of the whistleblowers. Corrective actions are urgently needed to strengthen FAA's oversight and prevent similar problems from recurring.

Before I discuss these matters in detail, let me highlight some key facts. The AD in this case required Southwest to inspect the fuselages of its Boeing 737s for potential cracks. FAA issued this AD in response to the Aloha Airlines 737 incident in 1988 where an aircraft lost a major portion of its fuselage in flight, resulting in one fatality and multiple injuries.

According to FAA, when an air carrier determines that it has not implemented an AD, it is required to ground, immediately, all noncompliant aircraft. FAA inspectors share this responsibility by ensuring that this is done.

We found, however, that Southwest did not have an effective system to ensure it completed these inspections. As a result, Southwest operated 46 aircraft in violation of the AD on over 6,000 flights for up to 9 months, carrying an estimated 6 million passenger. Southwest discovered it had violated this AD on March 14th of last year and notified an FAA principal maintenance inspector, a PMI, the following day.

However, the PMI did not direct the airline to ground the affected planes as required and, Southwest continued to operate them for nine more days. The PMI permitted and encouraged Southwest to formally self-disclose the AD violation through FAA's voluntary disclosure problem which allowed the airline to avoid penalties.

FAA accepted the self-disclosure, even though multiple disclosures on AD violations had already been accepted. This should have raised the question of whether underlying problems had been corrected. Once it self-disclosed violation, Southwest stated that it had inspected or grounded all affected aircraft.

However, two FAA inspectors, whistleblowers, reported that the PMI knowingly permitted Southwest to continue flying the identified aircraft. Southwest officials confirmed this and stated that the PMI gave them verbal permission to continue flying the aircraft. When Southwest finally inspected them, it found fuselage cracks in five.

While these critical safety lapses indicate problem with an airline's compliance, they are symptomatic of much deeper problems in several key areas of FAA oversight.

First, problems with FAA's partnership programs. We found that FAA's Southwest inspection office developed an overly collaborative relationship with the air carrier which repeatedly self-disclosed AD violations without ensuring that a comprehensive solution was implemented. The balance has tipped too heavily in favor of collaboration at the expense of effective oversight and appropriate enforcement.

Southwest violated four different ADs eight times since December, 2006 including five in 2008. Lack of FAA oversight in this area appears to allow rather than mitigate recurring safety violations.

Partnership programs can help to identify and correct safety issues, using information that might not otherwise be available. However, FAA cannot rely too heavily on self-disclosures at the expense of rigorous oversight and appropriate enforcement.

Second, weaknesses in FAA's national oversight allowed the problems at Southwest to go undetected for several years. Red flags were flying and should have been warning signs to FAA.

As early as 2003, one of the whistleblowers expressed concerns about Southwest's compliance with ADs. In 2006, he began urging FAA to conduct system-wide reviews, but FAA did not begin these reviews until after the details of the March, 2007 disclosure became public.

In fact, we found that FAA inspectors had not reviewed Southwest's system for compliance with ADs since 1999. At the time of the Southwest disclosure, 21 key inspections were overdue since more than 5 years had elapsed since the last inspection date.

As of March 25th, 2008, FAA still had not completed at least five of these required inspections with eight years having elapsed since the last inspection date in some cases.

We have identified problems with FAA's national program for risk-based oversight in the past. For example, in 2005, we found that inspectors did not complete 26 percent of planned inspections and half of these were in identified risk areas. We had recommended the need for greater national oversight in 2002 and again in that 2005 report, and this is still needed today.

Third, problems with FAA's process for conducting internal reviews and ensuring appropriate corrective actions. In the Southwest case, FAA's internal reviews found, as early as April, 2007, that the PMI was complicit in allowing Southwest to continue flying aircraft in violation of the AD.

FAA did not attempt to determine the root cause of the safety issue or begin enforcement action against the carrier until November, 2007. Too much attention was focused on the messenger, not on fixing legitimate safety concerns. This also raises questions about FAA's ability to investigate safety allegations raised by inspectors.

We are deeply troubled by the fact that FAA failed to protect the whistleblowers from retaliation. For example, after one whistleblower voiced his concerns to FAA, Southwest lodged an anonymous hot line complaint against him according to the PMI. The complaint was nonspecific and never substantiated, but the inspector was removed from oversight duties for five months.

However, FAA did not suspend other inspectors who were subjects of similar complaints, including the PMI who admitted that he had allowed Southwest to continue flying in violation of the AD.

Our work at Northwest Airlines found the same problem with FAA's handling of an inspector who reported legitimate safety concerns. As with the inspector in the Southwest case, FAA managers reassigned the experienced inspector to office duties and restricted him from performing oversight on the carrier's premises based on a complaint from the airline. The inspector's safety concerns were later validated.

Mr. OBERSTAR. By complaint from the airline, you mean Northwest?

Mr. SCOVEL. Northwest, yes, sir.

Mr. OBERSTAR. Yes. Okay.

Mr. SCOVEL. Both the Southwest and Northwest cases demonstrate that FAA must take steps to improve how it investigates safety issues and protects employees who bring important safety issues to light.

Finally, I would like to turn to the actions needed to prevent these events from occurring again. As the Committee is well aware, FAA has taken actions but only after events became public last month and this Committee's investigation was well underway.

FAA has proposed to fine Southwest over $10 million and initiate a review of AD compliance at Southwest and other air carriers. These actions are necessary but long overdue, given the overflight was discovered a year ago. FAA must take actions to improve oversight of all air carriers, strengthen the use of partnership programs and restore confidence in the agency's ability to conduct oversight.

In addition to steps underway, we recommend that FAA establish an independent body to investigate inspector concerns, periodically transfer supervisory inspectors to ensure reliable and objective air carrier oversight, revise guidance to ensure that air carriers take corrective actions to address violations identified through self-disclosure, implement a process for second level review of self-disclosures before accepting and closing them, implement a process to track field office inspections and alert local, regional and headquarters offices to overdue inspections, and revise post-employment guidance to require an appropriate cooling off period for inspectors.

My office will continue to examine FAA's oversight approach from a national perspective as requested by the Chairman. We must ensure that these problems are not repeated and that corrective actions are properly implemented. We will report to you on our progress as well as other steps that can be taken to enhance safety.

That concludes my statement, Mr. Chairman. I welcome questions.

Mr. OBERSTAR. Thank you very much for a very strong, hard-hitting, straightforward statement.

Mr. Bloch.

Mr. BLOCH. Thank you, Mr. Chairman, Ranking Member Mr. Petri, Members of the Committee, thank you for this opportunity to discuss the work of the U.S. Office of Special Counsel regarding today's important hearing.

OSC exists as the chief protector of whistleblowers and the enforcer of the Whistleblower Protection Act.

The French have a saying: La plus ca change, la plus c'est la meme chose, which translates the more things change, the more they stay the same.

Things have changed in air travel but too much has stayed the same like safety, compliance and oversight. Management at FAA has fostered a culture of convenience and complacency which compromises safety.

In this case, thousands of real passengers were put at real risk because of FAA's breach of duty. The work of my office over the last four years shows this is not merely an isolated instance of one manager's cozy relationship with the airlines. It shows FAA has a

preference for reprisal against courageous whistleblowers who point out breaches by management.

Through the efforts of this Committee, my office and the U.S. Department of Transportation's Inspector General, it is my hope real change will result in better compliance, greater transparency and more effective FAA oversight.

In recent years, whistleblowers have made disclosures to my office of wrongful conduct by officials and employees of the FAA, conduct that endangers public safety.

Last July, I found there was a substantial likelihood that Anne Whiteman and other air traffic controller whistleblowers at Dallas-Fort Worth were correct in the disclosure that FAA managers at DFW were systematically covering up operational errors made by air traffic controllers. No one would listen to her concerns until she made her disclosures to us.

Similar disclosures by Ms. Whiteman in 2004 were investigated by the DOT Inspector General after OSC substantiated them. The IG report noted a seven-year management practice of under-reporting operational errors, but two years later Ms. Whiteman alleged that nothing had changed. The IG had been conducting a thorough investigation and we expect a report soon.

OSC has received disclosures from a former Flight District Standards Office manager, Gabriel Bruno, alleging that unqualified mechanics remain in the aviation industry because they have not been reexamined adequately. He and another whistleblower made closely related disclosures to us in 2003.

We referred these to the DOT, and the IG investigated, recommending that FAA reexamine mechanics certified by St. George Aviation and reporting that the FAA was taking steps to do so.

Mr. Bruno now alleges that despite FAA assurances, the public remains at risk. I, again, referred this matter to the U.S. DOT for investigation. It seems nothing has changed.

In December, I found a substantial likelihood that FAA aviation inspectors, Bobby Boutris and Douglas Peters, had disclosed wrongful conduct involving FAA's oversight of Southwest Airlines and several years of coverup by FAA of airline non-compliance. I ordered DOT to do a thorough investigation.

They disclosed, the whistleblowers disclosed that the FAA principal maintenance inspector for Southwest Airlines knowingly permitted aircraft to operate in an unsafe condition.

Higher management knew about what was going on and tried to keep Mr. Boutris from requiring Southwest's compliance with airworthiness directives. Southwest Airlines had self-reported it had not completed with an FAA airworthiness directive on fuselage crack inspection only after it became obvious that the whistleblower was going to catch them in the violation.

With the knowledge and approval of FAA officials, these aircraft remained in operation until overdue inspections could be accomplished. These inspections revealed fuselage cracks in the critical areas of the airworthiness directive.

Southwest flew 1,400 flights, approximately, with those fuselage cracks. So passengers were put at real risk for the convenience of the FAA and Southwest Airlines.

When we receive the reports on these investigations, we will transmit our findings and recommendations to the President and Congress. Still, to ensure the flying public is not at risk, we must determine if there are system-wide problems at the FAA. So I have three recommendations.

First, an expert commission should be established to investigate how the FAA could allow coverups that potentially endanger the flying public, investigate the complicity of the airline industry and recommend comprehensive reforms of oversight and airline safety.

Second, more audits and no-notice inspections should be done by a better financed and staffed U.S. DOT Inspector General. The IG has the independence and knowledge to ensure better oversight and compliance but needs more resources.

Third, wrongdoers and those who retaliate against them, against whistleblowers should receive real discipline to punish behavior, set the example and reassure the public that they are protected by effective oversight.

These proposals are justified and safety demands them. Otherwise, we may think we have caused things to change while they have, in fact, stayed the same or become worse.

Thank you.

Mr. OBERSTAR. Thank you very much, Mr. Bloch.

And now Mr. Sabatini.

Mr. SABATINI. Mr. Chairman.

Mr. OBERSTAR. Turn the microphone on. We want to hear every word.

Mr. SABATINI. Sorry about that. I have been here enough times. I should know about that button.

Mr. Chairman, Chairman Oberstar, Congressman Petri and Members of the Committee, I appreciate the opportunity to appear before you once again.

With me today is Jim Ballough, Director of the Flight Standards Service and Tom Stuckey, Manager of the Flight Standards Division in the Southwest region.

Today, I would like to put into context the truly disturbing incident that occurred last year when Southwest Airlines knowingly continued to fly passengers after they learned that they had overflown an airworthiness directive that required an inspection for cracks in the aircraft fuselage.

That an airline of Southwest's reputation would ever think that flying passengers in non-compliant aircraft was appropriate is astounding to me. Even more alarming and upsetting to me is that this was done with the implicit consent of one of my aviation safety inspectors.

I want to state at the outset and in the most unequivocal terms that it is never permissible for any airline to continue to operate commercial flights that are in non-compliance with an AD, and no one in the FAA, not the Acting Administrator, not me, not Jim, not Tom, has the authority to allow such operations. And, frankly, even if we did, none of us would allow it. It flies in the face of everything we stand for.

This is such a fundamental tenet of aviation safety that it is not surprising that the events of last year are receiving the amount of attention that they are today. I will not condone or defend anyone

who was responsible for or complicit in the events surrounding the decisions made to operate those flights.

Following our investigation, FAA issued a $10.2 million proposed civil penalty to Southwest Airlines for their actions in this matter. The amount of the civil penalty reflects the fact that the airline knew they were in non-compliance and deliberately continued to fly the aircraft in commercial operations rather than grounding them as was required.

We know this because the airline voluntarily reported its non-compliance to an FAA principal maintenance inspector, the PMI, who failed to ensure that the affected aircraft were grounded. The inspector is the subject of an ongoing personnel action and has been removed from aviation safety inspector duties.

We also know this because one of the inspectors working in that office expressed repeated concerns about the PMI and ultimately reported the Southwest Airlines incident to the Administrator's hot line.

So where do we go from here? As an agency, we must accept responsibility for our mistakes, understand why they were made and implement safeguards to prevent them from happening again. That is why Acting Administrator Sturgell and I announced yesterday a five-point plan that addresses the issues of responsibility, accountability, communication and ethics. I believe these initiatives will help ensure that our rules are being followed.

First, in order to assure our employees that they are encouraged to raise their concerns without fear of reprisal, we are going to develop and implement a safety issues reporting system by the end of the month. SIRS, its acronym, provides a totally new avenue for employees to raise their issues, to get attention and results.

Second, we are initiating a rulemaking to address post-employment ethics concerns. We want to consider a cooling off period to ensure that there is greater objectivity when overseeing or working with a previous employer.

Third, we are gong to work with the manufacturers and carriers to help clarify the rules themselves to improve effective implementation.

Fourth, we will amend the voluntary disclosure program to require that senior airline officials sign off on the reports to ensure that there is awareness at the highest levels of the airline of what types of deviations are occurring within their system.

And, finally, we are accelerating the expansion of our aviation safety information and analysis program. Now that we have all 117 carriers participating in ATOS, we are blending this oversight data with our other data sources to enhance our ability to protect nationwide trends and provide a better perspective on the health and safety of the system.

In addition to this plan and to ensure that what happened with Southwest Airlines was an isolated problem and not a systemic one, I ordered a special emphasis surveillance, the first phase of which has just been completed while a second, more comprehensive phase is ongoing.

Our initial findings validate that our systems safety approach of oversight is working as intended. Over 99 percent of the ADs checked are being complied with by U.S. commercial carriers.

Most importantly, if there was a question about the technical compliance with an AD, the carriers grounded the affected aircraft rather than take a chance that they were in non-compliance. This is certainly the right response to a potential safety risk.

While it is certainly not my intention to underplay the severity and egregious nature of what happened at Southwest Airlines, the initial findings of the special emphasis surveillance support what we all know to be true. By any standard, this is the safest period in the history of aviation. I say this every time I appear before you because I am extremely and extraordinarily proud of the hard work and dedication it took by the thousands of safety aviation professionals in both industry and the FAA to get us to this point.

It is not a miracle, it is not a coincidence, and it is not good luck. It is finding a way to identify and focus on risk in order to effectively address it before it can result in an accident. Clearly, the accident rate reflects that this is working.

One of the reasons we have been able to do what we have done so effectively is because of the important information we receive from the airlines, their employees and even their aircraft through voluntary reporting programs. Without these programs, we had access to such limited information, less than 5 percent of what we are receiving now. Identifying and responding to risk often involved using information we learned about as a result of an accident.

Because of these programs, we now have access to a great deal of information that we can analyze and evaluate to assist in identifying trends that point to the risk we need to stay ahead of. Again, the accident rate supports that using the information obtained through these programs is effective.

It is entirely appropriate for us to discuss how these programs are implemented and where the line should be drawn between getting the information and taking enforcement action. I am happy to talk about this today and at any time in the future, but it is my hope that as we assess what happened at Southwest Airlines or the value of reporting programs or the relationship between FAA and industry, we do not lose sight of the fact that the system is safe, and I will continue to work as hard as I can to keep it safe.

Mr. Chairman, I will be happy to answer your questions at this time.

Mr. OBERSTAR. Thank you very much.

Mr. Ballough.

Mr. BALLOUGH. Mr. Chairman, the FAA had one opening statement, and we stand ready to answer your questions.

Mr. OBERSTAR. Okay, neither you nor Mr. Stuckey has a comment. Thank you very much.

Well, very powerful testimony, Mr. Scovel, Mr. Bloch and a very interesting rebuttal, in a sense, response from Mr. Sabatini.

Mr. Scovel, you say corrective action is urgently needed, and then you set forth several specifics: an independent body to investigate inspector concerns; transfer supervisory inspectors, that is move them around within the system, so they don't get too comfortable.

The State Department does that with our overseas personnel. They get three years at one station. They are moved to another. The military does that. The Corps of Engineers does it with district

engineers, division engineers. It seems a pretty good practice, so people don't get too cozy and comfortable with those they are overseeing.

Revise the guidance. Now, what guidance are you referring to there? Is that the voluntary?

You address self-disclosure the next recommendation. Do you include that in your proposal to revise guidance?

Mr. SCOVEL. Your question doesn't refer to post-employment guidance, Mr. Chairman. You are talking about self-disclosure programs?

Mr. OBERSTAR. Revise guidance, this is your third recommendation.

Mr. SCOVEL. Yes.

Mr. OBERSTAR. Ensure that air carriers take corrective actions to address violations identified through self-disclosure.

Mr. SCOVEL. Right. Our understanding of the voluntary disclosure reporting program now is that it envisions the inspector or the PMI, who receives the self-disclosure, reviewing it, making sure that it contains the required elements first of all, that if there has been an overflight, that the offending action has ceased immediately.

Second, that there be a comprehensive corrective plan laid out, that there be an implementation timeline and that there be a follow-on audit planned.

At least in this case, in the Southwest case, it is clear that the PMI basically simply rubber-stamped what Southwest had submitted.

We would like to make clear by this recommendation that the PMI, the inspector and, if our other recommendation were to be accepted, for the second level approval authority, that they ensure that the air carriers take the corrective actions identified in that comprehensive corrective plan so that the basic underlying violations can be corrected.

Mr. OBERSTAR. That is a very helpful clarification.

Then track field office inspections and alert local regional headquarters office to overdue inspections. How would you envision setting up such a tracking system?

Mr. SCOVEL. Let me begin to answer your question, sir, by noting what we found in the Southwest case.

Our written statement makes clear that as of the date of this oversight, this overflight that we are examining here today, March of 2007, there were 21 key ATOS inspections that were overdue. These were ATOS inspections that should have been completed by the Southwest CMO that had not been done. And, in fact, at the top of that list and most egregious is the fact that the AD compliance program for Southwest had not been inspected by FAA's CMO since 1999.

Now you well know that ATOS was first implemented in 1998. Southwest was one of the first 10 or so carriers initiated into ATOS. The following year, 1999, the CMO did review the carrier's AD compliance program, but it had not been reviewed since then.

It should have been reviewed at least a five-year interval, making 2004 the drop-dead date. Yet, here we are sitting last year, March, 2007, AD compliance program not done.

Our question was why didn't higher authorities in FAA know that?

The data is sitting right there. We found it within the last month or two, yet it was clear to us that no one was beating on the door of the CMO, asking why have you not done these 21 key inspections and particularly the AD compliance program inspection.

We think there has to be a way in this program to track, in the ATOS program, to track the progress of key inspections. When are they completed? Are they in danger of becoming overdue?

And when they do become overdue or even in a short period of time before that, put up a yellow flag, notify the CMO that they are in danger of crossing the trip wire. Then people, higher headquarters in FAA needs to get on the CMO's back and make sure that they follow through.

Mr. OBERSTAR. Now that makes very good sense, but I want to come back. Ten years ago, ATOS was initiated. I thought of it then as an adjunct, a supplement. It has become a replacement for the historic inspection procedure and process and has led to an overreliance on an automated system with very little personnel input and hands-on management of the system. I think that has led to this easy, cozy relationship.

Mr. SCOVEL. Well, perhaps, Mr. Chairman. I can't speak to how ATOS was originally envisioned or I hesitate to use the word, sold, in 1998, but how it was explained to you and others who are interested.

But what has clearly happened with ATOS over the years is that it has evolved into a system for FAA, ideally in their view, to better target or better channel their limited inspector resources to areas of greatest risk. And that is we have identified that, as you well know, in our past work as an advantage we see to ATOS.

Given the fact that we do have limited inspector resources, how can they be best used? Well, we think they ought to be targeted on the highest risk areas.

How do I identify those risk areas? Through data, and that data is supposed to be collected through the ATOS program.

Mr. OBERSTAR. If the right data isn't put into the system, then it is not very useful.

Mr. Sabatini, you mentioned, without naming him, Mr. Gawadzinski was removed from his position. What you didn't say is he has been moved to another CMO at American, where he is doing paperwork at full salary. Is that an appropriate thing for him to do?

Mr. SABATINI. Well, sir, as you know.

Mr. OBERSTAR. I know he has employee rights, and I know he there is an entire procedure, but is this an appropriate place to put him after hearing what we heard this morning?

Mr. SABATINI. Well, Mr. Chairman, what we have done is put him in a position where he has absolutely no responsibility for safety decisions, and the investigation is not complete. We are waiting for the other agencies to complete their component.

And, I can assure you, Mr. Chairman, I consider what has happened here, egregious, and we will apply the full measure of the law when we have all the information that we need to take whatever action the law will allow. In the meantime, yes, sir, he is still

in the Dallas area, but he is not performing any function related to safety.

Mr. OBERSTAR. That is encouraging, but I think he ought to be taken out of a CMO and put some place else.

We heard from the whistleblowers this morning about your proposal to establish a hot line. They said, what good is a hot line going to do when we stood up, we put our names on or, in the case of Mr. Boutris, he put his name on reports time and time again, and nothing happened, and it went up the chain.

What good is going to be accomplished by another hot line?

Mr. SABATINI. This is more than just another hot line, Mr. Chairman, while it has certainly that as part of its component. What is absolutely essential is a clear communication I have already made with our management.

Number one, I will not tolerate a management or any manager who does not develop and encourage an atmosphere of a safety culture, and that is the ability to report concerns that one may have to his or her supervisor.

Secondly, if there is a professional difference, and this process does not exist today, there will be a rigorous and disciplined process subject to scrutiny by myself, personally, as well as my other leadership people in the management chain. It will require that if there is a professional difference, that that professional difference be documented and a control number assigned to it and, if it is not resolved at that level, it will move to the next level.

It will have total transparency, and I will expect my service directors, as well as division managers and headquarters people, as well as regional people and field office management level people to review on a periodic basis the results of these controlled items.

And, if someone still feels that there is reason to not use that system, then I don't want them to just use the regular safety administrator's hot line but one that clearly comes to my attention, and I will pay attention. I can assure you, Mr. Chairman, that it will be subject to my review.

And I want to know if someone still feels that they cannot report to their supervisor. It will speak volumes if they have to choose to go around it.

Mr. OBERSTAR. That is very strong talk, and I appreciate hearing it. I want to propose to you, not propose but to tell you that I will institute a periodic review, say every six weeks, with Mr. Petri, Mr. Costello, Mr. Mica and myself and have you come in and your staff and review with us what you have done.

Secondly, I want to point out a shortcoming of these hotlines. You may recall the hard landing several years ago of an air carrier flying from Tulsa to Kansas City and landed in a rainstorm, landed at Tulsa, a hard landing in a rainstorm.

A ramp check was undertaken. They found no problems, but the ramp check was done by a maintenance crew not of the airline that had the hard landing and they were inspecting by a different standard.

The aircraft went on to Kansas City. A flight attendant on board that aircraft knew that this aircraft was damaged. It was vibrating in a way that she knew there was something serious wrong.

She called the FAA in Chicago which was their next stop. When that aircraft landed in Chicago, an inspector jumped on the aircraft, looked at it and found a six-foot crack and grounded the aircraft.

The next day that flight attendant was removed from duty by the airline. They knew who did it.

Don't let something like that happen to your hotline.

Now you say the low accident rate reflects success of our work, but how can the program be called a success when 1,400 flights occurred with cracks in the hull of those aircraft? That is reducing the margin of safety.

If you are looking at safety as a system, the system itself has cracks and they need to be fixed. I believe you have the public spirit to do that, but you are going to have to stand up to superiors as well just as those whistleblowers did this morning, stood up to their superiors at great risk, being removed from position, shifted out of duty, subjected to harassment.

We can't have a situation in which the customer calls the FAA, complaining about their service person, Mr. Boutris, to get him removed. That is intolerable, and I charge you with the responsibility to make sure that never happens again.

Mr. SABATINI. I accept that responsibility, Mr. Chairman, and I can assure you that I welcome review by this Committee any time—three weeks, six weeks, any time. I will deliver to you changes that will be made as a result of what we have learned as a result of this.

And let me for a moment address what I believe happened. What we have in place, because one of the witnesses said that I referred to a human risk that we identified. I would like to explain. We have processes in place to address how airlines are operated. We have a mirror image template so that inspectors can use it for the oversight. Those are processes.

What I feel is one of the risks that have been identified is a failure on the part of the human in terms of integrity. Humans are very much a part of everything we do, and we are putting in place a process that assures that if someone fails that integrity test I will find out about it and I will take swift and summary action, I can assure you, Mr. Chairman.

Mr. OBERSTAR. Thank you. We will hold you to that.

Mr. Petri?

Mr. PETRI. Thank you very much, Mr. Chairman. I would like to begin by asking Inspector General Scovel if he has any reactions or comments on the catalog of initiatives that Mr. Sabatini has mentioned in his testimony here today as a result of reviewing this whole situation.

Mr. SCOVEL. Thank you, Mr. Petri. Yes, I would, and I would like to address primarily what may be called the newest hot line or the newest communication channel. I don't want to denigrate it. I don't believe it would be prudent for me to preliminarily at this point, without data, cast doubt on any new communication channel. To the extent that it may help, even if only marginally, as Inspector General I would favor it; however, it begs the question, How will complaints similar to those raised by the panel this morning be investigated.

Mr. Sabatini has cast the SURS process as one where philosophical differences between inspectors and supervisors or different camps within a CMO might raise the question and have it resolved, yet I see all kinds of situations, like those that our panelists this morning addressed, that will perhaps come to Mr. Sabatini and others through the new process. Unless they are satisfactorily investigated, we are going to be back in the same situation we are today, with an insufficient investigation conducted on a catch as catch can basis within the aviation safety chain of command, and perhaps therefore suspect from the beginning as not being objective.

What our statement has proposed as an alternative is the creation of an independent investigative body still within FAA but certainly out of the aviation safety chain of command, so it would be removed from under Mr. Sabatini and Mr. Ballough.

We would suggest that FAA and the Congress consider marrying that up with the AOV system, which was created to handle safety complaints handled by air traffic controls. That was removed from the air traffic control organization and placed perhaps ironically under Mr. Sabatini. But in our experience with the investigative capabilities of that organization, we have been favorably impressed. However, if we were to marry the two of these up, we would suggest that it report directly at a much higher level than Mr. Sabatini or the air traffic organization.

There was talk earlier today of taking it out from under the control of a political appointee, and that would certainly be a point to merit consideration, as well.

Mr. PETRI. One practical thing with these hot line or other whistleblower, all these procedures, is that they can be abused. I mean, they can correct abuses, but they can also be used for all kinds of other hidden agendas or because of other disputes. So how do you separate the sheep from the goats? It seems to me there needs to be some willingness on someone when they use that mechanism that they are willing to stand behind. I mean, it should be secret. There shouldn't be retaliation. But on the other hand, they should be accountable for raising this and putting the systems through all this. Otherwise, someone like Mr. Sabatini has 101 things he has to rely on his team, and the next thing you know they are saying, well, this was looked into. So how do you make this work in practice?

Mr. SCOVEL. At times it can be very difficult, Mr. Petri. As an Inspector General, we have our own hot line, as well, and we run into that.

We have several categories of complaints. We have complainants who identify themselves by name and contact information, and that is always most helpful because we can get back to them and seek to substantiate the basis of the complaint. We have other complainants who may identify themselves but ask to remain confidential. And, finally, we have complaints that are submitted anonymously, and oftentimes those are the most problematic. They may lack detail and, because we don't even have a name or any way to contact the submitter, we are often at a loss.

In fact, the situation that you identified happened in this very case with regard to Mr. Boutris. You will remember from this

morning that it was the PMI who identified to Mr. Mills that an anonymous complaint from Southwest had been submitted against Mr. Boutris, and in partial response to that Mr. Boutris was removed from his inspector duties for a period of five months.

We have examined that particular complaint, and in my opinion as a former prosecutor and judge, and in the opinion of our investigators on my staff, we consider it baseless. There would have been good reason for FAA at the time not to have removed Mr. Boutris from his duties. The complaint was anonymous, it was nonspecific, it related to supposed actions that had no connection to Mr. Boutris' performance of duties. I don't think any reasonable person after performing that kind of scratch and sniff test would have questioned FAA if they had decided to leave a competent, dedicated inspector like Mr. Boutris on the job. Instead, they took him off.

It is very much a problem. What do you do? How do you sort it out? All I can say is we apply common sense, good investigative expertise, and take it case-by-case.

Mr. COSTELLO. [Presiding]. The Chair thanks the gentleman.

Mr. Sabatini, tell us the current employment status of Mr. Gawadzinski, just very briefly. I have several questions that I want to ask, so be as brief as possible.

Mr. SABATINI. Mr. Gawadzinski is currently still employed. He has been removed from his duties as a supervisory principal maintenance inspector and has been placed in another office, still in the Dallas area, where he has been relieved of any responsibilities related to safety inspector duties.

Mr. COSTELLO. Under the rules of the Department, could you have suspended him with or without pay and relieved him of his duties under suspension?

Mr. SABATINI. As you know, Mr. Chairman, there are definite rules on what we need to do to put this case together.

Mr. COSTELLO. That is my question. My question is, Could you have suspended him with or without pay?

Mr. SABATINI. Not at this point in time, sir. This investigation is still open, and we want to gather all the evidence. The Office of the Inspector General is still conducting its investigation, and when that is complete I will have all the information I need to apply the full measure of the law.

Mr. COSTELLO. Is he the only employee at the FAA that disciplinary action was taken against thus far?

Mr. SABATINI. Thus far. That is correct, sir.

Mr. COSTELLO. And you heard the testimony of the whistleblowers. You heard the testimony of the IG, the Special Counsel. Surely you do not believe at this point that all of this falls on one employee at the FAA, do you?

Mr. SABATINI. No, sir, I do not believe that it is just one employee.

Mr. COSTELLO. I would like you to elaborate on that.

Mr. SABATINI. Well, I believe that there was a failure on the part of the leadership in the southwest region.

Mr. COSTELLO. In the southwest region?

Mr. SABATINI. Yes, sir.

Mr. COSTELLO. Let's get to the point. We know that back in 2003 through 2005 Mr. Boutris complained and said, Look, we know that there is compliance issues, and he raised those issues back as far as 2003. When did these issues reach your office headquarters in Washington, D.C.? When did you, not personally, but your office, become aware that issues have been raised concerning the CMO with Southwest?

Mr. SABATINI. May of 2007.

Mr. COSTELLO. May, 2007?

Mr. SABATINI. Yes.

Mr. COSTELLO. And when did you personally become aware of the issues, the safety issues that were raised by both Mr. Boutris and others?

Mr. SABATINI. Several months thereafter. I don't have an exact date, sir.

Mr. COSTELLO. So May of 2007 is when your office became aware of it, and you became aware of it several months thereafter? Why did it take so long for the FAA to take action either against one of your employees or assess the fine against Southwest? And it has been noted by the Chairman and others that the action was taken after this Committee started its investigation. So the question is, If you were aware of these issues back in your office in May of 2007, why did it take this Committee to get involved to begin an investigation for your agency to act against the airline and your employee S?

Mr. SABATINI. Well, Mr. Chairman, as I have looked at the data and what I have come to understand about this, for about two-and-a-half years before the disclosure there were many activities that were undertaken by the leadership in the FAA's southwest region.

Now, I can tell you, Mr. Chairman, I have been a division manager. This is not theory to me. I practiced for ten years as a division manager. In looking at what happened, the division manager in the flight standards division in the southwest region, elected to give the information he received in his office, and some time in early April, the investigation was turned over to the security division, which is separate and apart from my organization. It would result, in essence, in being a third-party review.

What I would have done differently was to not hand over the enforcement aspect of that investigation. What they had asked security to look at was the investigation of the impropriety of the individual supervisory principal maintenance inspector. I would have separated that out. We have the sole responsibility for the enforcement action and that should have been started immediately.

However, there were several months where the security division conducted its investigation, and it was during that period of time that both the results of the impropriety on behalf of an employee was investigated, as well as a slow review—I don't think it was intentionally slow—review of the enforcement process.

Mr. COSTELLO. You heard the testimony of, again, the whistleblowers. You heard the testimony of the IG and the special counsel regarding this CMT and the concern, Is this a systematic problem or is it isolated? I want you to comment on that.

Mr. SABATINI. Mr. Chairman, while evidence has not been given to me, although I asked for it, I have been told evidence doesn't

exist to document the fact that this is systemic. What I have been told is that it could potentially be systemic, and I take that very seriously.

So, while the evidence exists for the southwest region, I take that as a lesson learned and put in place what I have begun to describe in terms of the safety information recording system to assure that this doesn't happen anywhere else.

Mr. COSTELLO. I will have other questions after other Members have an opportunity to ask.

The Chairman now recognizes the gentlemen from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Let's go back to what I think is partially the root of this whole problem, which is the erosion of the mandate which we reset in 1996 to exclusively focus on safety to this customer service initiative, where regulated airlines became clients, which obviously is causing tremendous confusion among people who are supposed to be inspecting and regulating them.

Who initiated the customer service initiative? Where did that come from? Mr. Ballough, you are a political appointee. The first time I heard about it was a Secretary at a speech, but where did this come from? Who wrote it?

Mr. BALLOUGH. The customer service initiative, sir, was an AVS effort with all of the lines of business, all directors, from the respect of services in the AVS organization.

Mr. DEFAZIO. Well, you are using the language in all the lines of business.

Mr. BALLOUGH. Excuse me, sir. Let me clarify.

Mr. DEFAZIO. You are a Government agency.

Mr. BALLOUGH. Yes.

Mr. DEFAZIO. And you are supposed to be regulating in the public interest for public safety, and the law very clear in 1996.

Mr. BALLOUGH. Yes.

Mr. DEFAZIO. So could we address it as a Government agency, please.

Mr. BALLOUGH. Yes. The Agency took this initiative to address concerns and articulate rights for the industry, whoever they may be. It was intended to elevate a question, to get a right to an answer to a question that they would pose to us.

Mr. DEFAZIO. So the industry complained to whom? Was this initiated at the Secretary's level? At the White House level? Or did professional employees other than politicals come and say, We need this customer service initiative? Are you telling me it was professional employees?

Mr. BALLOUGH. This was in our safety organization, sir.

Mr. DEFAZIO. So the safety organization, line employees, at what level? Since you are saying it was within the organization and it was professionally generated, do you want to tell me about this, Mr. Sabatini? Where did this come from?

Mr. SABATINI. Well, Mr. DeFazio, first let me say Jim Ballough is not a political appointee, he is a career service employee.

Mr. DEFAZIO. I am sorry. I forgot. I thought he was political.

Mr. SABATINI. Sir, I would like——

Mr. DEFAZIO. He came from here working for Republican staff, so I thought he was political. I am sorry.

Mr. SABATINI. So let's go back to the early 1990s, where industry came in and complained to Congress that there was a lack of responsiveness on the part of the FAA, who was heavy handed in how they were treating the air carrier industry. As a result of that, there was legislation creating—and it exists today—a Management Advisory Council, which is the MAC, and it is part of the mechanism that was put in place to improve the FAA and force us to listen to the concerns that business people have at that high level so that we can be responsive.

The customer service initiative has been taken totally out of what it was intended to be. The customer service initiative, sir, is to treat anyone, whether it is a student pilot or a private pilot or an applicant for any one of our certificates, in a respectful, professional, courteous manner.

Mr. DEFAZIO. Right. I can understand that, but the question is it seems like this leans very far in the direction of where the airlines, companies worth tens of billions of dollars with tens of thousands of employees, become clients of individual inspectors. Clients?

Mr. SABATINI. Mr. DeFazio, let me say——

Mr. DEFAZIO. I mean, we seem to have a little confusion here. You heard from these people earlier. I do apologize, I was confusing Mr. Ballough with Mr. Ballough, who is a political appointee. Sorry. I apologize for that. It is spelled differently, too.

Mr. SABATINI. The customer service initiative was never intended for anyone in our organization, in our safety organization, to ever start referring to people as clients. I heard that for the first time today, sir. That is unacceptable.

What I am hearing is that we are going to re-calibrate and make certain that we are, in fact, not abandoning enforcement, that enforcement is part of our tools. That is part of how we gain compliance.

What you said earlier this morning, Mr. Chairman, it is not just compliance with the rules. That is an absolute. It is also operating at the highest levels of safety day in and day out. That is what we strive for.

Mr. DEFAZIO. But, as you can understand, Mr. Sabatini, given the peculiar bent of this Administration to being, you know, rabidly anti-regulatory, it seems that somehow at some point to line employees the airlines became clients. I just wonder where that came from.

Mr. SABATINI. Sir, I am the career senior safety officer in the FAA. I can tell you this: no one ever instructed me to treat entities differently than what they are in the regulations, and that is they are applicants. They are air carriers with the responsibility to comply with the rules. I was never challenged on safety decisions. So I take that responsibility and I also take the responsibility that we are going to re-calibrate this misunderstanding, because clearly there was a misunderstanding from what I heard today from the witnesses. And let me add I consider Mr. Boutris a hero and I commend him for coming forward, for having the integrity to come forward and the courage to do that.

Mr. DEFAZIO. Because a lot of the emphasis in this and materials provided, particularly the flow chart for how one would file a complaint and where it would go, it really seems to me that we sent out the wrong message here. I am just trying to get at whether this is totally inadvertent or whether we have political pressure applied here, as everywhere else in the Bush Administration where they are saying we don't regulate, markets will regulate. God, no one would fly an airplane that was unsafe, because that would be bad for business when it crashes. Markets can regulate themselves, just like Wall Street just did.

I am feeling like we are coming in sort of a situation here that is similar. Somehow this thing became perverted at the application level, at least in one region, and I fear in many more. And we are hearing from the IG he thinks the same thing.

Mr. SABATINI. Well, sir, I believe that it is inadvertent.

Mr. DEFAZIO. You believe it is inadvertent. I am glad to hear that, but I still will have questions.

Mr. Chairman, I am over my time. I will have more questions in another round.

Mr. COSTELLO. Ms. Johnson?

Ms. JOHNSON. Thank you, Mr. Chairman.

I would like to pose this question to whomever, I guess the chief safety person. At what point was Southwest Airlines notified of the discrepancies in safety?

Mr. SABATINI. They are the ones who discovered it.

Ms. JOHNSON. But I hear you talking about a $10 million fine. What is your justification?

Mr. SABATINI. Well, prior to their time where they disclosed a possible noncompliance with the airworthiness directive, they had flown those airplanes for an extended period of time on thousands and thousands of flights.

Ms. JOHNSON. With no paper trail of you telling them that that is not safe enough?

Mr. SABATINI. Well, it is the responsibility of the air carrier for them to comply with the rules. The FAA——

Ms. JOHNSON. I understand that, but you have inspectors to notify them when they are not in compliance, don't you?

Mr. SABATINI. Well, when we discover noncompliance we do that.

Ms. JOHNSON. But you had to wait for them to tell you about the problems they were having?

Mr. SABATINI. Well, I would characterize it as we were informed, and when we were the people responsible in the FAA for taking swift and summary action and putting those aircraft on the ground failed to do that. During that period of time between notifying the FAA until the time that they did get those airplanes into compliance, they operated roughly 1,400 flights. The penalty is based on a calculation that is a formula that is in our Compliance and Enforcement Handbook. It is not an arbitrary or capricious figure. It is set in guidance.

Ms. JOHNSON. Okay. I am still having difficulty understanding that they are the ones who notified you. Where was your responsibility?

Mr. SABATINI. Our responsibility—and it should have been discharged by the supervisory principal maintenance inspector was to

say you cannot continue to operate those airplanes in noncompliance.

Ms. JOHNSON. And did that happen?

Mr. SABATINI. No, it did not, ma'am.

Ms. JOHNSON. What happened to that person?

Mr. SABATINI. Well, that person has now been removed from that position—is still employed by the FAA. The investigation continues—and has been removed from any safety inspector duties.

Ms. JOHNSON. No fine?

Mr. SABATINI. Well, we are continuing the investigation, and I can assure you, Ms. Johnson, that I will take the full measure of the law and apply it.

Ms. JOHNSON. Okay. Thank you very much.

Mr. COSTELLO. I wonder if the gentlelady will yield?

Ms. JOHNSON. I will yield.

Mr. COSTELLO. I thank the gentlelady.

Mr. Sabatini, let me follow up on that question and a question I asked about the disciplinary action that was taken. You said that you removed the employee and assigned him to other responsibilities that are not related to safety; is that correct?

Mr. SABATINI. That is true, sir.

Mr. COSTELLO. I am told that he is now auditing the office at Dallas Fort Worth and he is participating or supervising an AFS pre-audit. Is that correct? As we speak, that is exactly what he is doing?

Mr. SABATINI. That should not be what is happening. If I may, I would like to ask Mr. Stuckey to address that.

Mr. STUCKEY. Mr. Costello, when he was removed from the Southwest CMO he was placed in a position where he had no inspector duties, and his duties for the last year have been preparing an office for an external flight standards audit. He is looking at office files. He is reviewing manuals within the office. He is checking compliance within the office of their processes and procedures, but no inspector duties. And he has not done any inspector duties since he was moved.

Mr. COSTELLO. But he is participating in this pre-audit; is that correct?

Mr. STUCKEY. He is helping to rewrite manuals and check files and do administrative work.

Mr. COSTELLO. And under the current rules within the FAA, Mr. Sabatini, how long will it take to go through due process so that the Agency can reach a conclusion as to his future?

Mr. SABATINI. The Office of the Inspector General is going to conclude its investigation, and when that is done we will put that entire package together and we will——

Ms. JOHNSON. Reclaiming my time for one second, is he being paid?

Mr. SABATINI. Yes, ma'am.

Mr. COSTELLO. What do you have to do to get fired there?

Mr. SABATINI. Ma'am, you know we are so lucky to live in these United States. Every single person has rights, no matter what the charge may be, and this County affords that right to whoever that person may be.

Ms. JOHNSON. Yes, but it seems to me that if this person was responsible for allowing the condition to go on without taking a positive step to do anything about it, and that was his responsibility, in any other job there would be some kind of disciplinary action. If it was somebody in my office, they would be fired. So that is my point. I don't understand why he is okay and the airline is being fined.

Mr. SABATINI. Well, the results of the investigation may support that he is other than okay.

Mr. SCOVEL. Ms. Johnson, if I may?

Ms. JOHNSON. Yes.

Mr. SCOVEL. Let me shed a little bit of light. Mr. Sabatini has referred to the OIG's report, which will help FAA make up its mind in this particular case regarding the PMI. Three weeks ago FAA contacted my office and indicated that they were contemplating a personnel action against the PMI, which consisted of a reduction of two pay grades and a reassignment. I spoke with Mr. Sabatini on the telephone and advised him, of course, that whatever personnel actions would ultimately be taken were within FAA's purview. They are not the IG's. We are not judge, jury, and executioner.

Ms. JOHNSON. Sure.

Mr. SCOVEL. But before the Agency took an action that some might view as premature and overly lenient, that it would certainly be helpful to the Agency to have all the facts.

It is my understanding, based on that, that FAA has, indeed, held up. At that time we were working on information concerning the PMI's approval of voluntary self-disclosure submitted by Southwest in other instances than the one we are talking about here today. That would certainly be information perhaps that the Agency would want to consider in this case where dereliction of duty would be the primary charge.

Another concern that I expressed to Mr. Sabatini at the time was that the PMI be taken completely out of the safety decision-making loop. As Mr. Sabatini has reported today, that certainly has happened. We want to commend the Agency for that.

This week we have had further contact with FAA, and my staff has informed FAA that, of course, at any time if they believe they have sufficient evidence to fire him they can do that. Of course, what they want to do was make it stick. I thank them for their confidence in the IG's report. If they believe that that is what will be necessary in order to make the personnel action stick, then we will get it done as soon as we can and turn it over to them so they can take their action.

Ms. JOHNSON. Thank you very much.

Thank you, Mr. Chairman.

Mr. OBERSTAR. I would observe that, while the question the gentlewoman from Texas, our Chair of the Water Resource Subcommittee, may have sounded harsh, it comes from a woman who in the private sector owned and managed six businesses. I think she brings a very different judgment and perspective to bear.

I wanted to return just a moment, Mr. Sabatini, to Mr. Gawadzinski. Can you state unequivocally that Mr. Gawadzinski is not in a position to undertake inspections, to do oversight of carrier maintenance; that he is not engaged in any such action?

Mr. SABATINI. I have been assured that that is the case, sir. I would ask Jim and Tom to confirm that for me.

Mr. BALLOUGH. Mr. Chairman, it is certainly my understanding, being the Director of the Flight Standards Service, that he is not doing inspector duties at this time.

Mr. OBERSTAR. I have information to the contrary, and I think you had better take a closer look.

Mr. Cummings, the Chair of the Coast Guard Subcommittee?

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Sabatini, I am sitting here and I have been listening to you and I have been watching you. I have got to say, when Ms. Johnson asked the question about the firing of this particular person, your reaction seemed like, just watching you, how can we do that, this person has rights.

Let me tell you something: the flying public has rights, too. The flying public has rights, and you have used some wonderful words here. You know, they have been very nice. You want to operate under a culture of safety. We want to do everything in our power to make sure that we have the highest level of safety day in and day out, but, you know, let me tell you what, I guess as a lawyer and one who has tried a lot of cases: something doesn't smell right here. I am just telling you, it sounds like we are trying to boil down this thing to maybe one person. I know the investigation continues, but it seems like there are some other people that are probably responsible. I don't know how high up it goes, but I will tell you one thing: if I were in charge of a department and I had a situation where these flights went out and the flying public had established a trust—there is a book written by Covey that is entitled, The Speed of Trust. The public, when we get on this airplanes, all those people out here, I bet you every one of them have flown on an airplane within the last month. But when we get on an airplane, but when we get on an airplane we trust that the people that we pay with our tax dollars are doing what they say they are going to do.

We don't expect, for example, a doctor, if he is going to operate on our heart, to party all night and then at 5:00 come home and then do the operation at 6:00. There is a certain level of trust.

I am just trying to figure out, does the buck stop with you? Do you take responsibility for this, since you are the top safety guy?

Mr. SABATINI. Absolutely, Mr. Cummings. I take complete responsibility for this, and I am going to take action to address what we learned here.

Mr. CUMMINGS. Now, you said today that you have learned some things just today that you didn't know; is that right?

Mr. SABATINI. Yes.

Mr. CUMMINGS. You have said that several times. What is the most significant thing that you learned today that you did not know before today?

Mr. SABATINI. If I may, I would like to put it in context.

Mr. CUMMINGS. That is fine, but, you know, the Chairman just said something. Apparently you didn't know that. He said that he had some information that somebody, this particular person, is still doing certain types of duties. You and Mr. Stuckey—is the immediate supervisor the person that Mr. Oberstar was talking about? You are in charge of that region, right?

Mr. STUCKEY. Yes, sir, I am the regional manager, but not Doug Gawadzinski's supervisor.

Mr. CUMMINGS. Okay. Well, I guess what I am getting at, I want to make sure that the information is flowing, because apparently something is missing here.

Anyway, Mr. Sabatini, I would love to hear what you have to say.

Mr. SABATINI. My entire life has been in public service. I have been a police officer in the city of New York for 20 years. I know police work and I know law enforcement. I learned aviation and I have spent four decades in aviation safety. I am absolutely committed to aviation safety. I am second to none when it comes to aviation safety, I can assure you, sir. And I take responsibility for what happened in my organization, and I will take what I have learned and correct that.

A couple of things have been learned. One, as an inspector it was absolute, Safety 101, you do not allow noncompliance. You will enforce the law. Obviously, there are some who thought otherwise. I am going to deal with those people, but I must do it—as a lawyer you know, Mr. Cummings, I must operate within the law.

Mr. CUMMINGS. I do, but I want to make sure you get everybody up the line or down the line. Everybody.

Mr. SABATINI. Up and down.

Mr. CUMMINGS. La-de-da and everybody who may be responsible.

Mr. SABATINI. I will address that, Mr. Cummings, absolutely.

Mr. CUMMINGS. My time is running out, but I want to ask you another question. Mr. Scovel talked about this whistleblower hot line, for lack of a better term. He seems to think that his recommendation is a better one than what is going on here. Can you just react to what he said about whistleblowers, because he makes a very good point. If somebody is calling and it is not being reacted to properly, what difference does it make? As a matter of fact, it is probably worse, because then the person is subject to all kinds of repercussions.

I just wanted you to comment on what he said, because that sounds like it makes sense. Since you said what you just said—you are very concerned about safety—and I believe you, I really do—I want to make sure we have the best system possible so that whistleblowers can come forward.

Mr. SABATINI. Well, I believe that the process that we are putting in place will allow everyone the opportunity to bring forward their concerns. I also welcome the involvement of the Office of the Inspector General. They are welcome to review what I do as we speak today. But I would encourage even more scrutiny on this particular subject.

I will be happy to work with this Committee, your staff, and with the Inspector General.

Mr. CUMMINGS. He has already said your system is not going to be the most effective and efficient system. He has already said that.

Am I right, Mr. Scovel?

Mr. SCOVEL. That is correct, sir, without a proper investigative body.

Mr. CUMMINGS. So all I am saying to you is why not, since you are concerned, as you are, about everything operating properly, and

you just gave a wonderful statement about your 20 years, and here is this man who says your system is not going to be the most effective and efficient one, and since all of this goes to safety, why not say let's go with you, Mr. Scovel?

Mr. SABATINI. Well, I think maybe I didn't make myself clear.

Mr. CUMMINGS. No, you didn't.

Mr. SABATINI. I am willing to work with the Inspector General and take in whatever his recommendation may mean, and how do we——

Mr. CUMMINGS. And put it in place?

Mr. SABATINI. Absolutely.

Mr. CUMMINGS. All right. Thank you.

Mr. OBERSTAR. I thank the gentlemen.

Mr. Carney?

Mr. CARNEY. Thank you, Mr. Chairman.

Mr. Scovel, Mr. Sabatini, I will come back to the question I asked in the earlier panel. We have seen the grounding of a lot of aircraft lately. Why do you think that is, in the last few days? What do you attribute that to? Mr. Scovel?

Mr. SCOVEL. Let me take a stab. I think carriers are gun-shy right now. I think they see FAA waking up after this incident last year. There has been a lot of publicity. The Committee has certain made known its intent to hold this hearing. FAA properly recognizes that AD compliance is a vulnerability.

We have identified that with Southwest the key ATOS inspection of its AD compliance system hadn't taken place since 1999. Southwest was certainly vulnerable. They got burned last year. Other carriers now have seen what has happened. They are feeling some of the heat. They are seeing the sunshine that is coming in to this and they are taking all steps that they possibly can to comply, even down to the letter. There have been media reports of carriers with their MD-80s, MD-88s measuring the spacing of their wiring bundles down to a quarter of an inch. Great, because if that is what the AD requires, that is what the carriers ought to be doing and that is what the inspectors ought to be checking.

The Chairman earlier ran down a partial list. Probably it was the whole list. I have only got a partial list of the groundings lately. Starting with Southwest on March 13th and up through United yesterday with its Boeing 777s, my count stands at 565 aircraft. I didn't bother to count up the number of flights and the number of passengers affected. Tens of thousands. It is a serious matter.

Mr. CARNEY. Were reports suppressed? Did management suppress some of these reports or have the airlines quietly sort of self disclosed things, too?

Mr. SCOVEL. Well, they certainly did at Southwest. We absolutely have evidence of that. I hoped during the break before my panel came forward that you all received a copy of an extract from our written statement. It is a timeline showing Southwest's aging aircraft AD violations. It is the one attached to that. That is the timeline of the March 2007 incident. It is the one right behind it.

You can see from December 2006, where we had earliest access to the data, up through March 2007 and even continuing into this year, Southwest has had problems with these violations.

We don't know what may be happening at other carriers. I would expect and welcome and invite this Committee's request to my office to continue on these lines and find out what has been happening in the voluntary disclosure reporting program industry-wide. We already have an audit underway to investigate the ASAP program, which is another partnership program of FAA.

Mr. CARNEY. I certainly think everybody on this Committee would welcome that information.

Mr. Sabatini, can you answer that?

Mr. SCOVEL. That request will be forthcoming.

Mr. SABATINI. What we discovered is that an airworthiness directive is a very complex instruction, and, again, a lesson learned here is that in the future, when we issue airworthiness directives, we are going to make certain, by working with the manufacturers and the operators, to make sure that the language is clear and understandable and essentially in plain language, plain English, so that it can be executed without difficulty.

I must tell you, sir, that of the almost 2,400 inspections that we have done, we found that 99 percent of the system was in compliance, full compliance. That 1 percent represents events like there was one carrier, because they had a low utilization of an aircraft, the airworthiness directive was not yet due, not due until 2028, yet they were in technical noncompliance with the AD because they had not submitted their plan on how they were going to implement the AD.

There were others. You heard about American Airlines and Delta and the MD-80. Again, the AD requires precision and the accuracy in order to be complied with. In this case, what we were finding is that wire bundles that ran along a particular part we will call the wheel well, where the landing gear retracts, that this wire bundle was not fastened against the bulkhead every one inch as specified by the airworthiness directive. So they took the most prudent action. They put the aircraft on the ground. Other cases were very similar to that.

Mr. CARNEY. Mr. Scovel, are you concerned that the FAA does not have appropriate quality control mechanisms to maintain its oversight for reasons of the CMO?

Mr. SCOVEL. We are concerned. In fact, I am not sure whether it was the Chairman or Mr. Costello or perhaps Mr. DeFazio who was asking if all of this was happening at the Southwest CMO, who else knew about it or who else should have known about it. Those kind of quality control mechanisms, knowledge up the chain of command, should be in place.

When we are talking specifically about voluntary disclosure programs, for instance, it is our understanding that there is no reporting requirement up the chain to gain some insight into how a particular CMO may be carrying out its duties on the voluntary disclosure reporting program.

We do know for a fact that the data that is supposedly being collected through the ASAP, which is another partnership program, self-disclosure program, that FAA and other aviation safety experts don't always have access to that data.

So while the intent of the program is to obtain information that may not otherwise be available, it is useless unless the data is collected and made available and subsequently analyzed.

Mr. CARNEY. Are we going to fix that?

Mr. SABATINI. Yes, sir. Absolutely. As a matter of fact, I will ask Jim Ballough to tell you what it is that we have underway as we speak.

Mr. BALLOUGH. In terms of the data analysis, we recently released a new version of our ATOS—Air Transportation Oversight System—and it was called version 1.2. A part of that is the national role of ATOS inspections so that we can give ourselves that red, green, yellow light look at how many completions we have in terms of surveillance and oversight of our programs. That is one aspect of it.

In terms of the voluntary programs, voluntary disclosure, ASAP programs, we have had, as you heard in the earlier panel today, we have the national info share programs that brings the member organizations that participate in those programs together and shares information from a safety perspective.

What we haven't done a good job at, and what we are in the process of modifying, is the notion of making that data available to those who actually need it to make safety decisions. That is a piece of it that we have yet to work on and finish. It will migrate, as Nick said earlier, into the data analysis program in the future. But we have some interim steps that we can take.

In terms of integrity of the voluntary disclosure program, you know, the IG made some very good recommendations to us and we thank him for that, and we will review those recommendations and we will put them in place.

What we learned from this Southwest incident or enforcement is this: number one, we feel that senior leadership at the airline must know that a disclosure has been filed and they should be aware of it. That will be implemented in our guidance material.

The additional piece of that, back in the paper system before we went to a web-based voluntary disclosure program, the office manager had to sign off on every file. You heard that earlier today, a recommendation. That will be put back in place as well, sir.

And then ultimately an analysis of the voluntary disclosure program so that everybody can learn, one airline to another can learn what we are learning out of this system.

We think that these initiatives to strengthen the voluntary disclosure program will go a long way to put measures in place so that we don't have a recurrence of this.

Mr. CARNEY. Well, hopefully from one airline to another and one region to another, and I hope the ATOS 1.21 has flashlights and screwdrivers involved with it, where they are actually crawling through the aircraft.

Mr. BALLOUGH. Mr. Carney, I can assure you we do a number of on-aircraft inspections, as well.

Mr. CARNEY. Very good.

I have grossly violated my time. You are very generous, Mr. Chairman. Thank you.

Mr. OBERSTAR. Ms. Richardson?

Ms. RICHARDSON. Yes. Thank you, Mr. Chairman.

First of all I have one question and four comments. The question is to Mr. Stuckey.

We have seen documents that were sent to you alleging repeatedly that your SPMI was frequently reducing letters of investigation to simple letters of correction. Didn't that cause some alarm bells to go off in your mind? We haven't seen any evidence to indicate that it did. What were you doing?

Mr. STUCKEY. Ms. Richardson, that is correct. We had received a report in the fall of 2005 that Doug Gawadzinski was issuing letters of concern instead of letters of investigation. As was pointed out by the panel this morning, letters of concern don't really have any application in our compliance and enforcement program.

The importance of using letters of investigation is that they get into our system and we can track them. That was brought to the region's attention in, I believe, September or November of 2005. We asked for an independent review of that, and we took two assistant managers from another office assigned to Continental Airlines who basically validated that yes, out of, I think, twenty-nine letters of concern, at least I think four or five of those should have been letters of investigation.

At that time it was communicated to Mike Mills, office manager, and then later to the supervisory principal maintenance inspector that he should stop that practice. That is not appropriate. The practice is not consistent with Agency policy.

Ms. RICHARDSON. Well, now I will get into my comments, and I will direct them to Mr. Sabatini.

A couple of things. First of all, it disturbs me to hear you kind of off-the-cuff refer to low accident rates, 1 percent. In five minutes I am going to be leaving here to get on a plane, and I am not very thrilled at this moment. I think if the American public really all understood clearly what we were discussing here today, I think a lot of people would not be.

In the business of public safety, as you said you are an expert of, we are not held to the same standards of people who manufacture pencils. We have people's lives in our hands and we are expected to perform at 100 percent rate, not at 99. The 99 is not acceptable, because our failure to perform may cost major life, which is not acceptable for us to think 99 percent is okay.

I will tell you my background. I worked in corporate America for 14 years. I have a master's in business. I would strongly recommend—you talked a lot about your public safety background. I would recommend going back and doing a little business work. Let me tell you what I mean by that. And I mean no disrespect, but I think we have to speak frankly here.

In the world of business school, this is a clear failure, as has been said, of quality control. Clear failure. There must be ongoing sampling, as there is in any industry. This should not be viewed as bureaucratic Government, anything like that. When you were talking about maintenance, sampling must occur on an ongoing basis at every single level. When you have a lack of independent review and you are not properly monitoring and validating, you are going to have problems like this.

I don't understand, for the years that this has been done, why this has not been caught.

Let me leave with my last point. I am really frustrated, because you mentioned this was a failure of humans. I disagree with you, with a business background. This was not a failure of humans. A failure of humans is one individual who fails to complete a report appropriately in 2005, who makes a mess up and is addressed. What we see here, a pattern of several years of lack of proper monitoring, validating, and really correction I don't think is a problem of humans; I call it a problem of process and management, which all of you here are responsible for.

This is not just limited, as has been said by many of my colleagues, of the one person back there. To me the problem is right here, because it is ultimately your responsibility.

When I hear Congressman Cummings ask you do you know if this person is still working, and you say it has been said to me, you know, in the business world what we do, it was your responsibility to go physically and to ensure. I don't care how busy you are; you are not so busy that when we have planes flying around with inches thick of leaks and all these other things going on, it is your responsibility to get out of the office and to get on the ground. That is my expectation, and I think the public's expectation that you would do immediately.

So as I would close I will say to you that this has really risen to the threshold that I think it is beyond the reports and the headlines that we will see tomorrow. I think you owe the public an acknowledgment of exactly what happened and exactly what you intend to do.

We can talk all day long about the programs and processes that you are going to put in place, but I will kind of break it down really simple now, since we have talked about the business side. You are lacking some hall monitors. You need people in the halls making sure that people and the things that are supposed to happen, of all these great things that you said that they are going to do, all that is is another report this thick for someone to read once a year. We need action. We need people on the ground. And we need true monitoring and validation. Anything less than that is unacceptable to the American people.

Now I am going to put my life in your hands, unfortunately, and say a prayer as I hop on this flight. We are, unfortunately, working the angels overtime, and I hope that you would do a better job of protecting all of us.

Thank you.

Mr. OBERSTAR. I thank the gentlewoman.

Mr. Petri?

Mr. PETRI. Just to put things in context, I would rather put it a little more positively. We want you to keep on batting 1000. We have gone four years. I think it was pointed out at the beginning that 200,000 people have died on the highway and zero have died during that same period of time in airline crashes and airplanes. So if you are worried about going home, fly. But that is not saying it is perfect and it is not saying that things couldn't be a lot better.

You have done so well, and the last thing we want to do is to start slipping down on the job or getting cozy arrangements that then end up with loss of life, and so we want to celebrate success. It is fantastic. It is unprecedented in world history, I think. But we

at the same time don't want to rest on our laurels. We want to continue to keep on doing even better.

One other quick question. I will submit other questions for the record. I am sure there is an explanation for it. I don't know that it has been made part of the record. We have this organization chart of your Agency from Mr. Sabatini all the way down, and the aviation safety inspectors, supervisor. Principal Maintenance Inspector Douglas Gawadzinski has been mentioned often. He has not been here. I think there should be some reason why.

And then the other issues I would like to ask Mr. Scovel if there have been comments that Mr. Gawadzinski was talking to people at headquarters or this or that. Did you uncover or did you discover any of that, or was he basically speaking without authority, so to speak?

Mr. SCOVEL. Mr. Petri, it is our understanding that, in fact, he did know officials at FAA headquarters. To the extent he is embellishing his relationship with them so he could puff himself up in the eyes of colleagues down in the Southwest CMO, that appears certainly to have been happening, as well.

Mr. PETRI. Any of you like to respond? Mr. Sabatini? I think both of your names have been mentioned. Mr. Stuckey?

Mr. BALLOUGH. Yes, Mr. Petri, thank you very much for the opportunity. Yes, it is true. I know Doug Gawadzinski, just like I know a lot of my workforce. I spend a lot of time on the road to interact with those folks. Mr. Gawadzinski came to New York when Nick and I were in New York together and spent 90 days on a detail. He then went back to the southwest region. Since 2001, when I became the Director of Flight Standards Service, I have talked to him or seen him a very limited number of times. Certainly the portrayal today of daily conversations with Mr. Gawadzinski or the inference by the management in the Southwest CMO that I somehow had some kind of relationship with Mr. Gawadzinski is just not factual, sir.

I state for the record that I have been absolutely consistent, from the day I became the Director of this organization and went out and talked to the field. I attend every management team meeting at the regions and speak to the supervisory ranks as well as at offices. I have been absolutely consistent for the last seven years that I expect, number one, standardization; number two, that following national policy is paramount for me. It always has been. So this notion that he had somehow had some dispensation from following national policy is a fabrication.

Mr. PETRI. Thank you, sir.

Mr. OBERSTAR. Now, Mr. Sabatini, you knew on July 12, 2007, of the incidents at Southwest. A report was completed, correct?

Mr. SABATINI. I am not sure of the exact date, sir, but certainly——

Mr. OBERSTAR. In July?

Mr. SABATINI. In that time frame. That would be correct.

Mr. OBERSTAR. But that is the date given to the document of completion of the inquiry. Why did you wait until March of this year to audit other airlines?

Mr. SABATINI. We didn't know the gravity at that time of what was going on at the Southwest CMO.

Mr. OBERSTAR. Shouldn't something have gone off and said maybe we ought to take a look at the system? Since we are operating on a system—ATOS—maybe something else amiss?

What I am getting at is that there is an over-reliance on ATOS, and that if it is so successful, why is it that old-fashioned inspector feet on the ground, on shop floors, and engine rooms, are finding airworthiness directive compliance issues affected hundreds of aircraft? In other words, you need more people, you need more inspectors, need more hands-on work, and I want you to think hard about this, notwithstanding directives from Office of Management and Budget—we have gone through this with other FAA leadership in years past and other Administrations—work with us to develop an inspector workforce need list that we can realistically deliver on. Will you do that?

Mr. SABATINI. You have my commitment, Mr. Chairman.

Mr. OBERSTAR. Thank you.

Now, the customer service initiative, what do you think about, what was your reaction? What was your gut reaction when you heard the statement in the earlier testimony from the whistleblower panel, the customer, Southwest, called the FAA and complained about the service they were getting from Mr. Boutris to get him removed? What was your reaction to that?

Mr. SABATINI. Unacceptable. That is simply an abuse of what our customer service initiative was intended to be. It was a mechanism to allow citizens of the United States who contact the FAA to express whatever concerns they may have, not to be used as a vehicle to accommodate a like or dislike about a particular inspector.

I will say time and time again, we are responsible for enforcement. Voluntary programs do not mean that we have abandoned enforcement. We will continue to enforce the regulations. Our mission is to gain full compliance and to operate at the highest levels of safety. You have my commitment, Mr. Chairman.

Mr. OBERSTAR. Then I hope I have your commitment also to revisit this customer service initiative and re-aim it and redirect it, and thereby redirect back to its original purpose the mission, the safety mission of FAA.

Mr. SABATINI. You have my commitment, Mr. Chairman. I am planning to do that.

Mr. OBERSTAR. Thank you. That may be the most significant thing accomplished today.

Are there others who have questions? Mr. Costello?

Mr. COSTELLO. Mr. Chairman, I really do not have any other questions, but I would like to make a comment and express a concern, and that is Mr. Sabatini has been before our Subcommittee many times, and we have talked about safety and other issues. You know, frankly, my concern is this: that you have pointed out, and rightly so, that 99 percent of the planes that have been recently inspected are in full compliance. Frankly, I think that the Agency continues to rely on the fact that we have the safest system, aviation system, in the world. I know you are proud of the fact that 99 percent are in full compliance, but again I go back to my comments in my opening statement, and that is—and I don't think that you would disagree with me, and if you do I want to hear it, but there is no question when it came to runway safety that the FAA

took their eye off the ball. At one time in 2000, 2001, very serious about it, brought together all the stakeholders, and then when the numbers started going down the FAA went and directed their attention to other things.

The same thing with the hazardous conditions in the powers and facilities. Nothing was done until the Subcommittee took action. Even though employees were reporting mold and other hazardous conditions in these facilities to the FAA, there was no action taken until the Subcommittee scheduled a hearing, and then we started getting calls that said hey, finally the FAA is reacting, and it is because you are holding a hearing on this matter.

The list goes on and on with congestion and delays. I went through the whole list earlier.

So my concern, frankly, Mr. Sabatini, is that 99 percent compliance, what are people concerned about. We are concerned about the one that is not in compliance, and we have a responsibility and you have a responsibility to make certain that we get as close to 100 percent compliance as we can.

The FAA here—and you have acknowledged it—has failed, and we hope that you will produce a plan that will prevent from this ever happening again.

With that, Mr. Chairman, I yield back.

Mr. OBERSTAR. Thank you.

Mr. Sabatini, do you wish to respond?

Mr. SABATINI. I want to assure everyone here that the only reason why I mentioned 99 percent is to just demonstrate what we found in both cases. But I can tell you this: what I am paranoid about is the 1 percent, and we do not rest on our laurels. We strive every day to look at what is that remaining risk, and that is the challenge of the future.

We no longer see common cause accidents. That is because of the hard work that has been done over the years by many, many safety professionals in FAA and in the industry across the board. The challenge is: what are those risks out there and how do we learn about those risks? That is what we work hard every day to understand, and that is why it is so critically important to have a professional working relationship with industry so that together we can identify and resolve the remaining risk.

Mr. OBERSTAR. Mr. DeFazio?

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Sabatini, I would like to know, you mentioned this process is for citizens, the customer service initiative. What are the aggregate numbers? Who has used the system and who are they? Do you have those numbers, like how many are airlines, operators, how many are repair stations, how many are individual airmen? Do you have those numbers?

Mr. SABATINI. I can get you those numbers.

Mr. DEFAZIO. But has this process been used a lot? Have a lot of resources been devoted to resolving problems through this customer service initiative?

Mr. SABATINI. I would say it certainly requires resources, but it is not a drain on the system.

Mr. DEFAZIO. Okay. Well, I would like to see the numbers of who has accessed it, what the categories were, etc. I am sure the Committee would be interested.

And then how about when you heard from Mr. Mills, Mr. Sabatini? Was that an Agency-wide directive that everybody should drop everything they are doing? They haven't been out to that particular repair station for the last eight years, but they should go out to that repair station, not in an inspector capability, but to hand-deliver the packet of the customer service initiative that could have been mailed or e-mailed to those people? Are you aware how widespread that practice was that we diverted resources to hand-delivery of these packets? Was that a unique thing?

Mr. SABATINI. I was surprised to hear Mr. Mills say that he had to or had been instructed to hand deliver that. That certainly is not in the guidance.

Mr. DEFAZIO. Okay, Mr. Ballough, are you aware of how prevalent this practice was?

Mr. BALLOUGH. Mr. DeFazio, from what I know, it was supposed to have been delivered through routine carrier visits and repair station visits.

Mr. DEFAZIO. But that would have meant that people wouldn't see it for seven years, because a lot of times we only get around to these repair stations once in a great while.

Mr. BALLOUGH. At least once a year, sir.

Mr. DEFAZIO. Well——

Mr. BALLOUGH. I was surprised.

Mr. DEFAZIO. How about you, Mr. Stuckey, since you are in that region? Was this widespread in your region that people were diverted to hand-delivering these packets?

Mr. STUCKEY. Mr. DeFazio, as I recall, initially—and it has been a few years ago—we had, like, three years to get out to your major operators, your air carriers, your major repair facilities, your taxi operators, and that is something that an office manager would normally do. Mr. Mills at the Southwest CMO had one operator. At the Dallas FSDO we probably had maybe 100 operators of that category.

Mr. DEFAZIO. Right.

Mr. STUCKEY. So it depends on the particular office, but it is important to get out and visit those operators.

Mr. DEFAZIO. Right, but he was not sent to visit. He wasn't sent to do oversight. He wasn't sent to do safety inspections to places he might not have been for quite some time; he was sent to hand deliver something that you could have sent out in e-mail, you could have faxed. I mean, you certainly had to know how to contact these people. You could have mailed it to them. I mean, this was widespread then? A lot of people were delivered to hand deliver this thing?

Mr. STUCKEY. I wouldn't say it was widespread. Again, I think it was——

Mr. DEFAZIO. So you are not disturbed that one individual spent three months hand delivering this?

Mr. STUCKEY. That would not have been my expectation.

Mr. DEFAZIO. Okay. I find it very disturbing.

Now, you have talked about Mr. Gawadzinski and his current duties. You are telling us he is in an office somewhere and all he is doing is reviewing manuals. Do those manuals have a purpose? I mean, do they somehow dictate Agency actions that relate to the real world, like safety?

Mr. STUCKEY. We have a national flight standards evaluation officer in headquarters, an SF-40, that reports to Jim. They get around and do technical reviews, I think every three years, and the office that Doug is assigned to now is going to get one later this summer, so his duties would involve making sure we have all the office files in order, do we have all the documents that we should have in an airline——

Mr. DEFAZIO. So he is not editing? I mean, he is just like a clerk level? At $100,000 a year he is just making sure the files are complete?

Mr. STUCKEY. More or less, and I have been——

Mr. DEFAZIO. That is an expensive clerk.

Mr. STUCKEY. He has been assigned——

Mr. DEFAZIO. I tell you what I would do with this guy. If you can't fire him, I would do what they have done here in the past. You put his cube in the hall. He doesn't have a phone. He is not allowed to read anything, and he just sits there.

Now let me ask you this: has he done enroutes in the last year?

Mr. STUCKEY. I think he has last year.

Mr. DEFAZIO. Within the last year has he done enroutes?

Mr. STUCKEY. My information is he did three round trips, one to training and I think he had two enroutes to do, I think, job interviews within the FAA.

Mr. DEFAZIO. Mr. Sabatini, does that raise any concern with you?

Mr. SABATINI. Yes, it does, because my expectation is that this person be in the office essentially counting paper clips.

Mr. DEFAZIO. Okay.

Mr. SABATINI. I need to complete my understanding. If he, in fact, conducted enroute inspections after he was moved to this other position. I don't have that information. I intend to get that information.

Mr. DEFAZIO. Thank you. I appreciate that.

Now one last thing, Mr. Chairman. Thank you for the generous grant of time, but I feel so strongly about this issue.

I really think that—and I guess we had testimony in the previous panel—we shouldn't throw out the whole customer service initiative. But when I read through the rather lengthy documents and the way they are worded, I can see where this devolved from customer to client and the whole thing is set up for talking about all the levels of appeal and the flow charts and all those sorts of things.

I just really think, again, this is my supposition, but Nick, did this advisory group of yours really initiate this idea and write this and then you just handed it to the administrator, who then went and gave the Aero Club speech? This wasn't something she initiated or something she wanted to do or something that came from some other political person or political level? This really perked up from the professionals, we want to start talking about our airlines,

its customers, we want to have all these multiple levels of review, we want all these forums and all? That really came from your professionals?

Mr. SABATINI. Sir, what we know about our organization across the board is that we do not behave in a consistent and standardized manner. This was one mechanism put in place.

Mr. DEFAZIO. But it has a particular lilt to it, this whole airlines are now customers and there are all these complaints. There are other ways to deal with service quality, I think, maybe the inspector general or others might address that, I think, than this. I really think it deserves major overhaul.

And then finally, just one thing. I have heard a lot about how great things are and how no one has died, and people have qualified that by saying major or big or whatever, or 135s versus 121s. We have had two deadly crashes in the last four years. One was due to a maintenance issue, which was 21 people at Charlotte. The other I think is still under investigation at Lexington, which has been attributed to pilot error or under-staffing of the air traffic control tower or other issues. I don't think there has been a final disposition on that one yet.

But people have died. That was 49. So yes, the system is doing pretty darned good. Can it do better? Yes. Are we concerned about the number of AD deviations, we find out there were deviations? Yes. And I understand there may yet be some others out there. There are three airlines that have some AD problems. Why aren't they named?

Mr. SABATINI. I would be happy to submit their names.

Mr. DEFAZIO. Well, why don't we just have them right now?

Mr. SABATINI. It is an open investigation, sir.

Mr. DEFAZIO. Thank you.

Mr. OBERSTAR. I don't want to stimulate the gentleman further——

[Laughter.]

Mr. OBERSTAR. This customer initiative sounds very strangely like public-private partnership. The gentleman will desist.

[Laughter.]

Mr. OBERSTAR. Mr. Carney and then Mr. Cummings.

Mr. CARNEY. Thank you, sir.

This is for the whole panel. Well, probably not Mr. Scovel. I was thinking about Mr. Gawadzinski, who is still employed, and Mr. Mills. Mr. Mills was not under investigation for anything, he apparently did nothing wrong. Why was he removed?

Mr. STUCKEY. Mr. Carney, initially, when we got the report of the AD overflight, we also, that same month, had already scheduled two office evaluations. As a result of all three things that were going on in the month of April, it is standard practice to remove someone from their position when you find some serious issues involved. Mr. Mills was initially detailed at his same grade, same pay, to an office in the DFW area until an investigation was completed.

In Mr. Mills' case, it was decided that he was going to be permanently transferred to that same office as an assistant manager, same pay, same grade. Primarily because his supervisor back in 2005 had given him instructions to follow national policy, you have

some issues here, letters of investigation, letters of correction. There were several issues there pertaining to relationships in the office that were causing disharmony, including what you heard from the first panel this morning. You really had two groups in the office, those that supported Doug and those that supported Mike.

For those reasons, he was administratively transferred to another office. That was made permanent I think in August of last year.

Mr. CARNEY. Given all we have heard today, that sounds a little suspicious, I have to tell you. That doesn't sit well. That doesn't seem quite just, actually, from where I sit, at least.

I have no further questions, Mr. Chair.

Mr. OBERSTAR. Doesn't sit well with me, either.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Sabatini, one of the most, as far as I am concerned, one of the most significant questions that has been asked today is the one that the Chairman of our Aviation Subcommittee asked you a few moments ago. He talked about, if you will recall, how it seems like certain things have to come to the Congress before certain actions are taken by your agency. That is very, very significant.

Let me put that over here, and then I am going to take you to another place. That is that you, when the Chairman asked you a question about why didn't you at within a certain period of time, you said, I think, and I am not trying to put words in your mouth, that you did not realize, or you all didn't realize the gravity of the situation. Is that right?

Mr. SABATINI. That is correct.

Mr. CUMMINGS. All right. Now, to me, the one thing the flying public wants, as I said a little bit earlier, is they want to be able to trust. They want to know that when they get on that plane, the plane has a pretty good chance of getting to its destination. And I guess what I am concerned about and I am wondering about is, are mechanisms now in place, and Mr. Scovel, you may want to comment on this, too, so that one can appreciate the gravity of the problem?

Because I would think that we could put all the mechanisms in place of communicating a problem. But if there is no one on the other end of the line who can appreciate the significance of the problem, and the problem still takes, in other words, for example, airlines are still flying that aren't supposed to be flying, then it seems like it smacks in the face of what we are about here, and that is trying to make sure we do what you said, that is, have the highest degree of safety that we can and to worry about the 1 percent that you and Mr. Costello talked about.

So I am wondering what is in place now or what will be in place to help you or whoever, your committee or whoever makes these decisions, as to when we act, how we at, to what degree we act, what is in place now that will help you to have a better grasp of how significant a problem is? You can't get too much more significant than this.

Mr. SABATINI. I believe there are a number of things already in place, and I keep coming back to at the Southwest region, that issue was mishandled for two and a half years. And that was not

evidenced at my level. Once the AD non-compliance became apparent, then around the July time frame is when we realized the severity of what we had in terms of the failures that had occurred in the Southwest region.

Now, I am concerned about the 1 percent. I want to assure you of that. And the system is a sound system. But it is not perfect. And we strive to make it better. The recommendations that have been made by the inspector general we take very seriously, all of them. And we will be working with the office of the inspector general to do what is being recommended.

Mr. CUMMINGS. I want to come back to you, but my time is running out, I want to make sure Mr. Scovel has a chance to comment on that. I am hoping that we walk out of this hearing, Mr. Scovel, with the public having a higher degree of trust that may have been at least slightly eroded after reading about the things that they read about. But not only do I want them to have the trust, I want the trust to be deserved. I want it to be reality. Because having the trust is one thing. If it is not deserved, that is another thing.

So I am just wondering, are things happening now, and if they are not happening now, are there things that we can do immediately to make sure we have that? Do you follow me?

Mr. SCOVEL. I think I do, Mr. Cummings. One reassurance then an observation or two, perhaps. We have talked extensively about the problems at Southwest. We have seen threads of a couple of aspects of the Southwest problem at other carriers and CMOs. But it is not nationwide. I hope that the American public and the Congress doesn't take that message away from my testimony, at least, because that is not what I intended to convey.

I think we are in a similar situation where we were last August or September when the Minnesota bridge fell, and I know Chairman Oberstar well remembers that. The natural question is, what about all the other Nation's bridges, and national bridge inspection program. Well, it needs to be looked at. And that is where we are today with Southwest problems. Are they at other carriers? Well, we will have to take a look at that. So that is a reassurance.

An observation, however, of FAA's, some would call it culture, some would call it its organizational model, there is a disconnect between FAA headquarters here in Washington and what happens out in the field. We saw it at Southwest. There was a CMO in turmoil. There was a bitter struggle being waged for the heart and soul of that organization. Aspects of that were communicated to the region and then bounced right back down. Not much if anything was coming up here to headquarters.

There has been a consistent lack of ownership, desire to exercise ownership from the national level over some of these problems that pop up at CMOs and elsewhere. We see it when we have inspectors like Mr. Boutris or the Northwest Airlines inspector who are put in the corner on the basis of an airline's request or complaint. Mr. Boutris called it cherry-picking. It evokes a dismissive attitude on the part of a carrier, and it signals a regulator who has failed to command the respect of the regulated entity. That should cause everyone at FAA problems.

My office has made recommendations dating back to 2002 for FAA to exercise greater ownership over the ATOS system. Those

recommendations have not yet been implemented. We have seen problems with the voluntary disclosure reporting program and the Chairman indicates that he will request my office to look into that. Again, that was a problem that was happening at the CMO, invisible to FAA headquarters. That needs to be fixed.

Mr. CUMMINGS. Thank you.

Mr. OBERSTAR. I thank the Chairman for those inquiries. I must also observe at this time my great appreciate for all but one of our Subcommittee Chairs participating at this late hour in this hearing.

The gentlewoman from Florida, Chair of the Rail Subcommittee, is here, Ms. Brown.

Ms. BROWN OF FLORIDA. Thank you, Mr. Chairman, and I just want you to know, I thank you very much for holding this hearing. Now that everything has been televised, you can watch every aspect of it on television, even if you are not here the whole time. So thank you again for having this hearing.

I guess I will start with Mr. Scovel. Does the FAA place too much emphasis on the electronic surveillance of carriers instead of the on-the-ground review and inspection?

Mr. SCOVEL. Ms. Brown, I don't think FAA has found the right mix yet. If you are referring to the use of ATOS versus inspectors on the ground and on the shop floor, as the Chairman has referred to, ATOS is an imperfect system. That has been made clear today. FAA headquarters needs to exercise greater national program oversight over that. When we have an AD compliance program at Southwest that has been left uninspected since 1999, that is unsatisfactory.

Properly used, ATOS has potential, in order to target inspectors to the areas of greatest need and then to put them on the shop floor and on the airplane, crawling through all the nooks and crannies and doing what they do best. But we are not there yet.

Ms. BROWN OF FLORIDA. How long do you think this breakdown with FAA has been going on, this culture that we have been talking about all day?

Mr. SCOVEL. Well, in this instance, we can date back, well, my predecessors would probably harken back to instances from their day that would highlight the same organizational culture. I am relatively new in the position and I can testify on the basis of my 15 or 16 months in office.

Regarding this problem specifically, I can say that since 2002, when my office submitted its first report on the ATOS system, for instance, that the recommendation that we made to FAA for national program oversight was not implemented effectively.

Ms. BROWN OF FLORIDA. Mr. Sabatini, I recently had the opportunity to go back and look at the FAA vision statement. Under mission, it listed the following one-sentence statement, our vision is to improve the safety and efficiency of aviation while being responsive to our customers and accountable to the public. Do you think it is appropriate to view the airline as an FAA customer?

Mr. SABATINI. Ms. Brown, I can tell you that what we have learned here is that we have drifted away from what was intended when we first used the term customer. Certainly they are the people who are regulated and are subject to enforcement.

Ms. BROWN OF FLORIDA. Stakeholders, partners, yes. But not customer.

Mr. SABATINI. I would agree with that. We are going to recalibrate that.

Ms. BROWN OF FLORIDA. Can you describe your customer service initiative program?

Mr. SABATINI. It is designed to allow anyone who has come to the FAA, either for a pilot's certificate or an applicant for any one of the authorizations that are issued, once someone demonstrates competence and qualifications. And if during the course of that interaction one believes that the rules were not followed, then there is a process to bring that to the attention of the next level of management. What we require is that when that documentation of that interaction clearly applies the rule, the guidance, whatever that may be, so that there is consistency in the organization. It was designed around the issue of assuring consistency with whoever we might be dealing with. To assure that we treat whoever comes in, whoever we come in contact with, with the respect and the courtesy and the professionalism and timeliness that you would expect of a Federal agency.

Ms. BROWN OF FLORIDA. Would you explain a little bit more about the self-reporting?

Mr. SABATINI. Yes. That is the voluntary self-disclosure. And that is a situation where anyone who finds that they have made a mistake or are in non-compliance, if they are the ones who come forward and tell us about it, then we will consider that in the mitigation of whatever that penalty or action might be. If we are the ones who first find that non-compliance, then there is no self-disclosure. And there are various things that can be done if it is brought to our attention.

The idea is to encourage people to tell us about mistakes, so that we can address those mistakes.

Mr. OBERSTAR. Would the gentlewoman yield?

Ms. BROWN OF FLORIDA. Yes, sir, Mr. Chairman.

Mr. OBERSTAR. The question you raise is a very important one and the answer is interesting. But we discussed it earlier in this hearing. This voluntary disclosure system sets up a race to the answer. If the airline knows that they have done something, they can voluntarily disclose. If the FAA knows it ahead of time, they can't voluntarily disclose, they, the airline, can't voluntarily disclose.

That sets up a risky environment, especially when you have someone within the FAA who is willing to pass information to the airline, say, you are about to be inspected, you had better get on the stick and self-disclose. That is where this voluntary self-disclosure process has vulnerability. That is the point that needs to be corrected.

Mr. SABATINI. And we are, Mr. Chairman.

Mr. OBERSTAR. You are going to find a way to correct it.

Thank you. The gentlewoman may proceed.

Ms. BROWN OF FLORIDA. I yield back the balance of my time, Mr. Chairman.

Mr. OBERSTAR. Thank you.

Mr. Sabatini, I have had time to reflect a little on the question I asked you earlier: why did you wait until March 13th of 2008 to

audit the other airlines. And your answer was that you really didn't know the extent of problems. I find that unacceptable. That is, you are a safety professional, committed your whole career to aviation safety, starting even before you came to the FAA in the police department of New York City. That is something you have to have your hands on. That is your responsibility.

Those incidents at the lower level should not have escaped your attention. Let's go back to 1985. In the Miami FSDO, the general counsel issued a ruling on safety to the inspector corps in that FSDO. It didn't get around the rest of the Country. And other FSDOs were doing things, taking actions that were exactly the opposite. The administrator didn't know about it. The head of the Aviation Safety Office didn't know about it.

At the time, there were the nine fiefdoms, as they were roundly called, the nine regional administrators. And they held information, didn't share it with the rest of the FAA. Centralization of FAA resulted in a very significant improvement in safety, because information now was flowing freely, flowing around the agency. And that centered responsibility on the head of the Office of Safety. That was your responsibility to know this stuff. I want you to think about how you are going to do a better job of having hands-on at the operational level within the agency.

Now, Mr. Scovel and Mr. Bloch, well, before I come to that, I asked Mr. Stuckey, Mr. Lambert a question about a directive he received to shred information that he submitted up the chain of command. He was under oath when he answered. Are you aware, were you aware, did you know about the directive to shred records that Mr. Lambert referred to pursuant to my question?

Mr. STUCKEY. No, sir. That is the first I had heard that today.

Mr. OBERSTAR. I want you to think about that.

An ethics question, Mr. Bloch, and—Mr. Sabatini?

Mr. SABATINI. Mr. Chairman, I am sorry to interrupt your chain of thought.

Mr. OBERSTAR. Not at all.

If you have a response——

Mr. SABATINI. Not a response, I need a personal break.

Mr. OBERSTAR. I understand that. You may be excused.

Mr. SABATINI. Thank you.

Mr. OBERSTAR. Yes, please. I admire your holding ability.

[Laughter.]

Mr. OBERSTAR. Mine is not as good.

I have a question. Mr. Petri, do you have something?

Mr. PETRI. Nothing urgent. I was going to ask something if you were going to pause.

Mr. OBERSTAR. I want to pursue this. No, I think I will let you go ahead, because I think Mr. Sabatini needs to be responsive. So please, go ahead.

Mr. PETRI. I just was curious, we didn't get a particular response to this chart question about why Mr. Gawadzinski was either not subpoenaed or given an opportunity to appear. Is there any reason for the record?

Mr. OBERSTAR. The reason he was not called, we considered that. He was under disciplinary order by the FAA, as we understood it at the outset of this hearing. It now appears that he is not under

very sufficient disciplinary order. In fact, he is probably in an operating position that is inappropriate, given what came out at this hearing. And secondly, his actions were the subject of the testimony by the other witnesses. I thought that that would, with those two factors together, that he would not be in a position to respond, since he was under disciplinary action by the FAA.

Mr. PETRI. People are obviously under oath, whether they are sworn or not, and he is a central figure in all of this, not only on the organization chart, but in the concern about the operation of the relationship with Southwest Airlines and that office and how the inspectors were treated and so on. It would probably at some point be worthwhile, if it seems appropriate.

Mr. OBERSTAR. We certainly can revisit the issue of his role and bring him to the Committee.

Mr. PETRI. Very good.

Mr. OBERSTAR. Mr. Scovel, the Southwest region, and Mr. Bloch, of FAA has approved a memorandum of understanding to provide type ratings to FAA inspectors at Southwest Airlines' expense. The policy of the FAA stipulates that such MOUs should be approved only when necessary for the FAA to issue a type rating to air carrier pilots. Since Southwest hires pilots who are already type rated and only such pilots, what is the justification or need for this program at Southwest, that is to have inspectors type rated at Southwest's expense when they are also charged with the inspection and investigation of that carrier?

I have made some inquiries about what that service might cost, and it is in the range of $20,000 to $25,000 per type rating. This exchange has somewhat the feel of a way of acquiring influence at the FAA. And I understand that this practice was approved by Mr. Stuckey. What is your reaction? I know you don't have much advance warning of it, but just on the basis of what I have described.

Mr. SCOVEL. I have had very little advance warning, Mr. Chairman. I was informed within the last week of such an arrangement. And I should caveat what I am about to say by indicating that this is a matter that we would like very much to inquire into in the course of our audit and investigative activities surrounding the whole Southwest CMO incident.

It is a troubling process, if only for the perception that Southwest is acquiring influence through FAA. On the face of it, it certainly feeds our conclusion that there is an overly collaborative and close relationship between the Southwest CMO an the carrier. Very troubling. I can't speak for the CMO except simply to speculate, and I know I am on very thin ice here as an IG, and never speculate, you always go with the data.

But I would suspect that the region would attempt to justify it by saying that they gained expertise and insight if their inspectors or their managers are able to know what key figures in the carrier are doing and what they are experiencing and what their particular maintenance concerns might be on a day to day basis, as an operator as opposed to an inspector or from a management level with the carrier.

But I see Mr. Stuckey is back, and I will defer to him.

Mr. OBERSTAR. Mr. Bloch, did you have a comment?

Mr. BLOCH. Thank you, Mr. Chairman. I don't know the details of this. It raises in my mind questions about Government ethics rules. We have laws under the Ethics in Government Act that prevent us from investigating someone or having business before our agency where we have a substantial interest in the outcome of the matter or our independence and objectivity could reasonably be questioned by a third party due to entanglements, such as financial or other entanglements.

So certainly from an ethics standpoint, such an arrangement does raise serious questions. By analogy, if I am investigating someone in the Government and they offer to pay for my child's college education, I think a third party could reasonably question my objectivity. So I think I would have to leave it at that. I don't know what the details of this program are.

Mr. OBERSTAR. Mr. Stuckey, you came in just as I was pursuing this matter. Let me restate it. The Southwest region of FAA has approved a memorandum to provide type ratings to FAA inspectors at Southwest Airlines' expense. The policy of FAA provides that such MOUs should be approved only when necessary for the FAA to issue type ratings to carrier pilots.

Since Southwest hires only pilots who already are type rated, what is the justification or need for such a program at Southwest?

Mr. STUCKEY. Mr. Chairman, first of all, thank you for the break.

The APM, APD program goes back to the 1980s. It is a national program and it was initially set up to make sure that we could leverage our resources between the FAA and the airline to where we would have inspectors. Back when I was an air carrier inspector, we did all the check rides. We just don't have the resources to do that. So they developed a program where the air carrier check airman, highly qualified people could do the check ride for the FAA, and that set up the program back in the 1980s.

This program was reviewed back in the mid-1990s by the inspector general's office and the FAA at that time I forget the administrator, but he wrote a letter back to the IG and I think that is a matter of public record, where they reviewed that relationship. I think the problem here is that the policy says that it would be to APMs, assistant APMs and FAA inspectors to do certification check rides.

The issue that was raised to me was, why would the principal operations inspector, the supervisory principal operations inspector get that same training. That is not consistent with FAA policy. So when that was raised as an issue recently, we looked at it in the region and decided that would be changed. It should only be for FAA inspectors that do certification activities.

Mr. OBERSTAR. Well, and managers as well. I don't understand. It just seems to me that on the face of it, conflict of interest questions arise. And as Inspector General Scovel said, it raises the appearance of impropriety, that there ought to be firewalls around these activities. They should not be receiving any benefit of that type from the carrier that they are inspecting.

Mr. STUCKEY. Mr. Chairman, I wouldn't disagree with that. The main purpose as a regional manager or years ago, as an air carrier inspector, we need our inspectors trained, just like the air carrier inspectors are trained, in the same equipment, same training pro-

grams. Because we do sample some of that work. And if there is some way to provide that training by another means, I certainly would support that.

Mr. OBERSTAR. And the training is very important. I concur. But there has to be a way, and I will ask Inspector General Scovel and Mr. Bloch to think this matter through, come back to the Committee and back to the FAA, review with you means of achieving that training without the appearance or the reality of impropriety.

If there are no further questions of this panel, we thank you for your time, for your answers, for your candor, for the testimony. Mr. Sabatini, you have committed to a number of very significant actions. I will look forward to following up vigorously with you and with the FAA and with the IG's office and Mr. Bloch as well. Thank you.

Our next panel includes Mr. Herb Kelleher, the face of Southwest Airlines, the presence of Southwest Airlines, the man who personifies Southwest Airlines. They sent their best and the brightest, the most engaging, the most sweet-talking.

[Laughter.]

Mr. OBERSTAR. The softest hand-holding.

[Laughter]

Mr. OBERSTAR. Mr. Gary Kelly, who is Chief Executive Officer of Southwest; Mr. Vincent Collamore, Aviation Safety Inspector at Southwest; Mr. John Bassler, Principal Avionics Inspector, Dallas Fort Worth Flight Standards District Office.

Gentlemen, please stand, raise your right hand. Do you solemnly swear that the testimony you will give before the Committee in the matters now under consideration will be the truth, the whole truth and nothing but the truth, so help you, God?

[Witnesses respond in the affirmative.]

Mr. OBERSTAR. You may proceed.

We will begin with Mr. Kelleher. Turn your microphone on, we want to hear every word.

TESTIMONY OF HERB KELLEHER, EXECUTIVE CHAIRMAN, SOUTHWEST AIRLINES COMPANY; GARY KELLY, CHIEF EXECUTIVE OFFICER, SOUTHWEST AIRLINES COMPANY; VINCENT LARRY COLLAMORE, AVIATION SAFETY INSPECTOR, SOUTHWEST AIRLINES CMO; JOHN BASSLER, PRINCIPAL AVIONICS INSPECTOR, DALLAS FORT WORTH FLIGHT STANDARDS DISTRICT OFFICE

Mr. KELLEHER. I wish I were a prettier face, Mr. Chairman.

[Laughter.]

Mr. OBERSTAR. Oh, yours has been the face of Southwest for so long, it is unmistakable.

Mr. KELLEHER. Mr. Chairman, Mr. Petri and distinguished Members of the Transportation and Infrastructure Committee, my name is Herb Kelleher. I helped to start Southwest Airlines, have been working on the Southwest business venture since the fall of 1966, have been on the board of directors for 41 years, have been the executive chairman of our board for 30 years, and was the CEO of Southwest from 1981 through 2001. I guess I could fairly be called the Methuselah of Southwest Airlines.

A friend, now a former friend, recently said to me, I hear you have a connection with the Air and Space Museum. I said, yes, I do. He said, are you on the board or are you an exhibit? That is why I describe him as a former friend of mine.

From first-hand knowledge, not hearsay, I can tell you that Southwest Airlines was founded upon the principle of providing more value for less fare, not less value for less fare. Professor Mike Levine was CEO of New York Air, and he encapsulated this concept very adeptly. Mike stated at an airline investor's conference that it is very easy to be expensive and good, and very easy to be inexpensive and bad. But that Southwest did a beautiful job of simultaneously being both inexpensive in its fares and very good in its operations and the service that it provided to customers.

Southwest Airlines, through the dedication, through the energy and through the warm hearts of its much beloved and truly cherished employees, has faithfully delivered on its original promise of more value for less fare for 37 years.

In 1966, when I started work on bringing Southwest Airlines into being, we said we were going to free the American people to fly. And we did. At that time, something like only 15 to 20 percent of adults in the United States had ever flown on a single commercial airline flight. Today, that number stands at 85 percent.

The DOT calls this phenomenon the Southwest Effect, the Southwest Effect, which, based on Southwest's model, has subsequently been emulated across our globe. Southwest Airlines said, we are going to get you there on time. And we did. Southwest has the best cumulative on-time performance record of any major airline in existence at the inception of those on-time statistics in 1987, 21 years ago.

Southwest Airlines said, our wonderful people are going to provide the best customer service in the industry. And they did. Among major airlines in existence in 1987, Southwest has the best cumulative customer satisfaction record, the fewest complaints per 100,000 passengers carried since the inception of such customer satisfaction statistics in 1987, 21 years ago.

Southwest Airlines for many decades was the most heavily unionized of the major airlines, and our unions are here today in support of our company, such as Tom McDaniel and Mike Massoni, officers of TW 556, people from our TW 555, the Southwest Airlines Pilots Association, AMFA that represents our mechanics. And I was going to introduce them individually, with the Chairman's permission, but in light of the hour, I decided that I would refrain from doing that.

But we said we are going to take good care of our splendid people. And we did. Southwest instituted the first employee profit-sharing plan in the American airline industry and no Southwest Airlines employee ever, not one, has sustained an involuntary furlough. And this perfect job security transpired during a 37-year period when probably a million or more airline employees experienced furloughs throughout the global industry.

And finally, we said, we are going to operate the safest airline in the world. And we have. Conde Nast Traveler magazine pointed out some years ago that Southwest Airlines had operated more flights and Southwest Airlines had carried more passengers with-

out a single, not one, passenger accident fatality than any other airline in the world. After 16 million flights carrying 1.2 billion passengers, without a single, not one, passenger accident fatality, Southwest Airlines' record as number one in safety, is intact today, the best airline passenger safety record in the world. Although sadly and very tragically, we did cause a non-passenger fatality with a runway over-run during a snowstorm.

We have always, and we have constantly, jawboned our people to the effect that flight safety is Southwest Airlines' number one objective. And I submit to this Committee that our superlative 37-year passenger safety record sustains the thrust of my comments in this respect. An exhibit illustrating multiple aspects of our leadership, and I do mean leadership, in safety and also our devotion with respect to safety, is attached to Gary Kelly's and my joint written testimony.

One of the things that has concerned me today is that this Committee has an enormous reputation for what it has accomplished in the field of safety and in the field of transportation, and I am very familiar with that record when it used to be the Public Works Committee, before it became Transportation and Infrastructure. I know all the programs which the Chairman mentioned earlier that you have initiated and you have served in order to make transportation more safe.

And I didn't want anyone on this Committee to get the impression that Southwest was just rumbling around the skies in a contumacious manner, not having inspected cracks on its airplanes. Mr. Oberstar earlier mentioned the leadership that this Committee had taken subsequent to the Aloha accident with respect to aging aircraft. My recollection is that he was the keynote speaker at the international conference of airlines throughout the world and regulatory bodies throughout the world to decide what should be done about that situation.

What may not be so well known is that following the leadership of the Chairman and this Committee, Southwest Airlines is the one that originated, Southwest Airlines, itself, originated the plan for inspecting for cracks in the 737 classics and for repairing those cracks. That led to the Boeing service bulletin in 2002 as I remember or thereabouts that really incorporated the Southwest Airlines plan for dealing with this crack problem, and later led to the very AD that has been in question and the subject of today's hearing. That really originated in Southwest Airlines' work.

Now, if I may say this, Mr. Chairman, these ADs are not like Dick and Jane's first grade reader, you know, this is a ball, this is Spot, the dog. On this very subject, cracks, there are six ADs encompassing 1,100 pages. And they are interrelated, some of them, and overlapping.

What Southwest Airlines did, again, leaping ahead, in terms of safety, was to develop a modification for our airplanes that replaced the need to inspect and repair cracks. That was launched with the Boeing Company and the FAA's approval.

So how did we get to the point where we screwed up by not putting our planes on the ground when an AD had been violated? Well, actually, what happened was because of the plane modifications that we had made under another AD, we were relieved of a

lot of our inspection requirements. If you replace the panels, you no longer need to inspect them.

Our engineering department in the midst of this welter of ADs and this 1,100 pages issued a document, our engineering department, which missed the fact that there was a small part of the airplane, about maybe two inches high and about this long, that still needed to be inspected despite all the modifications that we had made. Now, that was our mistake. But nobody realized it for quite some time. We weren't just rumbling around saying, oh, gee, we failed to inspect this part of the airplane. As Gary Kelly will explain more fully, we were inspecting these airplanes interminably in regular inspections, many, many times per year. And he can fill you in on that.

But all of a sudden we discovered, Southwest Airlines discovered that we should have been inspecting that tiny part of the airplane in a special inspection under the ADs, that the engineering order, in other words, was erroneous.

So what did we do? We reported it to the FAA. We told them what was going on. Here is where the big mistake came. The FAA, at the principal maintenance inspector level, said we could continue to fly the planes while we inspected that small portion of the fuselage. And we did. And we should not have, and we have learned our lesson. When another ambiguity came up, and you have seen newspaper articles about this, at least, when another ambiguity arose as to how to apply a Boeing inspection requirement to our airplanes, we simply put the planes down until it was resolved. Totally different behavior within a very short period of time.

I apologize to this Committee. We realize those planes should not have flown during that period while the inspections were made of the window belts. But at the same time, I have to say that maybe our people made some engineering judgments, which they weren't entitled to make. Those airplanes should have been all on the ground.

But at the same time, there was not even the remotest chance of a repetition of the Aloha Airlines roof peel incident, which some coverage has mentioned. The Aloha Airlines 737 was a 1969 89,000 cycle, non-advanced 737-200, embodying a 1960s lap joint adhesive process that was abandoned by the Boeing Company in the 1970s. Southwest Airlines has not flown a non-advanced 737-200 like the Aloha airplane since 1978, 30 years ago, and presently has no 737-200s of any kind in its fleet.

And as Gary Kelly will more fully explain, Boeing has carefully manufactured the fail-safe 737 models, which constitute all of Southwest's present 737 fleet, so that small cracks will not propagate into the 18-foot long roof tear involved in the Aloha roof tear incident.

Now, is that any excuse for not putting those planes down? I tell the Members of this Committee it is not. And we recognize what the Chairman described earlier and some other Members have spoken about, the creep, the creep issue. So I apologize for not fulfilling our duty in that respect. But again, some of these accounts have referred to these airplanes, I am talking about media accounts, as uninspected. That is false. Nothing could be further from

the truth. And Gary Kelly will explain why that is the case. They were inspected over and over and over and over again.

So thank you very much for the opportunity to be with you. Thank you for the opportunity to address some of the allegations that have been made about Southwest Airlines' behavior.

And if I may, there is one other thing that I apologize to you for, and it has been a little bit of a burden today. I think it is unfortunate that the name of the airline is Southwest and the name of the region of the FAA is Southwest. I think at some point, maybe when people are talking about Southwest, some of the people in the audience were saying, which one, the CMO or the airline.

Mr. Kelly is widely esteemed, very, very bright. Intensely conscientious and intensely safety-conscious.

Mr. OBERSTAR. I assure you, Mr. Kelleher, that the Chair knows the distinction between the Southwest region and Southwest Airlines.

Mr. KELLEHER. Thank you, sir. You noticed that I said, the audience.

Mr. OBERSTAR. Mr. Kelly.

Mr. KELLEHER. I didn't want to accuse any Member of the Committee of committing that mistake.

Mr. KELLY. Thank you, Mr. Chairman.

Chairman Oberstar and Mr. Petri, Members of the Committee, thank you for the opportunity to be here today. My name is Gary Kelly and I am CEO of Southwest Airlines since July of 2004 and a Southwest Airlines officer since 1986.

As Mr. Kelleher has so eloquently stated, Southwest Airlines has been a great success for a great many years. We believe our people are the best in the aviation industry and that they have enormous devotion to our company and tremendous pride in its results. But above all, the safety of our people and our customers and our own families is my top priority, and it is Southwest Airlines' top priority. And on this, you have my personal commitment on behalf of our 34,000 Southwest family members. The need to be safe is a part of our history, it is a part of our culture and certainly it is a part of our DNA.

On March 6th of 2008, Southwest received a letter of civil penalty from the FAA related to a March 2007 matter of regulatory non-compliance. I first learned of that matter in February of 2008, and that this Committee was conducting an investigation. So we then launched our own internal investigation conducted through our general counsel.

On March 10th, I received the preliminary results. Two issues had to be addressed immediately. The first was that better judgment should have been exercised than to allow these aircraft to continue to fly after there was a potential non-compliance discovered. The second was that senior management should have been consulted on such a significant issue, but was not. So based on our March 10th preliminary briefing, we took immediate action. I requested, and Southwest was granted, a face to face meeting with top FAA officials in Washington on March 12th.

We placed on leave the employees from our regulatory compliance group that were involved in the March 2007 event. We confirmed with our reorganized regulatory compliance group that sen-

ior management will be involved in all decisions of that magnitude, and then of course, we reaffirmed to all of our maintenance and engineering leadership that we will not operate an aircraft is there is any credible evidence of an AD non-compliance.

Now, we also initiated a number of additional efforts to strengthen our maintenance and engineering regulatory compliance and our AD compliance functions, including the following. We have done an audit of all open FAA airworthiness directives, we have a review underway by outside independent experts, we have a reorganization of our AD and regulatory compliance function with enhanced management reporting. We have a restructure of our continuing analysis and surveillance system, otherwise known as the CASS system. We have an increase in the number and the scope and the frequency of audits, and also a segregation of the audit function from regulatory compliance. And we have more stringent documentation of our AD and maintenance plan changes.

So when Southwest, the FAA and independent consultants will complete their reviews, we will act quickly to evaluate all the findings and the recommendations and of course will make all the necessary changes.

While there was clearly a mistake with our regulatory compliance, we wanted to assure ourselves that safety of flight was not an issue. And we have done that. That has been confirmed by two outside experts. First of all, the Boeing 737 is the most popular commercial aircraft in the world, with over 5,000 produced. Southwest operates the 737 exclusively and has the largest 737 fleet in the world. So in short, the experience with this aircraft is extensive around the globe and at Southwest Airlines.

The Boeing 737 classic was designed with a fail-safe structure, and that affords a supreme margin of safety. The fuselage design is fail-safe because there are three independent structure elements: the external skin, the internal bonded doubler and also the aircraft frames and stringers. This design allows skin cracks and other skin damage to occur without compromising structural integrity.

Next, the FAA-approved Southwest maintenance program provides for frequent, scheduled, repetitive, overlapping and comprehensive inspections and repairs with another supreme margin of safety. Stated more plainly, our aircraft are inspected far more often than is absolutely necessary. Routine inspections of varying degrees occur daily, weekly, every 50 days, every 100 days, then we have intermediate half C inspections every 250 days and then heavy wide checks are performed every two years.

In addition to these regularly scheduled, baseline maintenance skin inspections, there are also skin inspections required by the six different ADs that Herb mentioned. The combination of these inspections makes our 737 aircraft one of the most carefully inspected aircraft fleets in the world. So indeed, it is false to say that these aircraft were not inspected. They were. And in fact, the error in the AD in question was discovered through an inspection and a crack repair in the very area that is in question.

So from a safety perspective, we found the non-compliance, we voluntarily reported it, and we fixed it.

Now, our airplanes are designed to be safe and our maintenance program is designed to keep them safe and we have a culture of

safety excellence. We have safely operated more than 16 million flights over 37 years serving more than 1.2 billion customers. I think that easily makes us the safest airline in the world, and a record that anyone would justifiably be proud. I believe deeply that we have the best maintenance and engineering employees in the airline industry.

But I do want to assure this Committee and the American people that we will not rest on our safety record, no matter how good it may be. And I do commit to you that we will constructively and aggressively address the issues raised by the FAA and this Committee. Because we want to enable our proud, safe airline to continue as the safest in the world.

Our record makes credible this aspiration, our Southwest people will accept nothing less and our customers deserve nothing less.

Thank you, Mr. Chairman.

Mr. OBERSTAR. Thank you.

Do your colleagues have statements as well? I am sorry, you are the FAA inspectors. I am sorry. I was distracted for a moment. Mr. Bassler?

Mr. BASSLER. Yes, sir, I do have a statement here I would like to give to the panel.

Mr. OBERSTAR. Pardon me?

Mr. BASSLER. I do have some testimony I would give.

Mr. OBERSTAR. Yes, you are next.

Mr. BASSLER. My name is John Bassler. I came to Southwest CMO from the Continental CMO, which I spent eight and a half years down there, back in June of 2005, as the assistant principal avionics inspector, under the supervisory principal avionics inspector, Mr. Colin, up until December 2007, when I requested to be moved to a different office.

When I arrived at the Southwest Airlines CMO in 2005, one of the first things I noticed was how fractured the Airworthiness group was. I came from the Continental CMO in Houston where that Airworthiness unit had scheduled meetings, including both specialties, avionics and maintenance, on a regular basis. The Southwest Airlines CMO did not, and as a matter of fact, it did not start having meetings of this nature until the latter part of 2007. I found the Airworthiness unit, in my opinion, to be dysfunctional.

I had not been in the office for very long when I witnessed my immediate supervisor, the principal avionics inspector, giving the middle finger gesture to the principal maintenance inspector when his back was turned. I thought that very unprofessional and I voiced my objections to my supervisor and I told him that I did not appreciate that in my presence.

Things progressively got worse in the office. Most of the friction was within the management ranks. During this time it must be noted that the inspectors continued to operate at an exceptional level, even without management support.

Around early March 2007, rumors began to fly that inspector Mr. Boutris had a couple of hot line complaints filed on him from outside the agency. This is when things really started to become hostile in the office. Mr. Boutris began to spend a lot of time conversing directly to Mr. Robert Naccache, the assistant manager, and Mr. Michael Mills, the office manager, behind closed doors,

several times a day. Mr. Boutris also began spending a lot of time with the data evaluation program manager, Mr. Doug Peters.

I started to recognize what appeared to me to be the obvious dislike Mr. Peters, Mr. Boutris, Mr. Mills and Mr. Naccache had toward the PMI. This dislike, in my opinion, seemed to be of a very personal nature toward this man. One day Mr. Peters was overheard by several inspectors, including myself, making a comment from Boutris' cubicle, the gloves are coming off.

Mr. Boutris was removed from his duties and work program, to my understanding, pending the outcome of the investigation and the complaints made against him. He was to have no contact in any capacity with the air carrier or its programs. This is evidently right around the time frame with Southwest Airlines contacted the PMI disclosing the possible over-fly of an Airworthiness directive of some of their aircraft. Being of avionic specialty, I was not privy to this information and therefore had no knowledge of the details or specifics of this disclosure.

Around the April 2007 time frame, the PMI was looking for volunteers to help complete the job assignments that were assigned to Mr. Boutris but that were not completed. Mr. Gawadzinski was having difficulty getting anyone to volunteer. He approached me and asked if I would be willing to work the SAI on ADs 1.3.6, on the airworthiness directives. And I told him I would be willing to do the assignment.

Had I known at the time Mr. Boutris' intentions, I would have never volunteered myself for this assignment. It wasn't a couple of days later I witnessed Mr. Boutris entering my cubicle and removing data from the SAI folder I had just acquired from him. Mr. Boutris never started the SAI. He had a couple of notes on a decision collection tool, but that was it. I had to start the inspection completely from scratch.

I began to become aware of the militant attitudes that were developing in the office from the individuals I have identified in the aforementioned paragraph. I became concerned that I was going to be targeted by these inspectors due to my agreeing to perform the SAI. I sent an e-mail to my supervisor, requesting that I be removed from the SAI because of the hostile environment developing in the office. My supervisor refused to remove me from the SAI. I then requested to at least add some inspectors to the inspection so that it would be a team event and I would not be individually targeted. My supervisor agreed and added one inspector, Mr. Collamore.

During this inspection, Mr. Boutris felt it important enough to approach Mr. Collamore and notify him that the SAI was being watched very closely. Mr. Collamore stated to me that he felt very threatened by Boutris' comment. I also learned of events that had transpired between Mr. Boutris and certain Southwest Airlines employees, which I was told was almost developed into a fistfight.

Mr. Collamore and I finished the inspection during this month of June 2007. There was a lengthy delay in completing the SAI due to Mr. Kervanik, who manages the Airworthiness Directives portion of Southwest Airlines' maintenance program, being on leave due to a medical situation within his immediate family. The final product was sent to the DEPM, Mr. Peters, for review. It was re-

turned with numerous, two full pages of comments. This upset me because in my ten years at the time experience with ATOS, I had never seen so many comments from a DEPM. I had performed inspections in the past and never had anything like this returned from the DEPM in this fashion before these events. This upset me deeply and I brought my concerns to my supervisor. I explained that I felt, again, I was being targeted and that the DEPM was using his position to personally attack my credibility.

Nothing was done about my concerns. I made a couple of spelling corrections to the verbiage and again forwarded it to the DEPM for review. This time, it was satisfactorily entered into the ATOS master record repository.

Several days later, the PAI wanted changes made again to the SAI, no comments, and had me request it being sent back from the repository. This is very unusual. Once an inspection has been saved to the data base, it never gets returned unless it is unusual circumstances. I have never witnessed it in my ten years of working in the ATOS. Phone calls are made and the SAI is returned. At this particular time, management personnel are attending a seminar out of State. So the only permanent management official still in the office was the assistant manager, Mr. Naccache.

The SAI sits in the DEPM's possession for approximately 15 days. When management finally returns to the office, I send an e-mail to the office manager, who now is Mr. Hedlund, and I ask him the status of the SAI. He responds to me to let me know the DEPM is waiting for PMI feedback. As a note, this is the third PMI, second actor so far. I thought this peculiar, since this individual had no information and was not present during the time the SAI was being performed.

A meeting is held at the request of the DEPM to discuss his concerns with the SAI with the PMI and the PAI. I was not invited to the meeting, nor was Larry. I was the team coordinator for this SAI. This upset me, because I was the team coordinator. I felt my knowledge was instrumental in this conversation. I voiced this concern to my supervisor. Nothing was done about my concerns.

After the meeting, the PAI sent an e-mail to the SAI team member, Larry Collamore, requesting the "yes" comments in the control section of the SAI. At this time, ATOS 1.1 was the national policy, and it did not require "yes" comments. Mr. Collamore responded to the e-mail by respectfully refusing to add the "yes" comments. His response also identified the inappropriate behavior being displayed by certain inspectors in the office.

Management meets in the manager's office to discuss the SAI. The next morning, the SAI work instructions are changed to require "yes" comments. This action was contrary to ATOS and AFS 900 policy. A meeting is held to discuss the SAI. The meeting included the PAI, Mr. Colin, the temporary PMI, Mr. Hoover, the temporary POI, Mr. Nelson, the manager, Bobby Hedlund, the DEPM, Mr. Peters, myself and Larry.

Larry and I voiced our frustration with the entire process and the way this inspection is being handled. Both Larry and I felt we were being targeted and that we were not getting fair and equitable treatment. Our concerns went unaddressed again. By the time the SAI was saved to the ATOS repository, it sat in the

DEPM's review for 20 days. This again is contrary to ATOS data quality guidelines and the required disciplinary action on the DEPM was not taken.

At this point, I was fed up with the office environment and how I was being unfairly treated by management and certain inspectors. I requested to be transferred to another office in the local area. I was finally told by the manager, Mr. Hedlund, that I received a transfer to the DFW FSDO. This meeting took place in my cubicle. During the conversation, my supervisor walked up, walked by and made some comments, then flipped me off with both fingers from both his hands, in front of the manager.

I sent a grievance to the region and I requested immediate removal from the office. The SAI letter addressing the findings during the SAI 1.3.6 still had not left the office. I do not know what the final letter looked like, since I was no longer employed in the office. I also cannot take ownership of the final SAI, since I believe the data has been manipulated since my departure.

I made every attempt to complete this assignment in the most professional manner humanly possible. I followed national policies and guidance through the entire process. I pride myself as a public servant to make every attempt to make the safest transportation system in the world. I swore an oath to do just that.

Mr. OBERSTAR. Thank you, Mr. Bassler.

Mr. Collamore, do you have a separate statement?

Mr. COLLAMORE. No, sir, I don't.

Mr. OBERSTAR. Okay, thank you. Thank you very much for your testimony. I appreciate your candor and your forthrightness.

Mr. Kelleher and Mr. Kelly, Southwest Airlines is not on trial here. I want you to understand that. Your customer satisfaction rating is not on trial or in question. What is at stake in this hearing is the role of the FAA and the compliance with the Airworthiness Directives.

At the very outset of all this disclosure, there was a statement, initial public statement from Southwest Airlines, implying that it had received concurrence from Boeing that it was acceptable to continue flying the aircraft. Those were statements from Southwest reported in the news media, copies of which we have received. Is it Boeing's responsibility to give approval on Airworthiness Directive matters, or is that the FAA's responsibility?

Mr. KELLEHER. Mr. Chairman, I think there has been a mistake there with respect to what you read. We never asked the Boeing Company to deal with the subject of regulatory compliance. We simply asked the Boeing Company whether or not there were any safety of flight issues involved in flying those airplanes for the eight days that it took to re-inspect them. The Boeing statement itself specifically says, we are not addressing the issue of regulatory compliance.

Mr. OBERSTAR. Did they put that in writing to Southwest?

Mr. KELLEHER. I believe it is.

Mr. OBERSTAR. Would you submit that for the record, so we can have the record correct on that matter?

Mr. KELLEHER. Yes, sir, absolutely.

Mr. OBERSTAR. It certainly gave a very inappropriate impression to my investigative mind and my experience.

Mr. KELLEHER. Yes, I understand that. But they didn't opine on the regulatory aspect of it. They just said that they didn't think there was any threat to the safety of flight during those eight days, Mr. Chairman.

Mr. OBERSTAR. I appreciate your refreshing candor in saying, we should not have flown when we found those cracks.

Mr. KELLEHER. Thank you, sir. We respect this Committee and will always be candid with it.

Mr. OBERSTAR. And I also appreciate your reciting, which I did earlier in the hearing, the events that led up to the aging aircraft legislation, the meeting out here at Crystal City with over 400 aviation safety professionals from around the world that eventually resulted in the legislation and the Airworthiness Directive that took FAA an inordinately long time to publish.

Now, I don't want to be nit-picking, but it bothers me to hear someone of your caliber to say it was a tiny part of the aircraft. It was a tiny part of that Aloha 737 that began to unravel. It always starts with a tiny part. That is why Airworthiness Directives are issued and that is why there is a requirement for rigorous inspection. I stipulated at the outset that this Aloha aircraft was one that had 89,000 cycles.

I should have gone further, which I do in other contexts, and point out that that aircraft had flown over the continental United States for most of its lifetime. Then it was, for a few years, put in service with Aloha over salt air in a salt air environment. As we know, those of us who follow these matters, when an aircraft is pressurized, the skin expands microscopically. Moisture is taken out of the interior of the aircraft and condenses around the hull and drains around the sides. With the 727, by the time it reaches altitude, it has drained 120 gallons of moisture out of the interior of the aircraft. And it drains out of weepholes, but not all of it drains out. When it lands and is decompressed, some of that moisture remains.

In the case of the Aloha, some of that moisture, some of that water had an electrolytic reaction with the aluminum-copper skin of the aircraft that proved to be fatal. It is secondly true that Boeing abandoned the cold bond method of manufacturing aircraft hull for much more stable and reliable method.

But the point was that what should not have happened, what was designed not to happen, what had never happened before, did happen. The same with the PCU, the power control unit and the rudder. It should not have happened. Boeing came into my office in the aftermath about Aliquippa and said, we have flown 93 million hours of 737s and this has never happened before.

But it had. The NTSB, God bless them, went back after Aliquippa to look at previous incidents, uncommanded rudder movement incident for which they had not found a probable cause, and attributed to the failure of the PCU that caused an uncommanded rudder movement. That corresponded with other similar incidents reported by pilots enroute that raised concerns about the PCU and Boeing then went back and re-engineered, did an enormous amount of work and Southwest, I know, was engaged in that practice.

I go to this extent to say, these Airworthiness Directives have very significant weight. And that it is not acceptable, it is not ac-

ceptable within FAA regulatory proceeding to fly beyond the airworthiness directive mandatory inspection time.

Mr. KELLEHER. It is certainly not, Mr. Chairman. Everything that you have said is 100 percent right, and I don't disagree with anything you have stated. Your knowledge is really all-encompassing regarding this matter.

When I said a tiny part, I didn't mean to demean the significance of it. That comment was made in the context of 1,100 pages covering 6 ADs and the failure of the engineering order to cover that tiny part of the airplane. What I was saying was, not that it was, not that any airplane part is insignificant. I didn't mean to convey that. But what I meant was, out of the whole airplane, with 1,100 pages and 6 ADs, the engineer missed a small part.

Mr. OBERSTAR. Yes, I understand that. And there is some traffic on the websites of various skeptics saying, oh, there are way too many Airworthiness Directives, they are way too complex, way too many pages for us. Well, if there are, then you'd better find something else to do. Because at 35,000 feet in the air, there is no curb to pull over, look under the hood and find out what is wrong. You have to do it right. That is why there is redundancy built into aviation. You understand it. You have a safety mind set, I appreciate that.

Mr. KELLEHER. Yes, sir. And what I was suggesting, again, that is not an excuse.

Mr. OBERSTAR. Good.

Mr. KELLEHER. That is not an excuse. I was just saying, I can understand how an engineer would miss a tiny part of the airplane in the midst of all this hullabaloo. If you will, if my recollection is correct, Mr. Chairman, yesterday, Administrator Sturgell said himself during his press conference that some of these ADs maybe need to be simplified, so that they are crisper and easier to understand.

Again, that is not an excuse. But it would, making them plainer and simpler and unified would facilitate, I think, understanding them.

Mr. OBERSTAR. I would be very, look with a very skeptical eye on any simplification they would do.

But what is the status of the Southwest employees you announced had been placed on administrative leave? Mr. Kelly?

Mr. KELLY. They are at home. They are on leave, they are being paid pending our investigation.

Mr. OBERSTAR. They are not at work, they are not at a desk?

Mr. KELLY. They are not. And of course, our investigation is weeks old at this point, so we are not complete yet. But yes, they are on leave.

Mr. OBERSTAR. Thank you.

Mr. Petri.

Mr. PETRI. Thank you very much, Mr. Chairman. I thank you, the witnesses, for putting in a long day here at the Capitol. Just trying to shift the focus a little bit to kind of looking forward, because what we want to do is certainly learn from the past and do better in the future, and in that regard, I would really be interested in hearing your discussion of how you build safety into an organization and how you work with the people who have responsi-

bility for oversight, the FAA safety inspectors in this case, to achieve what should be a common goal. I can't imagine anybody is looking to have accidents and all that.

There are different psychologies and some say, you know, you can do the stick and keep beating them and that way, and others say no, you kind of try to build a team. I learned a lot from a fellow named Burt Rutan. I represent the EEA in Oshkosh. And I sat in a lunch with him. He has built cutting-edge airplanes for a generation. I think he has never had a loss of life. And he didn't want one of those planes certified as an airplane because he would have to defend the design. He wanted to keep it as a spaceship, because he said every day, he wanted every person working on that plane to try to think of a way to make it safer. And if they once had a design that they had to defend, they would go in and there would be 50 changes in it and the inspectors would say, how could you possibly say this is a perfect design?

So I just wonder if you could talk about the psychology going forward. My bottom line is that it looks like your biggest mistake is that you are operating under a dysfunctional regional office that seemed to have not got its act completely together. It is not an excuse, but some wanted to be punitive and others seemed to want to work on a collaborative basis and there you are trying to figure out what you are supposed to be doing.

Mr. KELLEHER. Well, I will tell you what. I learned more about the alleged lack of harmony at their CMO this morning than I think Gary and I ever had any idea. So that was kind of a revelation to us. But I will say this, that I have worked personally with the FAA, and I mean, for 15 years on a day to day basis insofar as any alleged infractions were concerned, insofar as FAA policies were concerned.

I must say that from my personal experience over that period of time, I think the FAA did an excellent job, which might be called a tough love job. Because the FAA was not hostile, but indeed, it was firm. I can just give you one little example of what I am talking about. And I am not talking out of the side of my neck when I say this, I am telling you the truth.

I was sitting in my office one day and the FAA inspector comes in and he says, Herb, you have too many foreign objects on the ramp. And I said, no, we don't, Eric, I said, I keep track of foreign object damage to our engines, and I haven't seen any. He said, are you going to be here for a couple more hours? I said, yes, sure. He leaves, and he comes back and he has a big bag full of bolts and nuts that he took off our ramp. I said, I think he is right, let's get some magnetic sweepers to clean the ramp.

In other words, it wasn't a kissy-kissy relationship. But he just said, you are wrong and I am going to show you. And I said, and you are right and I am going to act on it. We have always had, historically had that sort of relationship with the FAA. And I think the FAA has done a tremendous job over its history. I know a lot of carriers abroad that would love to have the FAA as their regulatory body instead of the one that they have. And its record is superb and it is unparalleled.

But of course, I haven't particular cottoned, and I am sure Gary hasn't, either, to anything that was said today by previous wit-

nesses with respect to the dysfunction of our CMO. And of course, several times Members quite properly asked the question, is this more widespread. Well, frankly, we are not in a position to tell you, Gary Kelly or myself. But I think it has to be like one of those relationships with, we are married to each other, in effect. And we need to treat each other with respect. We both need to be proactive with respect to safety issues.

Having a hostile FAA, and I know no one here has suggested that, but having a totally hostile FAA I think would cause carriers to perhaps be less forthcoming about some of the mistakes that they have made and to shy away perhaps from some of the programs that we have put together to keep track of trends and in cooperation with the FAA.

I think there is a balance that needs to be struck. But I think it would be a mistake, I don't know whether Gary disagrees with me, but I don't think he does, to toss out the whole voluntary disclosure program. I do think from what I heard today that maybe it could use some improvements.

Mr. KELLY. Yes, sir, I would just add that first of all, we are accountable for the safety of Southwest Airlines. And certainly we want to cooperate, and we respect what the FAA's role is and they are the regulator. We fully understand that. I would want our employees to disclose problems. If there was such a punitive atmosphere created that people are incented to hide things, that is in no one's best interest, and certainly for the leadership of a company like Southwest Airlines. So a voluntary reporting program, I think, is critically important.

Likewise, we want to share information with the FAA. This particular matter has been under investigation for a year, but we the airline are just now learning about it a year later. So it would be nice, in other words, to know instantly if there are concerns. There is always a matter of trying to reconcile conflict among people. So there has to be a mechanism to do that and we have to embrace that. But in the end, we have to have leadership and accountability to be able to reconcile that conflict.

Southwest Airlines, I think, it is a trendy term today, but Colleen Barrett, our president, had a whistleblower line before it was the thing to do. So you have to have an open door, you have to welcome feedback and information. It is that kind of an atmosphere that creates a culture of safety, quite frankly.

Mr. PETRI. We need some ideas or some reasonable procedures to prevent the self-disclosure program, which seems to be a well-intended, constructive one, from turning into a heads-up program where people, you are being accused of hiring, or inside dealings basically, because employees come and then they have relations with each other and the next thing you know, they are calling their buddies up and saying, we just are about to find out something that is going to, and you are going to be in it, so that is not the spirit of self-disclosure.

Mr. KELLY. It is not.

Mr. PETRI. It is not really in anyone's long-term interest.

Mr. KELLEHER. No, it is not.

Mr. PETRI. So you need to figure out ways, as an industry, as well as we, to make something like this work for the traveling public.

Mr. KELLY. We have found some opportunities here to put better checks and balances in place, to have more frequent audits, that would help mitigate the kind of thing that you are talking about. But in the end, I would still rather hear people disclose what problems are as opposed to have people incented to hide them.

Mr. OBERSTAR. Thank you, Mr Petri. I appreciate your thoughts and you suggested some very important lines of further consideration.

Chairwoman Brown, the Chair of our Rail Subcommittee.

Ms. BROWN OF FLORIDA. Thank you. Mr. Kelleher and Mr. Kelly, I want to tell you that most Members of Congress, they think they are experts definitely with aviation, because we travel two, four times a week. As I told you, I am from Florida and I use your airline all the time. In fact, in my other life, I used to be a travel agent. So I understand all of the wonderful things, on time, the cost, the safety, the fact that you have carried over a billion people.

But this little incident, as you know, is a black eye on Southwest. I guess I have a couple of questions in that light. One of them is that your Washington representative said that neither you nor the management team had any knowledge of those violations until some of the stories started appearing in the press. Is this unusual? You know this has damaged the airlines. What have you done to make sure that this doesn't happen again?

Mr. KELLY. Well, it is unusual. We have never found ourselves in this situation before, quite honestly. To put this particular matter into context, the reason that the mistake was made in the first place was because Southwest Airlines was making investments and modifications to our aircraft to make them safer. So we were reducing areas that had to be inspected previously by installing new solid metal panels.

This one small area that Herb mentioned earlier was left off. Clearly, this experience has identified a change order control process that we want to improve upon. We don't find many errors, but I think what we have all heard all day is that we want to strive to be perfect. And I can guarantee you that we will strive to be perfect. I cannot guarantee you that we will be perfect. But we are always looking for opportunities to improve.

And it is a black eye. But my commitment to you is that we are going to take this constructively and we are going to better for that. We have implemented already a number of changes within our regulatory compliance function so that we will escalate these issues to the proper management level without question. And we will address the root cause to mitigate the number of errors.

Ms. BROWN OF FLORIDA. Mr. Kelleher, if there was a song coming up that I really liked, like, you have personality and the airline represents kind of your personality, and you have done a great job. But we just finished talking about, and I know you heard it, about this culture as far as customer as opposed to stakeholder and the relationship between you all and FAA. Can you talk about that a little bit? Because basically, it seems as if the relationship is too

close. Not that we want adversaries. But it is just the difference between me and Mr. Oberstar and me and Ms. Johnson.

Mr. KELLEHER. I think one of the things that the Committee has touched on here that is very, very meaningful, Congresswoman, and it is exactly what you said, from what I have now heard and from what I have found out, since this became an issue, there can be too much closeness between the regulator and the regulated. And we were very, Gary in particular, and Ron Ricks, were very disturbed to learn that this decision had been made without bringing it to the attention of even our vice president of maintenance. That will not happen again. I can assure you.

But there was some kind of temporary malfunction there for some reason. We certainly don't want a relationship that is too cozy with the FAA. Because of course, that doesn't in the longer run do the carrier any good. The carrier needs to have people at the FAA saying, hey, wait a second, you are not doing this right, you can do this better, you need to revise your records. That sort of thing, that advice, that counsel, that guidance, I think is very important to the carrier, coming the other way. And apparently, we were a little shy on getting that too.

Ms. BROWN OF FLORIDA. Thank you. I yield back the balance of my time. Thank you, Mr. Chairman.

Mr. OBERSTAR. Thank you. I now call on Chairwoman Johnson, Chair of our Water Resources Subcommittee.

Ms. JOHNSON. Thank you very much, Mr. Chairman.

I am probably one of the few people on this Committee that has known Southwest Airlines ever since there has been a Southwest Airlines. What I am concerned about, Mr. Kelleher, is, do you feel at any time that the safety of the passengers was breached during this time?

Mr. KELLEHER. No, I do not, in any way, shape or form. Let me give you a comparison, if I might. And I am bearing in mind the Chairman's admonition earlier against creep. I do understand that.

But to put this in context, when you first come under the aging aircraft AD, right, you are just getting under it, the FAA gives you 4,500 cycles before you have to start inspecting. With our operations, that is about a year and a half before you have to start inspecting.

We flew these airplanes for about eight months. I think Inspector Boutris mentioned 30 months, but that is not so. It was June of 2006 to February of 2007. And so what I am saying is that the FAA doesn't regard that there is any threat to the airplane from cracks until you fly it for a year and a half. We flew it less than a year and a half.

Furthermore, as Gary Kelly said, we probably inspected that particular airplane and its fuselage 80 times during the year. Don't think that an airworthiness inspection directive is the only inspection that airlines apply to airplanes. We probably have four times as many regular inspections on our airplanes as the FAA requires. Those airplanes, it is like going to an internist twice a week for an examination with respect to the fuselage.

And there is another special AD inspection that comes within seven tenths of an inch of where we are talking about. So it would

be unusual to do that one and not go seven tenths of an inch and look at the other area of the fuselage.

So no, I don't think there was any threat whatsoever to the safety of passengers during that time. And I base that on technical analysis, not just saying, nothing happened, even though we have never had anything happen from the passenger fatality standpoint, as I explained. I think the planes were perfectly safe and the public could have complete confidence in them.AFTER 6:00 p.m.

Ms. JOHNSON. Thank you.

Mr. KELLEHER. Nobody flies them more than we do.

Ms. JOHNSON. Mr. Bassler, have you been in communication with the Southwest Airlines manager of regulatory compliance since your reassignment?

Mr. BASSLER. Was that to me?

Ms. JOHNSON. Yes.

Mr. BASSLER. No, ma'am.

Ms. JOHNSON. Did you call from a Government phone or your personal cell phone when you attempted to——

Mr. BASSLER. After I was reassigned to the DFW FSDO? No. Not to my knowledge, no. I haven't had any communication with them. Not that I am aware of. Are you talking about Southwest Airlines employees, correct?

Ms. JOHNSON. Yes.

Mr. BASSLER. No.

Ms. JOHNSON. Did you say you requested the reassignment?

Mr. BASSLER. Yes, ma'am, I did. Back in October of 2007.

Ms. JOHNSON. And what was your major frustration at the time?

Mr. BASSLER. There was a very hostile work environment. And we had brought it to the attention of management up to region, many, many investigations came through there over the issue. And nothing was done about it. It was continually dysfunctional and hostile.

Ms. JOHNSON. Did you have a conversation with the person who is now on suspension that was in charge of the Southwest Airlines inspection?

Mr. BASSLER. The principal maintenance inspector?

Ms. JOHNSON. Pardon me?

Mr. BASSLER. The principal maintenance inspector?

Ms. JOHNSON. Yes.

Mr. BASSLER. Doug Gawadzinski?

Ms. JOHNSON. I am sorry, I don't know his name. The person that got suspended from Southwest when they found out about the——

Mr. BASSLER. Mr. Gawadzinski, correct? Because there were two, there was Mr. Mills, I think, the manager, and Mr. Gawadzinski. If you are talking about Mr. Gawadzinski, I have conversed with him since, yes. Not on these topics, though.

Ms. JOHNSON. Pardon me?

Mr. BASSLER. Not on these topics, though.

Ms. JOHNSON. Okay. But do you feel that he was lax in his responsibility and did you talk with him about it?

Mr. BASSLER. As I said in my testimony, I wasn't privy to the information because I am avionics and he was maintenance. He wasn't my direct supervisor. I didn't directly work for him.

I did have, when my supervisor PAI was out of town or if he was incapacitated, I of course would fill in for him as the PAI on occasion. So during the two and a half years, I had gone to meetings as the PAI with the PMI. And at no time had I ever seen that type of behavior exhibited by Mr. Gawadzinski, at least in my presence.

Ms. JOHNSON. Okay. Thank you. I apologize for having been absent a period of time. But lots of things go on at the same time here. Thank you very much, Mr. Chairman.

Mr. OBERSTAR. Mr. Cummings, Chair of our Coast Guard Subcommittee.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I want to thank all of you for your testimony.

Let me talk very briefly, Mr. Kelly, you talked about improvements to the voluntary disclosure program. I want to know exactly what you may have had in mind. I want to go back to something that Ranking Member Petri talked about. He was saying sometimes you can have a voluntary disclosure and people abuse it. That is true. In Baltimore, we had a situation where at a hospital they were giving AIDS tests and hepatitis B tests with equipment that did not work. Thousands of them, thousands of AIDS tests, people getting the wrong results. And if it were not for disclosure, we would have never known it.

Part of the problem with the disclosure is that when it was disclosed, management sort of suppressed it and kept it sort of in a little cocoon, and it never got past a certain point. I guess what I am getting at is, I get the impression that you are looking at your voluntary disclosure procedures and trying to make sure they are what you want them to be.

I think we have to be very careful and set a different kind of standard when we are talking about life or death. In other words, I don't worry so much about, I do understand people may abuse the process. But I agree with you that I would rather know than not know. If you are talking about life or death, those pilots sitting back there, if it is going to their lives and al the passengers that they fly around, I want to know.

So I hope that when you reevaluate, you said you were looking at it and whatever, I hope you will keep that in mind. I understand what Mr. Petri is saying, but we are talking about thousands of flights and thousands of people. We are also talking about that thing that I talked about a little bit earlier, that trust that things are in order.

Did you have a comment on that?

Mr. KELLY. Well, yes, sir and hopefully I can clarify. I am a huge proponent of our voluntary disclosure program, because we do want to know, we want to know the truth. If mistakes are made, we want people to feel comfortable that they can report mistakes without some kind of punishment.

The point that I was making earlier is we want to make sure that that is a credible self-reporting process and have enough proper research done, have enough independent checks and balances to look at that to make sure that the proper decision is being made about how to deal with a matter once it becomes known.

I am more concern about that, in other words.

Mr. CUMMINGS. And I guess at the earliest possible point. In other words, making that determination.

Mr. KELLY. Yes, sir, and I think that is part of the complication and trying to discuss these issues in a one size fits all fashion. As Herb was describing earlier, he has colorfully described this, the AD requirements as not being the 10 Commandments. So they are very complex, they are very overlapping. It doest require research often to determine if there is in fact an issue.

And Mr. Chairman, for the record, if I could, the rudder is a similar scenario, where there was a possible non-compliance that was discovered like the AD in question that we are talking about for March. Both issues were self-reported. Upon further research, one was ultimately determined to be truly a non-compliance issue. The rudder issue, once we completed our research there, it was found that it in fact was not a non-compliance.

So out of an abundance of caution, we did the self-disclosure there. So sometimes it does take some effort, and we do want to do exactly what you said, which is encourage people, once there is some credible evidence that there is a problem, to bring it up so that it can be researched properly and we can make the right, safe decision.

Mr. CUMMINGS. I am running out of time, I just want to ask you both this other question. I think you both talked about the change order process, you were trying to improve the planes. And come to find out, there is that space that you talked about that you somehow were maybe not aware of that, that it needed inspection also. Is there something that the FAA needs to do to make sure that it is very, very clear that when you make X, Y, Z improvements you still have to deal with certain things? In other words, what we want to do is make sure that we don't, and I know you don't, want to go down this road again. Since you all are doing, trying to make your planes safer, it seems to me we would want to make sure that we are very clear as to what still needs to be inspected. Since I assume that this is an ongoing process, you are constantly trying to make airplanes better, how do you make sure that you have all the information you need to be able to accomplish what I just said?

Mr. KELLEHER. As the Administrator said, as I mentioned earlier, Congressman, this particular set of ADs is six in number, pertaining to the same issue. And furthermore, as a result of the voluntary program that we have undertaken at enormous expense to improve these airplanes, you get into a situation where you get an interaction between the ADs. In other words, if you replace the skins on this part of the airplane, you don't have to inspect these other parts of the airplane.

Well, airplanes are big. They have a lot of skin. And under that circumstance, it is no excuse, but I can understand the engineer missing the fact that you still needed to inspect this part of the airplane, despite the fact that the rest of it was exempt. And those particular ADs, I think, could be streamlined and simplified. I don't mean to imply, nor does Gary Kelly in any way, shape or form, as a way to get out from under them. It is just to make them more understandable, so they are easier to comply with and easier to enforce.

Mr. CUMMINGS. Thank you, Mr. Chairman.

Mr. OBERSTAR. Thank you, Mr. Cummings.

Mr. Carney, the gentleman from Pennsylvania.

Mr. CARNEY. Thank you, Mr. Chairman. I want to thank the panel for their patience. I can imagine you are going to do a lot of standing this evening.

[Laughter.]

Mr. CARNEY. Everybody understands the context in which these hearings are being held, and the state of the airline industry and Southwest is much better than your competitors in many regards. But still it is tough context, fuel prices, tough economy, et cetera. We never want to create the perception here that the airlines are cutting corners on safety in this context. I hope we can put that to rest, and we are all going to have to work very closely in this Committee in particular. We are doing our jobs from the Hill here, and you and all your competitors are also going to have to do that.

Mr. KELLEHER. Could I make a comment that might be helpful, Congressman, in that respect? When deregulation took place, there were a lot of predictions that because of the enhanced competition in the industry, the safety of the industry would be reduced. Because they said, ah, more competition, fewer profits as a result of it, and airlines would start cutting back on their maintenance. They didn't. Their record was better after deregulation than it was prior to that time.

Mr. CARNEY. Mr. Kelleher, I understand.

Mr. KELLEHER. And I think we are in that situation now, where no airline is going to sacrifice, no matter what the economy is like.

Mr. CARNEY. I certainly hope so. But you can understand the perception out there, because I hear that from my colleagues, and frankly, my constituents are a little nervous sometimes.

Mr. KELLEHER. I want to reassure them.

Mr. CARNEY. Of course, although you don't fly anywhere near my district, I am afraid. We can talk about that offline sometime.

For Mr. Kelly and Mr. Kelleher, has your investigation been able to determine whether anyone in your tech ops organization pressured Paul Comeau to keep the airplanes in service after the self-disclosure was filed, or was that his decision alone?

Mr. KELLY. That investigation is still continuing. We have testimony and other words from some employees. We have been able to audit some records, but there is obviously more input that we could gain, so at this point, no, there is no evidence of that.

Mr. CARNEY. Okay. Did you take 70 aircraft offline for the rudder PCU issue? Or did you self-disclose at least 70?

Mr. KELLY. I would love to spend maybe two minutes describing the rudder issue to clarify.

Mr. CARNEY. That is up to Mr. Oberstar. He has been very generous today, so I think he will probably let us.

Mr. KELLY. This is a March 2007 matter.

Mr. OBERSTAR. This is the modification you made at Boeing, that Boeing recommended that you didn't have to do but you did anyway?

Mr. KELLY. On the rudder.

Mr. OBERSTAR. No, on the windows.

Mr. KELLY. No, this is on the rudder, sir.

Mr. OBERSTAR. You're talking about the rudder. All right.

Mr. KELLY. So just a little background. The rudder has two separate power units. It has the main power unit with two hydraulic lines coming in, it has the standby power unit. The main power unit is subject to an Airworthiness Directive. The standby power unit is not. It is not.

It is the standby power unit that we had information that there was a possible non-compliance with our maintenance program, not with an AD, with our maintenance program. And we self-disclosed that. Initially, we did think it was 70 airplanes. After we researched it, we eliminated 52. They were in full compliance. We discovered that a year ago. Once we completed our research this year, we found that all of those airplanes were in fact compliant with our maintenance program.

Mr. CARNEY. How long does research take on that sort of thing?

Mr. KELLY. This particular one was confusing. Because of again just all the complexities associated with the changes that have been made to the rudder over the years. But in this particular case, it took a while to look at the paper trail, probably took three or four weeks. But we did not do, we did not complete the research last year to determine whether we were in compliance. We simply made the self-disclosure. We got the proper FAA approval for the remedy and we made the remedial action last year, even though we later found out that we didn't have to do that.

So it was an abundance of caution and hindsight.

Mr. CARNEY. That is good to know. I appreciate that.

One more question, actually, for Mr. Collamore and Mr. Bassler. Isn't it true that another team of inspectors performed the same inspections at Southwest Airlines after you did, and you found 50 favorable findings and 8 negative, is that correct? And the other team found, changed it actually to 41 negative findings and 17 favorable ones?

Mr. COLLAMORE. Actually, that SAI has been accomplished five times with five different results.

Mr. CARNEY. Do we have an average of those results then?

[Laughter.]

Mr. COLLAMORE. Not on me, no, sir.

Mr. CARNEY. Mr. Bassler?

Mr. BASSLER. I would like to add something, too, Mr. Carney. I pulled up the data, that ATOS data repository. We had nine noes and of the nine noes, we had an inspector action taken, which is required even under 1.1 on every single one, including an investigation EIR for the one that was the only one that was regulatory. An EIR was sent.

The one that they did right after ours, which was under 1.2, which has even stricter requirements, they had 17 noes and out of the 17 noes, 15 have no action taken.

Mr. CARNEY. Why is that?

Mr. BASSLER. That is a good question. And that is what I am trying to raise, is that our data is skewed. I know, I can tell you——

Mr. CARNEY. Hold on, hold it, hold it, Mr. Bassler, hold on a second. I kind of want to get to the crux of something here. How much subjectivity is actually in this process? It seems to me that there is some hard science here that you actually have to follow.

Mr. BASSLER. You answer the question. You answer the question. We are told, when we answer these questions, if it is a yes, it can be no yes, but, it is a yes, move along. We have been drilled on that for 10 years. In the SAI they have incorporated now, yes comments are required, under 1.2. But in the EPIs they are not still required to have yes comments. The reason being is when you get, it is good information to have when an inspector goes out there and he does an SAI of the subsystem level, which is what the SAI is, to look at the program, do they have a program in place? For the next inspector that comes along a year or two later, you want to see where is it, where is it in the manual system.

But like I said, here you have one, when this was right after ours, when it was known that this was a hot, critical issue, a supervisor was the TC and 15 noes have no action taken. How did that get through the data quality, all the way through the DEPM to the data base with no actions taken? That means you have 15 no answers. What is the FAA doing about it?

I am pretty sure you can go to the office and find there was a letter sent. I am almost sure. I know these two individuals, there was a letter sent. But the data base doesn't reflect it.

Mr. CARNEY. Well, data base management is certainly a critical factor here. If we can't go back and do a research or do a history on a plane or fleet, that is certainly an issue. But I think that we probably need to get a lot less subjectivity in the process and a lot more objectivity in the process by all members, everybody involved in this process.

Gentlemen, I thank you for your time. It has been a long time and I appreciate your patience. Thank you. No further questions.

Mr. OBERSTAR. Thank you.

Mr. DeFazio, Chair of our Surface Transportation Subcommittee.

Mr. DEFAZIO. Thank you, Mr. Chairman. Mr. Chairman, I regret I had to miss some of the testimony, I had to go do a television feed.

To either Mr. Kelleher or Mr. Kelly, this is a very substantial fine and in my recollection it is one of the largest, if not the largest ever assessed. But I also know historically with the FAA, things happen. There is a lot of publicity about a big fine. And then the fine is appealed and reduced and ends up in many cases being insignificant.

Have you or do you intend to appeal this fine and have it reduced?

Mr. KELLEHER. We have not sat down with the FAA legal department to discuss what approaches might be taken one way or the other. Although as soon as we found out about what had been transpiring, Congressman, Gary did take all this to Washington and sit down with the FAA with respect to the issue. But the fine itself was not, the amount of the fine was not discussed.

Mr. DEFAZIO. Right. But you would not be unique among airlines, it would be standard practice if you were to seek to have this reduced. But the FAA has made much to do here today about the magnitude of this fine and the gravity of the situation and how serious they are about changing the systemic problems we have. I just want to kind of put a caveat on that, it may or may not end up being a $10.2 million fine.

Mr. KELLEHER. That is possible. That is entirely possible. And may I suggest in sort of a sotto voce way that perhaps, if this Committee had not been as active as it is, it might have been a lower fine.

Mr. DEFAZIO. Yes, and I am afraid we may not have gotten some of the assurances we got. I have to say that Mr. Bassler's testimony is a bit confusing to me, because initially I thought in talking about the tumult in the office and the personality conflicts, he was saying that effectively there were no problems, which I would have questioned because of what the IG found. But now what he is saying is there might have even been more problems that somehow later got swept under the rug. Is that the thrust of your testimony here, that those 15 that you say are unanswered?

Mr. BASSLER. Mr. DeFazio, I am raising the question that the data bases that we have in the FAA and the policies and procedures that we have in place, and you have to remember that when these two SAIs were done, one was done under 1.1, which at the time was the national policy, when Larry and myself did the SAI, this was under 1.2 with even stricter requirements. How does that pass all those quality processes.

And how can you do the same SAI five times by AFS 900, I don't even know how many, because I haven't even been privy to that, I just heard it was done five times after ours and they all came out with different conclusions. There is something wrong with either the process or the questions we are asking here or how you view it.

Mr. DEFAZIO. I would reflect that when I was a ranking Democrat and they were developing this ATOS process, I had Mr. Sabatini and others in three or four times to explain to me how this might work. I expressed at the time that I was really dubious that this was going to be an effective program. I understand the idea of mega data and trying to look for anomalies and targeting those sorts of things.

But I said to them then, and I guess I would repeat now, I would rather have the inspectors out in the field, the good old-fashioned way, armed with as much data as we can give them, but not sitting there just plugging stuff into a computer program. Because it does seem that this program, which I have never understood, does potentially have some problems.

Mr. BASSLER. Sir, may I just add, and just remember that at the SAI level, you are at a sub-system level. So you are looking at the program. You are not necessarily touching the airplane. That is where the EPI comes in.

Mr. DEFAZIO. I understand, and that is a big concern to me. At the time, when I was relating this back to Mr. Sabatini many years ago, I recounted how United did its in-house maintenance then, and I had just been to the United facility at San Francisco. And an old-time mechanic had found a problem with a rotor that shouldn't have been there, but something wasn't quite right, so then he required they do additional testing and whatever they call it, flux testing, and they can find these micro-cracks.

It is the same thing, people who are there with hands-on experience and looking over someone's shoulder and seeing what someone is doing and talking to them, I think they are going to pick up

some of the threads that we are trying to pick up with this ATOS thing, personally, but that is my own Luddite prejudice, I guess.

Thank you, Mr. Chairman.

Mr. OBERSTAR. It is not Luddite in the least, and Mr. Sabatini earlier committed to modifying this voluntary disclosure program and correcting holes in it and reporting back to us in due course.

Ms. Brown.

Ms. BROWN OF FLORIDA. Yes, Mr. Chairman, I just have one follow-up question.

With respect to all recent grounding, you know, Delta had a big one, and I think American, do you think the type of non-compliance we are now seeing with previously allowing aircraft to continue in operation instead of grounding?

Mr. KELLEHER. I am not really familiar from the technical standpoint with what required the grounding at the other carriers. And if I were to give an opinion on that, I think I would have to be inside those carriers or inside the FAA. So it is really hard to tell exactly what transpired. I have read press accounts of what went on with respect to some of the airplanes. But I really don't have any insight into how serious the issues were with the other carriers.

Ms. BROWN OF FLORIDA. Mr. Kelly?

Mr. KELLY. I don't have any insight at all as to what happened at other carriers. I can describe our own March 11th experience, which was in creating a new document for a change order, and being ever-vigilant in this environment, we did find an instruction that was conflicting. It was confusing. We used the word ambiguous. It was unclear which type of inspection was required for 44 of our aircraft. Mind you, we did an inspection. We just weren't certain that we did the inspection with the right method. It is either with an electrical device or doing it visually.

We talked to Boeing, we talked to the FAA. All agreed that the wording was ambiguous. So they asked us to perform the most conservative inspection on the night of March 11th. Once we tried to do that inspection, we found that it could not be done. The metal was such that it would not accept this electrical eddy current device. It took all day on March 12th to resolve that particular discrepancy.

So I do think that you will find things like that when all of this is subjected to that level of scrutiny. I am not complaining about it, but I am just pointing out that some of the reactions that you might be seeing are in fact just taking it to that level of detail. We had one aircraft that was grounded for an entire weekend over a washer that is less than the size of a dime. Historically, manufacturing allowances are such that you could use one washer, two washers, up to three washers. We had two washers on one bolt that was about an inch and a half long. And it took all weekend to resolve whether we could use two washers instead of one washer.

So there is that kind of detail that is embedded in 1,110 pages of inspections that human beings are being subjected to try to work their way through. So I am sympathetic to what some of the airlines are going through.

Ms. BROWN OF FLORIDA. Would either one of you like to respond to that question?

Mr. COLLAMORE. I think the thing that led us astray was if you looked in the preamble to the AD 2004-1806, the particular question was asked about the area that Southwest Airlines had missed during the NPRM stage that because of the window belt and the over-wing exits the extra skin and doubler inside made that area on stringer 10 between body stations 540 and 727 extremely difficult, if not impossible to inspect. And the FAA's response at that time, from the ACO, the aircraft certification office, was that because of the extra skin and the doublers in that area, they did not consider that area as a cracking concern.

I can't speak for Mr. Gawadzinski. But I believe that that was what he had based his decision on to allow those airplanes to be flown, because that was the exact same area that Southwest Airlines had disclosed to us.

Ms. BROWN OF FLORIDA. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. OBERSTAR. Thank you for those questions. They are very pertinent and very right on point.

Mr. Kelleher and Mr. Kelly, earlier in the exchange, you one, referred to a statement by Mr. Boutris that, or attributed to him the 30-month violation. In fact, this is documented in your own self-disclosure detail document on page three, time violation remained undetected, 30 months. This is your own document.

Reason why the violation was inadvertent, your response is, due to individual human errors during the document data transition, I won't go through all the items, were inadvertently, the inspections were inadvertently omitted. Unfortunately, due to the extended time span, we cannot definitively determine the exact reasons the initial error occurred and was then overlooked during creation of the document, its revisions and reviews. We can reason that the error occurred because of the complex nature of the ADs involved.

Do you disagree with the ADs?

Mr. KELLY. Mr. Chairman, I don't remember the 30 months. But our executive vice president reminds me that the 30 months maybe the time that the document was out there in error, but the actual aircraft were not in non-compliance for that entire time period.

Mr. OBERSTAR. But do you disagree with this directive?

Mr. KELLY. No, I don't disagree with the AD, no.

Mr. OBERSTAR. Good. There is a process by which you can disagree with Airworthiness Directives, not only you but all airlines.

Mr. KELLY. No, sir.

Mr. OBERSTAR. You haven't done that and you're not in disagreement?

Mr. KELLY. We are not, no.

Mr. OBERSTAR. Count one of the FAA fine imposition reads, "Fifty-nine thousand seven hundred ninety-one of the flight cycles addressed in paragraph 16 were operated at the time when Southwest Airlines was unaware of its failure to incorporate the repetitive external detailed and eddy current inspections of stringer 10 left and right at body stations 540, 597 and 663, 727 at intervals not to exceed 4,500 flight cycles."

Number 17, "The aircraft addressed in paragraph two were unairworthy when they were operated on the flights above because re-

quired AD inspections had not been accomplished." That is the finding of the FAA. Do you disagree with that?

Mr. KELLY. I think we have fully admitted that once we discovered the non-compliance and self-reported it, that we should not have continued to fly those aircraft based on what we know today. So we certainly don't agree with that.

Mr. OBERSTAR. And that is the statement Mr. Kelleher made earlier, we should not have flown?

Mr. KELLY. Yes, sir.

Mr. OBERSTAR. There are maybe many other questions, but again, I just want to underscore that it is your own document that says, time violation remained undetected, 30 months. This was not attributable to an FAA inspector. This is your own filing, your own admission. And I think that is appropriate. It is candid. You should not be disputing the time frame.

Mr. KELLY. Well, again, as I say, my recollection is based on the schedule of aircraft that I looked at, that the time that we were beyond the 4,500 cycle requirement, the longest time period was eight months. What I think the 30 months refers to is the time that the AD documentation was created that had the small area missing from the inspection. So I believe that that is what the 30 months is. But I apologize, otherwise I just, I don't recall the 30 months.

Mr. OBERSTAR. It is clear from the body of evidence presented today and the testimony that there is a great deal of adjustment that needs to be made and process at issue here. Voluntary disclosure, partnerships, relationships, the ability of a carrier to call and complain about an inspector and have that person removed, those are things that should not be happening within the safety context of FAA and its relationship with the airlines. As Mr. Sabatini said earlier in response to my questions, there are going to be substantial adjustments on a number of those policies, and we will follow those very, very closely. We look forward to airline participation in this process as well.

I thank the panel for their presentation and testimony, and appreciate your being here throughout this very long day.

Mr. KELLY. Thank you very much.

Mr. KELLEHER. Thank you for the opportunity to appear.

Mr. OBERSTAR. You are always welcome.

Our next panel includes Mr. Tom Brantley, President of the Professional Aviation Safety Specialists organization, accompanied by Linda Goodrich, Vice President, Region IV of PASS; Mr. Richard Andrews, Aviation Safety Inspector, American Eagle Operations Unit, also of PASS; Mr. Joseph P. Thrash, Aviation Safety Inspector, retired, for Continental Airlines; and Mr. Bill McNease, retired Aviation Safety Inspector, FedEx CMO.

I will ask you all to raise your right hand. Do you solemnly swear that the testimony you will give before this Committee in the matters now under consideration will be the truth, the whole truth and nothing but the truth, so help you, God?

[Witnesses respond in the affirmative.]

Mr. OBERSTAR. Thank you.

Mr. Brantley, we will begin with you.

TESTIMONY OF TOM BRANTLEY, PRESIDENT, PROFESSIONAL AVIATION SAFETY SPECIALISTS, ACCOMPANIED BY LINDA GOODRICH, REGION IV VICE PRESIDENT, PROFESSIONAL AVIATION SAFETY SPECIALISTS; RICHARD A. ANDREWS, AVIATION SAFETY INSPECTOR, AMERICAN EAGLE OPERATIONS UNIT, AMR CMO, PROFESSIONAL AVIATION SAFETY SPECIALISTS; JOSEPH P. THRASH, RETIRED AVIATION SAFETY INSPECTOR, CONTINENTAL AIRLINES CMO; AND BILL MC NEASE, RETIRED AVIATION SAFETY INSPECTOR, FEDEX CMO

Mr. BRANTLEY. Thank you, Mr. Chairman.

I want to begin by quickly introducing the people here with me. I think they may very well end up being helpful. Linda Goodrich, as you said, our Regional Vice President, representing our aviation safety inspectors. And Rick Andrews, a retired FAA safety inspector. I want to thank Rick for offering his own comments today.

In the interest of time, I am going to dispense with my prepared remarks. I would just like to comment on a few things I have heard today that I found very disturbing. They relate to this idea of whether this is an isolated incident, what happened in the Southwest CMO or whether it is a systemic problem. I see the FAA trying very hard to portray this problem as a Southwest CMO problem.

What I would offer is that there are problems in that CMO that are unique. They have the two factions down there that are battling constantly. That really exacerbated the problems with their system. But I think what we are seeing is a systemic problem. The fact that we are seeing delays and cancellations at many airlines, because they are grounding planes for checks, for maintenance that they are concerned hasn't been done or that in fact has not been done, speaks to the fact that this is a systemic problem. I think trying to portray it as anything else is a little misleading by FAA.

Along those lines, one of the things that has been most disturbing to me has been the way the FAA has described this special review that they have undertaken over the last 10 days. I think it is clear to everyone that was nothing more than an attempt to paint a picture for this Committee, plain and simple. That review was set up in a manner that there was no way they would find problems.

I mean, quite frankly, they made a public announcement that they are doing this special review, and then they quietly sent direction to inspectors that unless the aircraft is already out of service for heavy maintenance, don't worry about a visual or physical inspection. Review the data that you are provided by the airline and make your determination based on that. That is exactly what they did before this review.

So to expect them to find a problem that hadn't already been found is kind of ludicrous. I think the biggest fear that I have isn't that we know how unsafe things are, it is that we have no idea right now what the status of the industry's compliance with these airworthiness directives is. Frankly, right now, we don't have any idea. We can guess that the majority of them are done, and I think that is safe.

But without having the physical inspections that verify compliance, I think it leaves everyone wondering exactly where we are. I think until the FAA integrates that piece back into their process, it is going to be a flawed process. I don't care how much data you collect, if you don't know that the data is good, it is meaningless, it is absolutely useless, as you mentioned earlier, Mr. Chairman.

I think until the agency is forthcoming about that and faces that problem and deals with it, this is not going away. I will conclude on that and I look forward to any questions you might have.

Mr. OBERSTAR. Thank you for your candor.

Ms. Goodrich?

Ms. GOODRICH. I am going to turn this over to Rick Andrews.

Mr. ANDREWS. Chairman Oberstar, Members of this Committee, thank you for holding these hearings on the relationship between the FAA and the airlines. My name is Richard Andrews. I was employed as an aviation safety inspector by the FAA at the American Eagle Certificate Management Office in the Southwest Region and assigned as an aircrew program manager in the American Eagle unit until March 31st of this year.

I am a member of the Professional Aviation Safety Specialists and I served as the PASS representative for the American Eagle Airlines Operations Unit in that Certificate Management Office.

I have worked for the FAA over 31 years. During that time, I have witnessed dramatic changes in the aviation industry. When I first started my career with the FAA, safety of the system was the priority. With the financial hardships facing many of the airlines and the pay for performance mentality of FAA managers, safety has become a second thought.

My work at the Certificate Management Office has proven to me that management's primary goal is to fill the quotas for the office, in other words, producing members is the focus, rather than getting the job done right. As FAA inspectors, we are the workforce trained to focus only on the safety of the system. It is beyond frustrating when we discover a problem with an air carrier and are prevented from doing anything about it. We are frequently stopped in our tracks by several layers of management and our focus is on pleasing the airlines.

Thirty-one years ago, I was out in the field with my hands on airplanes and looking for safety problems. I had the power to make a difference. Now, in the age of self-disclosure and the tight relationships between FAA management and the airlines, inspectors are sitting at their desks getting their information into a computer. Unfortunately, what suffers most from all this is the safety of the system.

I have seen and experienced the repercussions of these cozy relationships between the FAA and airlines in the past. A recent situation illustrates the point. In October of 2007, I met with the American Eagle Unit assistant manager and principal operations inspector to discuss the status of American Eagle Airlines' flight operations and training. It was agreed that American Eagle should be under surveillance, and I was asked to start doing an in-depth evaluation of their manuals and programs. After several months of working on this project, in addition to my other full-time assign-

ments, I came up with numerous issues that placed regulatory compliance in question.

After completing my research, I drafted 11 letters detailing handbooks, compliance issues, procedural problems and training issues. The drafts were forwarded to the principal inspector so that he could put them into formal FAA letter format. The principal inspector forwarded those letters to the unit supervisor. And in November of 2007 and again in January of 2008, I asked the unit supervisor about the status of the letters in the presence of the principal inspector and the assistant unit manager. On both occasions, the unit supervisor, who I have been told used to work for American Eagle, responded that we cannot send all those letters to American Eagle, as it "will overwhelm them."

However, after details of this hearing were released, I was notified last week by the principal inspector that the unit supervisor has now told him, get those letters out of this office. It took over four months for anything to happen with these letters. I am confident that nothing would have happened if not for this hearing.

Due to the extended delay in sending out the letters, several of the compliance issues I discovered remain unaddressed or undocumented. I was forced to attempt to do work-arounds on many of the issues. This has not damaged my credibility with the air carrier, but it is not the best way to address situations so important to public safety.

As I previously stated, I retired at the end of last month. I would have worked longer, but I could not do so under the current conditions that prevail at the FAA. Inspectors in large offices are confined by all these get out of jail free programs, and FAA's management's refusal to hold airlines accountable.

Again, I thank the Committee for holding these hearings and investigating these serious issues. As an experienced FAA inspector, I believe nothing should ever be more important that the agency's safety mission. Thank you.

Mr. OBERSTAR. Thank you very much, Mr. Andrews. I greatly appreciate your testimony. It raises issues that I will come back to in a moment.

Mr. Thrash?

Mr. THRASH. I have heard Sam Rayburn's name only once today, so I would like to hear it again. I would like to thank the people from Tennessee for sending Sam Houston down to what we can now say is Texas, and that is where I came from, through Houston, via Lufkin, Houston, up here.

So they sent us both, Sam Rayburn and Sam Houston. So if there is any Tennessee people out there, I want to thank you very much. And I hope we can invoke their spirit in your hearts to have the strength to follow through on some of the facts of the matter that you have heard today.

I look around here and some of the people that I wanted to talk to are gone. That is Mr. Stuckey, Mr. Sabatini and Mr. Ballough. By the way, my name is Phil Thrash, and I have about 40 years operational aviation experience, military, part 121 Frontier Airlines. I was in the FAA unit that oversaw Continental Airlines for 20 years. My last 10 years I served as an FG-1825, that is an aviation safety inspector, air carrier operations. My job description was

the aircrew program manager over the Continental Airlines Certificate Management Group in Houston, Texas.

We do, did, when I left, have a functional CMO. My beef is not with the airlines, but it is with FAA higher level management. I put my family in the back of any of those airlines right now, because that was my job, to enure that their manuals and training programs complied with the orders of the FAA and the regulations. My executive summary, which you have, Continental Airlines contract mechanic was killed during ground operations January 16th at El Paso, Texas. This was a fatal aircraft accident and the flight crews' actions were accepted into FAA's ASAP program during the week following the accident. The week following the accident.

As the FAA's Boeing 737 aircrew program manager in the Continental Airlines Certificate Management Office, I sent a February 14th, 2006 e-mail to my professional disagreement with the ASAP's decision to Administrator Blakey. On February 27th I was interviewed by Assistant Manager of the FAA's American Airlines CMO, Mr. Don Klos, regarding my e-mail concerns at the request of Mr. Thomas Stuckey, who has departed. We know who he is.

During the interview, Mr. Klos stated the previous week that he had visited Thomas Stuckey and indicated that Administrator Blakey and FAA's Associate Administrator, Mr. Sabatini, who was also a part of these proceedings, told Mr. Stuckey to investigate how the El Paso matter had gotten accepted into ASAP. Mr. Klos stated during this February 27th, 2006 interview that he and Thomas Stuckey agreed that the accident should not have been accepted into ASAP, but that "Washington FAA" would have the final call.

I advised Mr. Klos that the Continental CMO certificate manager, Bernie Mullins, and Principal Operations Inspector, John Merrifield, had stated in previous meetings with me that ASAP had not provided any precursors to the El Paso accident. The horse was already out of the barn. There was no quid pro quo. That is what ASAP is based on, you get amnesty, you give something. There was no quid pro quo.

A December 17th, 2001 memo by AFS-1 Director of Flight Standards Service, Mr. Ballough, might be the key that Mr. Scovel can use in your wisely-directed order to him to inspect this ASAP program. This is a key memo, because it gives the ASAP FAA event review committee member total autonomy in his or her decision to accept or reject the crew member's ASAP report. This event review committee is made up of three people: two Continental people, usually a senior management captain and usually a union representative. The FAA event representative ASAP in our Continental Certificate Management Office was a retired was a retired Continental Airlines pilot.

After the El Paso accident occurred, another Continental Boeing 737 safety-related incident occurred, which was accepted into ASAP. The Continental manager then, Bernie Mullins, removed this ASAP representative from the ASAP program. During this FAA ASAP representative's tenure from 2001 to 2006, I was never contacted regarding any ASAP reports. The manager, POIs and APMs could not access APM's data repository to gather risk indicators, accident precursors on which to focus our limited inspector re-

sources. From the summer of 2006 until my retirement, I conducted two enforcement investigative reports regarding FAR violations and four reexaminations of airmen under 47 U.S. Code, that is the Aviation Code, 44709 paragraph, which was after this former ASAP representative, the ex-Continental Airlines captain, was removed from his ASAP position and was replaced with the aviation safety inspector, who was rated on the 737.

During this tenure, from 2001 to 2006, this former ASAP person, the Continental Airlines representative, was not qualified on any of Continental's all-Boeing fleet.

AFS-2, FAA Deputy Director of Flight Standards Service, John Allen, wrote an FAA memo dated April 28th to Administrator Blakey as FAA's Flight Standards official position to my February 14th, 2006 e-mail. Allen's memo appears to obfuscate the facts that happened at El Paso to cover up these facts to support that FAA's highest level management in the FAA's Flight Standards Service, AFS-1's, Mr. Ballough, who is not here now, and AFS-2's decision to sustain this matter acceptance into ASAP. This memo is in the written testimony. It contains fictionalizations, false statements, innuendoes and unfounded conclusions. I recommend your questions to me in that regard.

If Mr. Allen's official memo of record was an intentional obfuscation of facts, he may be in violation of Federal laws. If Mr. Allen's official record contains unintentional mistakes and misstatements of facts, he might be seen as incompetent. I don't know if the Secretary of Transportation is still Ms. Peters or not, she is? Well, I think she might need to know about that as well.

On September 21st, 2006, Mr. Ballough, that is Mr. Allen's boss, Mr. Ballough, AFS-1, the Director of Flight Standards Service, sent an official letter of response to the Honorable Texas Senators Kay Bailey Hutchison and Jon Cornyn to close out their Congressional inquiries into the El Paso ASAP matter. Mr. Ballough included Allen's aforementioned memo to corroborate the FAA's Flight Standards official position on the acceptance of the El Paso ASAP matter, a fatal aircraft accident, into ASAP.

If Ballough intentionally forwarded to United States Senators known fictionalizations, false statements, inaccuracies and obfuscation of facts, he may have violated some Federal laws. If unintentional, his competency might be in question. I was unable to accomplish my duties as aircrew program manager, which is on the front of 110(a), based on the FAA Act of 1958, to sustain Flight Standards' mission statement to provide accident-free operations to the traveling public.

Due to the policies and decisions made by James Ballough, AFS-1, FAA Director of Flight Standards Service James Allen, and AFS-2, FAA Deputy Director of Flight Standards Service, Mr. Ballough, Mr. Allen, they sustained the acceptance of that fatal accident into FAA's voluntary disclosure program known as ASAP.

The DOT OIG has had my file since October of 2006. It is very comforting to hear you give them guidance and orders to look into the ASAP matters. I think Mr. Scovel will be on target in that regard.

I think the Achilles heel is the 2001 memo, which we can share with Mr. Scovel. Twice I made myself available to discuss the mat-

ter with Administrator Blakey, Sabatini, Ballough and Allen, which did not happen.

Mr. Nicholas Sabatini signed Regulation 14, CFR Part 193, under provisions of 49 U.S.C. 40123, to essentially prohibit the release of ASAP and other certain FAA-approved voluntary disclosure information on January 26th, 2005. The regulation essentially protects ASAP, which is a non-regulatory, voluntary program, created by an advisory circular, which supplants Federal Aviation regulations in this particular case, from the public's rights and the freedom for information regarding their safety.

Mr. OBERSTAR. Thank you. Very precise, very specific references. I appreciate that very much.

Mr. McNease.

Mr. MCNEASE. First of all, I would like to thank you for inviting me here today. Before I get into my statement, FedEx, where I was located, FedEx Certificate, the last guy on the seniority list is called the caboose. And I am the caboose here. I am not going to talk about ASAP, I don't need to do that, talk very little about ATOS. I can, because I have had the opportunity to listen to all of the testimony, there are a couple of items before I get into my statement that I would like to mention.

Mr. DeFazio, and well, let me wait and maybe he will come back and I will mention that. ATOS is now being mandated to all 135 operators and all 141 operators. It is going to be an impossible situation. There is not going to be any way for that to work. In the general aviation part of it, if you have one inspector, you can have 10 certificates, how is he going to do the work that it takes a fleet of people to do in the current situation with ATOS. So mandating the new, the operators, 135 and 141, to go to ATOS, is again going to be a real problem, I believe.

Just a little bit of background about myself, and I wasn't going to tell you all this stuff, but I need to, I have received numerous awards from the FAA. I was nominated as inspector of the year for the Southern region in 2005. I received a letter of commendation from Admiral Bussey many years ago. I graduated first in my military flight school class. I flew 173 combat missions.

I was appointed as the chairman of the Government Safety Inspector Working Group for the International Society of Air Safety Inspectors. I am a member of the Royal Aeronautical Society. I have been a test pilot. I currently hold an airline transport certificate with more than 16,500 hours and 40 years. I have 23 type ratings. I have pilots certificates from Switzerland, Italy, Indonesia, Costa Rica, Saudi Arabia, Malawi and Hungary.

I was also an undercover pilot for the DEA and Customs. Currently, I am the Director of Safety, Security and Regulatory Compliance for an air carrier in China.

Now I am going to read my statement, if you don't mind. I have spent 14 years of my life working for the U.S. Government; 10 of those with the FAA. During my last assignment with the FAA as an inspector on the Federal Express certificate, I found an issue with FedEx that has implications not with just FedEx, but throughout the industry.

Due to the loss of retirement benefits and large cuts in pilot salaries, many pilots are supplementing their income by flying for com-

panies other than their primary employer. This is legal and in accordance with current Federal aviation regulations only as long as flight, duty or rest times are complied with.

What I found was that the Director of Operations at Federal Express was issuing authorization letters allowing pilots to do outside commercial flying. When I contacted the Federal Express crew scheduling section, I was informed that the company has no policy nor method to track outside commercial flying.

During the course of another investigation, it came to the attention of our office that a pilot for FedEx had been caught flying an illegal charter trip. The pilot admitted that he had flown the trip, and immediate his status as check airman, representing the FAA, was rescinded. This pilot is an MD-11 international captain.

Since this pilot and the company had possibly violated the Federal aviation regulations by not recording or tracking the outside commercial flying, I asked my supervisor how he wanted me to proceed. I was told not to continue my investigation. I was given no reason why not to proceed.

I followed up with an e-mail to my supervisor to verify what I was told. No answer via e-mail was ever received by me. I later met with my supervisor, along with another inspector to act as a witness, and asked once again if he wanted me to not investigate this matter. I got the same answer, do not continue the investigation.

I was amazed that I was being told not to continue an investigation with such far-reaching implications. I am not implying that FedEx or the pilot involved had violated the Federal aviation regulations. What I am saying is that without an in-depth investigation, the FAA and FedEx have no way to determine if a violation has occurred or is continuing to occur.

This same situation applies throughout the airline industry and to my knowledge is not being investigated. Since I have given you this statement, and I will provide a copy of this to the Committee, it is an INFO, Information for Operators concerning this subject was issued by the FAA on March 21st, 2008. I don't think this is a coincidence that this was issued.

On another issue, I was treated the same way but at a much higher level with the FAA. I was told from FAA management in Washington to stop working on a problem. I attempted to contact the Associate Administrator, Nick Sabatini, via e-mail, telephone and through the chain of command for more than two years. I never once received any acknowledgement from him, in spite of his so-called open door policy.

I had the same situation with Mr. Ballough. I finally did get to see him. The purpose of my meeting with Mr. Ballough was to discuss an issue with Thomas Stuckey. I was given 30 minutes to present my case. I was told that I would receive an answer within two weeks from his staff. I am still waiting, it has been two and a half years.

I understand that the other issue that has to do with security, Chairman Oberstar has referred that matter to another Committee. So I won't go into details at this time. But it is very serious. I have met with the Homeland Security Committee people and something will happen with that.

Now that Mr. DeFazio is back and Mr. Carney and Ms. Johnson also, thank you very much for sticking around. I appreciate it.

One other thing, to Mr. DeFazio, I waited to hold this, you questioned a number of times about Mr. Mills' hand delivering everything. The answers you got from Mr. Sabatini, Mr. Ballough and Mr. Stuckey seemed to think that, or they seemed to tell you that that wasn't the way things happened. That is incorrect. It was the way things happened. I was in the Southern region, not the Southwest region. In the Southern region, my manager had to go out and deliver every one of those to everybody. It took him really probably a month and a half, or at least that long. He had other duties. But it happened throughout the FAA, it is not localized.

I hope you see that the testimony from all of us is that this is, I believe, a systemic problem with the FAA. It is happening in other parts of the Country, not just in the Southwest region.

Thank you for your time. I would be happy to answer your questions.

Mr. OBERSTAR. Thank you very much for that testimony and for the reaffirmation of Mr. Mills' testimony.

I have one question. Each of you has referred to this shift that we have been discussing throughout the day of emphasis at the FAA from a regulatory compliance oversight role in maintenance to one that is airline-friendly, cooperative with these voluntary disclosure programs, with the customer service initiative, with ASAP and ATOS. When did you see this shift occurring? During what period of time? What time frame was it happening? It didn't happen all at once, it just happened somewhat gradually, but you have all testified to it. We have heard it throughout the day. You are on the ground level, tell me when.

Mr. MCNEASE. I spent three tours with the FAA. I left in disgust all three times. It is terrible that I had to do that. But when I left the FAA before this last time, when I retired, I left in 1988. In 1988, we didn't have this problem. We just didn't have the problem that we have now.

When I came back in 2003, I noticed then that in 2003, we had another significant problem. Things had changed considerably over that period of time.

Mr. OBERSTAR. Well, 1988 was roughly the Bussey era?

Mr. MCNEASE. Yes, sir, it was.

Mr. OBERSTAR. There was a very compliance-oriented period then.

Mr. Thrash?

Mr. THRASH. Thank you. And I would like to say, it is a wise leader who surrounds himself with aviation expert professionals, as you have done, with Clay Thushay [phonetically]. As a Greek Hermes who was the pathfinder to help people along their way, on line-oriented flight training, which incorporated aircrew decision-making, he, I could say, I guess, fair Clay, Robert Helmick was a mentor. Dr. Robert Helmick worked in a brain trust sponsored by FAA, NASA and the University of Texas on 23, not 2317 Showcreek, but on Showcreek Boulevard down there, Lamar Boulevard. He also was a pioneer on advance qualification programs, which is a voluntary training program, which incorporates what Clay started, the crew resource management. And aircrew decision

making has been responsible or probably even in the Flight Standards Guide for more than 60 percent of fatal aircraft accidents. So aircrew decision-making.

Getting back to your point, Bill here drew a good picture. We are in sort of a schizophrenic situation. In 1988, we were operating under two sets of rules, essentially. We have the voluntary disclosure, which came along in I would say 1998 or so, along with ATOS. And prior to that, 1988, we have a compliance and enforcement order, it is 2150.3(a), I believe that is right, 2150.3(a), which is a compliance order. It is an order. It tells us what we do. And we have like a 45-day deadline, once we start on an EIR, to get our facts together to get it up to legal at that point.

After 1998, ASAP 2001 to 2006, as I previously mentioned, I did not do an EIR. We had one of our attorneys come down from the Southwest region, Tim Duff, and he said they are farming him out to the Southern region, because he didn't have any business in the Southwest region.

So anyway, I think to answer that question, 1998, when ATOS took over and we started the voluntary ASAP. But we are still under this, I would submit, this schizophrenic, we have two sets of rules here.

Mr. OBERSTAR. Thank you very much. That is roughly about what I was thinking.

I want to move to Mr. DeFazio and recognize him at this point for questioning.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Thank you, Mr. McNease, for helping fill out the testimony of Mr. Mills. I felt it probably wasn't isolated, and I am going to hope in some way the Committee can pursue that, whether through the IG or someone else. We need to know how many people basically were sent on this mission, which is to hand deliver something which could have been easily and effectively delivered electronically or via the United States Postal Service. But I guess this Administration wouldn't want to do that, because that means you are using Government employees to deliver it.

But something that took them away from their critical safety mission.

Mr. OBERSTAR. Will the gentleman yield?

Mr. DEFAZIO. Yes.

Mr. OBERSTAR. The fact that Mr. Mills and others that Mr. McNease identified a moment ago were directed personally to undertake this mission shows the high level of significance upper FAA management placed on this cozy relationship structure that they were setting up. That goes right to the top.

Mr. DEFAZIO. Yes. How about Mr. Brantley? Have you heard this from others? Could you survey your folks and ask how many were given this mission, maybe since we can't get a straight answer out of the upper echelons of the FAA?

Mr. BRANTLEY. Yes, Mr. DeFazio, we can survey them and see what kind of feedback we get. I can tell you that just in talking with inspectors throughout the Country, my understanding is they were directed across the board to do this, that managers in every office were told.

Mr. DEFAZIO. Well, how could that be if Mr. Sabatini, Mr. Ballough and Mr. Stuckey didn't know a thing about it? I wonder who directed them? I guess maybe someone above them directed them and left them out of the loop?

Mr. BRANTLEY. Their memories may not be as good in this room as they are outside.

Mr. DEFAZIO. Yes.

Mr. OBERSTAR. That is the only salvation they have, because they were testifying under oath. If they have faulty memory under oath, that is one thing. But we have them on record.

Mr. DEFAZIO. Mr. Brantley, I think it was you or someone else from PASS at a hearing in the not too distant past testified about, we were talking about basically the scope of inspectors' jobs and as I remember the particular focus of this hearing was outsourcing and trying to find whether or not it was possible for people to even get to and inspect the people who are theoretically under the purview. I remember some testimony that, working as quickly as they could, it would take some people years before they could get around. Is that accurate?

Mr. BRANTLEY. Yes, that is accurate, sir. Just the process of getting permission, getting it arranged and then being able to get out and do it, the lead time is anywhere from six to eight months if things go well. That is on something out of the Country, yes.

Mr. DEFAZIO. But yet we heard again from Mr. Stuckey in a rather cavalier way, well, they are out there all the time, they are seeing, going around visiting people all the time, and it would be no problem to ask them to just carry this multiple page document with them and distribute it.

Mr. BRANTLEY. I am comfortable saying that is simply not true, sir.

Mr. DEFAZIO. Okay. Well, I hope we can figure out what the consequences would be. Do we still have that little jail over there in the Capitol?

[Laughter.]

Mr. DEFAZIO. I also asked questions of them, the previous panel, the customer service initiative. I think you are well familiar, I talked about the changes I made in the law in 1996. I am trying to nail them, whether after we changed the law in 1996, to say the focus is safety, not promotion, if we started down that path and we were making progress and kind of removing that conflict from people's minds and from their workplace, and if we did start down that path, when did we go wrong? Was it before 2003 or was it particularly in 2003 with this customer service initiative? Can you give us a little, anything on that?

Mr. BRANTLEY. In my recollection, I think your instincts are probably pretty good. Because I think there has always been an undercurrent in the FAA, but I really saw it start to blossom around 2002, 2003. It has been the last five or six years that it has really started moving strongly that way.

Mr. DEFAZIO. That is what I was afraid of. And specifically, ValuJet came at the end of a bad era, and with outsourcing, and we are into even more outsourcing today. I am very alarmed, if we are back to the pre-1996 attitude with more outsourcing than we had in 1995, 1996. Most of the majors have outsourced now.

Mr. BRANTLEY. Yes, sir, I believe we are, if not in a worse state, we are at least back to where we were in 1996, 1997.

Mr. DEFAZIO. Do you think ATOS will protect us? Is that a substitute?

Mr. BRANTLEY. Again, when the data can't be verified, without physically checking that the maintenance is being accomplished and just taking the word of the carrier, I think that is a flawed process, and we will continue to see problems like what occurred with Southwest. Hopefully, they will be compliance issues and not accidents.

Mr. DEFAZIO. I think in the case of Southwest, they didn't try and phony up compliance, they didn't report that they had complied and get bad data in the computer, it was more complicated.

Mr. BRANTLEY. Yes, absolutely.

Mr. DEFAZIO. But there could be, and I think back to the good old days of Frank Lorenzo, imperious management that is basically telling people to phony up data.

Mr. BRANTLEY. Yes, sir. One of the keys that we have seen is, ATOS was set up to try to accomplish oversight with limited resources. But it has evolved over the last decade as not just a way to do that, but a way to further reduce resources, if possible. So one of the things we hear frequently from the FAA is, we are trying to find a way to get the work done without having the people.

And quite frankly, they have gone to a point where there is not enough of the people doing the work that they should to make sure that the data base that they're relying on, that this automated system is a tool rather than the ultimate authority. And right now it is the authority and it doesn't know what it is talking about.

Mr. DEFAZIO. Thank you. Thank you, Mr. Chairman.

Mr. OBERSTAR. Chairwoman Johnson.

Ms. JOHNSON. Thank you, Mr. Chairman.

Mr. Brantley, would you describe your professional responsibilities?

Mr. BRANTLEY. Yes, ma'am. Actually, my professional responsibilities, as it relates to—are you referring to what I would do for the FAA? I come from a different workforce. I come from the systems specialists that repair and maintain the equipment that the FAA uses to control air traffic. So I am not an aviation safety inspector.

Ms. JOHNSON. And you work with a number of other specialists?

Mr. BRANTLEY. Yes, ma'am. Not today, but I have, yes. Today I work full-time for the union.

Ms. JOHNSON. Okay. Has there ever been any discussion of some of the relationships or some of the things that might be missed because of it in your group?

Mr. BRANTLEY. It is a little bit different, because there is not the outside interaction. What we tended to see more in the workforce I came from was managers or even employees going to work for a company right after leaving the FAA and sometimes not in the, let's say under questionable circumstances.

I can recall, there was a director of what was then airway facilities, six or eight years ago, that retired from the FAA, went to work for a company immediately after. And the way he got around, apparently, ethics rules was the last year, six to twelve of his

months of employment with the FAA, he just recused himself from being involved in any decisions that might be related to that company. That seemed like an ethics problem to me.

So I think there are loopholes that are found throughout the FAA. That is something that I have had a concern with for a while. But it is a very different issue than I think what you are looking at with the inspector workforce.

Ms. JOHNSON. Do you think it is widespread practice that the flight standard managers alter information entered into the FAA data base or anything to protect the airlines?

Mr. BRANTLEY. Ma'am, I think that is not just a bad idea, I think that is, if not criminal, it should be. I just think that if there is a difference of opinion, there should be a way to document that and get it to a place where a decision can be made.

But to give anyone the authority to just unilaterally override what has been found, and this is the findings of an investigation or an inspection, to just override that is I think extremely poor judgment by the agency.

Ms. JOHNSON. Do you think the ATOS is broken?

Mr. BRANTLEY. I need to qualify my answer, because I think there is a lot of things that could be fixed with ATOS and with the voluntary disclosure systems. I think there is value in both of them. But quite frankly, unless there is a change in leadership in the FAA, none of that will matter. Because the culture has to change. And that won't change because of changes in the programs. That has to come with changes in the people at the top. And that has to flow down.

Until that happens, I think anything else would be cosmetic, and it may keep things out of the newspapers for a period of time. But the problems will be there, they will remain.

Ms. JOHNSON. Thank you very much. Thank you, Mr. Chairman.

Mr. OBERSTAR. Thank you for your questions, very pointed and right on target.

The gentleman from Pennsylvania, Mr. Carney.

Mr. CARNEY. Thank you, Mr. Chairman. This is for anybody who cares to jump in. I have asked this of prior panels earlier today, too. It is about, since the investigation broke in the press a couple of weeks ago, we have seen the FAA order the national audit. In the last couple of weeks, hundreds of aircraft have been grounded in six of the major airlines. Why is that happening now? Why shouldn't this have been occurring all along?

Mr. BRANTLEY. Well, sir, I think, if I might start, it is clear in my mind that there is fear that something is going to be found that they wouldn't want to be found. There is going to be an incentive for the airline to disclose that. One of the things that I didn't mention earlier that is also a part of this ongoing review that the FAA is doing, they are doing this jointly with the airlines. So it is not like just inspectors doing it, either. That way, if there is a problem found, it can very easily be voluntarily disclosed. Then it is nonpunitive. And frankly, I think that gets to the heart of the problem again.

It feels to me like the FAA just doesn't get it, or maybe they're just arrogant enough to believe that they can do it anyway.

Mr. CARNEY. Anyone else?

Mr. MCNEASE. I will chime in just a bit, since I am not in the Southwest region. If ATOS worked, somebody said this earlier, if ATOS worked, these other carriers would have already been identified as having those problems. ATOS didn't work, I don't believe it is going to work, it is certainly not going to work for the 135 carriers of which there are thousands, not just a hundred. I don't see ATOS working. I believe it failed.

Mr. CARNEY. How much of a problem do you all think the revolving door is, private industry and FAA?

Mr. ANDREWS. I don't see that as near a big a problem as ATOS is.

Mr. CARNEY. Really?

Mr. ANDREWS. No. And something that not been mentioned about ATOS here is the resources that it drains from the inspector workforce. The AFS 900 is a virtual office, and I believe, it is my understanding they employ close to 100 inspectors there. So there is 100 inspectors that could be out in the field, looking at airplanes, flying with pilots, doing the job that we used to do, they are sitting in an office somewhere generating questions on a computer.

And to answer the Congresswoman's question about, she had some question earlier about the questions, I have been here 31 years, and some of the questions, the question that came up was, how can we do the same SAI 5 times and get 5 different results. I was with the FAA for 31 years, and some of the questions that are contained in those SAIs and EPIs, I have no idea what they mean. I mean, literally, some of them I have read over and over again, trying to figure out what they want me to do.

That is not an isolated incident. The entire system is set up like that.

Mr. CARNEY. Mr. McNease, I will close on this, Mr. Chairman, when you raised the issue to your management about the FedEx pilot that took the illegal charter trip, what was their response? Why did they not pursue action against this pilot?

Mr. MCNEASE. Their response to me was, don't do anything. Actually, his illegal charter that he flew, in his own airplane, I might add, that particular trip, the guidance that we have in our enforcement handbook calls for any deliberate violation of a regulation, any regulation, equals a revocation of your certificates.

He received a 30-day suspension, which he was able to whittle down at a hearing, or at a meeting with the FAA, to 13 days. He took two weeks' vacation and a day of sick leave, so it didn't cost him anything. Not a thing.

So the enforcement guidelines were not followed in that case. But that was a separate case from my issue. My issue was, was he flying over the requirements using that trip and what he was flying at Federal Express. Simply I don't know, because I wasn't allowed to do my inspection. Why my supervisor told me not to do the inspection is a question you ought to ask him.

Mr. CARNEY. Maybe we ought to ask that question, Mr. Chairman.

Mr. OBERSTAR. We can certainly send written questions and require their response.

Mr. CARNEY. Very good. No further questions. Thanks to the panel.

Mr. OBERSTAR. Thank you, Mr. Carney, and members of the panel, I want to thank you. But before we conclude, the Inspector General made several suggestions and I am sure you heard those, let me repeat. Recommending the establishment of an independent body to investigate inspector concerns, do you think that is a good idea?

Mr. ANDREWS. Can I speak to that?

Mr. OBERSTAR. Certainly.

Mr. ANDREWS. I think that is an excellent idea. A question came up a while ago about the manipulation of the ATOS data. Less than two months ago, I wrote a hot line complaint to the Inspector General, and part of the problem I addressed was the manipulation of inspection data. The IG apparently felt that it wasn't within their purview, and they forwarded that complaint down to the Federal Aviation Administration Flight Standards Division.

And guess where they sent it? They sent it down to the two guys that I wrote it about to answer. So I don't think our existing hot line is effective in any way at all. In the past, I have used the Administrator's hot line and I have used the IG hot line as a lever to move this organization where I saw a serious problem and couldn't address it from the floor up.

Mr. OBERSTAR. As the first panel today said, or Mr. Boutris said, I signed my name.

Mr. ANDREWS. I did too, every time. Every time I have submitted one, I put my name and phone number.

Mr. OBERSTAR. So what is a whistleblower, unidentified whistleblower line going to do? If they don't pay attention when you sign it, then how are you going to pay attention if you don't sign it?

Mr. ANDREWS. Exactly. I have never asked for whistleblower protections and I have never submitted an anonymous complaint. I think if you are going to have an effective hot line, and I think you need an effective hot line, it is going to have to be something similar to the way a police department works, like a civilian review board that has no outside or governmental interest one way or the other.

Mr. OBERSTAR. The question is, we are going to have an independent body, the IG said, recommended that the FAA established it. I think that would be dangerous.

Mr. ANDREWS. Absolutely.

Mr. OBERSTAR. Who should be the originating entity to create an independent body? Mr. Brantley?

Mr. BRANTLEY. Mr. Chairman, as everyone has said, another internal hot line is the last thing the FAA needs. I think this needs to be set up by, it has to be independent. I think the IG could probably come up with some regulations for that very quickly. And with all respect to both the Inspector General and the Office of Special Counsel, I would have a hard time recommending to any of the members that I represent that they go anywhere but one of those two places. Because there is nothing internal to the FAA that will get their problems resolved without them becoming a target.

Mr. OBERSTAR. That is absolutely right. I have been mulling this over and probably a combination of recommendations by the Inspector General, the Comptroller General, the General Accounting

Office or Government Accountability Office and maybe Mr. Bloch's office.

Mr. BRANTLEY. Absolutely.

Mr. OBERSTAR. Or a recommendation from the NTSB, which has independent authority. Something of that nature.

Mr. ANDREWS. Mr. Oberstar, if I might, I have to tell you, too, I was amazed to sit here today and listen to Mr. Stuckey and Mr. Ballough and Mr. Sabatini speak about what heroes they thought Mr. Boutris and Mr. Peters are. Because it has been my experience over the last years that people like Mr. Boutris and Mr. Peters and these gentlemen sitting here next to me are not treated like heroes by the FAA.

Mr. OBERSTAR. They certainly weren't until this hearing.

Mr. ANDREWS. That is exactly right. And they generally define this as problem employees or disgruntled. That is why the people in our organization are afraid to stand up and be counted. The culture inside the FAA is, there is no problem in my unit, there is no problem in my office, there is no problem in my region and there is no problem in the FAA. Until the FAA admits that we have serious problems, they are not going to be able to fix themselves.

Mr. MCNEASE. I would like to say that I do agree with an outside agency, however it is set up. The hot line deal doesn't work, because it does come right back down to the inspector. And everybody knows who it comes back to. But you mentioned earlier, and you mentioned in one of your press conferences prior to this that we need to clean house here. It needs to start from the top. I think all of us agree here on this panel in particular that it certainly needs to happen from the top. That is Mr. Sabatini, Mr. Ballough and Mr. Stuckey. If you think integrity is an issue, there is more to check into. There are a lot of integrity problems.

It is just unfortunate that they have been allowed to take us down this route. I believe they have done it. I believe that when Mr. Sabatini said, the buck stops here, I agree, it stops there. And it should stop there and action should be taken.

Mr. OBERSTAR. Thank you. Mr. Thrash?

Mr. THRASH. I would like to piggyback on what Mr. McNease said. The ferret, warm-blooded animal, was used before the common era, you have to say BCE any more to be sensitivity proper, but nevertheless, it was used to exterminate vermin for ages and ages and ages. It looks like a mink and it is small and warm-blooded and thin-bodied and they can be domesticated.

They were introduced into the United States in the 1800s from sailing ships, because they were infested with rats. The sailors didn't like the rat terriers, because they barked and kept them awake. The cats were a favorite, but the rats could get into the hold and the cats couldn't get them.

But when they brought the ferrets in, the rats didn't have any place to go. And of course, if you have some rats in the rafters higher up in these places here in the Washington area and the division area, the term, metaphorically of course, rats of abuse, metaphorically speaking, obviously, the term "ferret out" comes from that. And you all have the horsepower to get that done.

Mr. OBERSTAR. Thank you.

We are going to use that horsepower, and today's hearing was a launch pad to do that. Your testimony and those of your colleagues preceding you are powerful tools for us to use to improve aviation safety.

The real question is, does the buck really stop with Mr. Sabatini? Or does it go higher? That is a question that we aren't really going to know until there is a sweeping change of administration and a new administrator and we begin making corrections from the top down.

My Italian grandfather immigrated from Naples. When you look at a fish, you know whether it is good or not if the head is in good shape. But if the head is rotting, then the whole fish is no good. And we have to take a good look at this fish.

Thank you very much for your testimony, for your candor, for your courage in coming forward. This has been a most enlightening and invigorating hearing. We will proceed forward with lessons learned today.

The Committee stands adjourned. I thank Members for persisting throughout this day as well.

[Whereupon, at 7:37 p.m., the Committee was adjourned.]

US Department
of Transportation
**Federal Aviation
Administration**

Advisory Circular

Subject: AVIATION SAFETY ACTION PROGRAM (ASAP)	Date: 11/15/02 Initiated By: AFS-230	AC No: 120-66B Change:

1. PURPOSE. This Advisory Circular (AC) provides guidance for establishing an air transportation Aviation Safety Action Program (ASAP). The objective of the ASAP is to encourage air carrier and repair station employees to voluntarily report safety information that may be critical to identifying potential precursors to accidents. The Federal Aviation Administration (FAA) has determined that identifying these precursors is essential to further reducing the already low accident rate. Under an ASAP, safety issues are resolved through corrective action rather than through punishment or discipline. The ASAP provides for the collection, analysis, and retention of the safety data that is obtained. ASAP safety data, much of which would otherwise be unobtainable, is used to develop corrective actions for identified safety concerns, and to educate the appropriate parties to prevent a reoccurrence of the same type of safety event. An ASAP is based on a safety partnership that will include the FAA and the certificate holder, and may include a third party, such as the employee's labor organization. To encourage an employee to voluntarily report safety issues, even though they may involve the employee's possible noncompliance with Title 14 of the Code of Federal Regulations (14 CFR), enforcement-related incentives have been designed into the program.

a. Information obtained from these programs will permit ASAP participants to identify actual or potential risks throughout their operations. Once identified, the parties to an ASAP can implement corrective actions in order to reduce the potential for reoccurrence of accidents, incidents, and other safety-related events. In order to gain the greatest possible positive benefit from ASAP, it may be necessary for certificate holders to develop programs with compatible data collection, analysis, storage, and retrieval systems. The information and data, which are collected and analyzed, can be used as a measure of aviation system safety.

b. An ASAP provides a vehicle whereby employees of participating air carriers and repair station certificate holders can identify and report safety issues to management and to the FAA for resolution, without fear that the FAA will use reports accepted under the program to take legal enforcement action against them, or that companies will use such information to take disciplinary action. These programs are designed to encourage participation from various employee groups, such as flight crewmembers, mechanics, flight attendants, and dispatchers.

c. The elements of ASAP are set forth in a Memorandum of Understanding (MOU) between the FAA, certificate holder management, and an appropriate third party, such as an employee's labor organization or their representatives.

2. CANCELLATION. This AC cancels AC 120-66A, Aviation Safety Action Programs (ASAP), dated March 17, 2000.

3. BACKGROUND. The FAA's safety mission requires it to take action to reduce or eliminate the possibility or recurrence of accidents in air transportation. Over the past several years, the FAA and the air transportation industry have sought innovative means for addressing safety problems and identifying potential safety hazards. To this end, the FAA, in cooperation with industry, established several demonstration ASAPs in an effort to increase the flow of safety information to both the air carrier and FAA, and issued an ASAP AC in January 1997. Among these programs were the USAir Altitude Awareness Program, the American Airlines Safety Action Partnership, and the Alaska Airlines Altitude Awareness Program. These programs included incentives to encourage employees of air carriers participating in the programs to disclose information which may include possible violations of 14 CFR without fear of punitive enforcement sanctions or company disciplinary action. Events reported under a program that involved an apparent violation by the air carriers of the regulations were handled under the Voluntary Disclosure Policy, provided that the elements of the policy were satisfied. In view of the positive safety results from those programs, the FAA issued a revised ASAP AC in March 2000, which established industry-wide guidelines for participation. Based on the lessons learned from over two dozen programs established since that date, the present AC contains revised guidance to facilitate achievement of ASAP's safety goals, as well as to encourage wider participation in the program. This revised guidance is based upon the recommendations of an ASAP Aviation Rulemaking Committee, comprised of representatives from airlines, labor associations, and FAA management.

4. KEY TERMS. The following key terms and phrases are defined for the purposes of ASAP to ensure a standard interpretation of the guidance.

a. Administrative Action. Under paragraph 205 of FAA Order 2150.3A, Compliance and Enforcement Program, administrative action is a means for disposing of violations or alleged violations that do not warrant the use of enforcement sanctions. The two types of administrative action are a warning notice and a letter of correction.

b. Air Carrier. A person who undertakes directly, by lease, or other arrangement, to engage in air transportation.

c. Certificate Holder. Refers to a person authorized to operate under 14 CFR Part 121, or who holds a certificate issued under 14 CFR Part 145.

d. Certificate Holding District Office (CHDO). The Flight Standards District Office (FSDO) or Certificate Management Office (CMO) having overall responsibility for all FAA reporting requirements, technical administration requirements, and regulatory oversight of a certificate holder.

e. Consensus of the Event Review Committee (ERC). Under ASAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC to each decision required by the MOU.

f. Corrective Action. For the purposes of ASAP, corrective action refers to any safety-related action determined necessary by the ERC based upon a review and analysis of the reports submitted under an ASAP. Corrective action may involve joint or individual action by the parties to the ASAP MOU.

g. Covered Under the Program/Qualified for Inclusion/Included in ASAP. For the purposes of ASAP, these terms all have the same meaning. They mean that the enforcement-related incentives and other provisions of the ASAP apply to the employee who submitted the report.

h. Enforcement-Related Incentive. Refers to an assurance that lesser enforcement action will be used to address certain alleged violations of the regulations to encourage participation by certificate holder employees.

i. Event Review Committee (ERC). A group comprised of a representative from each party to an ASAP MOU. The group reviews and analyzes reports submitted under an ASAP. The ERC may share and exchange information and identify actual or potential safety problems from the information contained in the reports. The ERC is usually comprised of a management representative from the certificate holder, a representative from the employee labor association (if applicable), and a specifically qualified FAA inspector from the CHDO.

j. Intentional Falsification. For the purposes of ASAP, intentional falsification means a false statement in reference to a material fact made with knowledge of its falsity. It does not include mistakes or inadvertent omissions or errors.

k. Major Domestic Repair Station. Refers to a Part 145 certificated repair station located in the United States that is certificated to perform airframe and/or engine maintenance for certificate holders operating under Part 121.

l. Memorandum of Understanding (MOU). Refers to the written agreement between two or more parties setting forth the purposes for, and terms of, an ASAP.

m. Party/Parties. Refers to the certificate holder, the FAA, and any other person or entity (e.g., labor union or other industry or Government entity) that is a signatory to the MOU.

n. Person. A person refers to an individual, firm, partnership, corporation, company, association, joint stock association, or government entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

o. Safety-Related Report. Refers to a written account of an event that involves an operational or maintenance issue related to aviation safety reported through an ASAP.

p. Sole-Source Report. For the purposes of ASAP, the ERC shall consider a report to be sole-source when all evidence of the event available to the FAA outside of ASAP is discovered by or otherwise predicated on the ASAP report. It is possible to have more than one sole-source report for the same event.

(Similarly, for the purpose of any additional action taken by the company outside of ASAP, an airline considers a report to be sole-source when all evidence of the event known to the airline is discovered by or otherwise predicated on the ASAP disclosure. The company does not use any information obtained through ASAP to initiate or support disciplinary action outside of ASAP, with the exception of those events excluded from ASAP due to the appearance of possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.)

q. Sufficient Evidence. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. There must be sufficient evidence to prove the violation, other than the individual's safety-related report. In order to be considered sufficient evidence under ASAP, the ERC must determine through consensus that the evidence (other than the individual's safety-related report) would likely have resulted in the processing of a FAA enforcement action had the individual's safety-related report not been accepted under ASAP. Accepted ASAP reports for which there is sufficient evidence will be closed with administrative action.

r. Voluntary Disclosure Policy. A policy under which regulated entities may voluntarily report apparent violations of the regulations and develop corrective action satisfactory to the FAA to preclude their recurrence. Certificate holders that satisfy the elements of the Voluntary Disclosure Policy receive a letter of correction in lieu of civil penalty action. Voluntary disclosure reporting procedures are outlined in the current version of AC 00-58, Voluntary Disclosure Reporting Program.

5. APPLICABILITY. ASAPs are intended for air carriers that operate under Part 121. They are also intended for major domestic repair stations certificated under Part 145. ASAPs are entered into voluntarily by the FAA, a certificate holder, and if appropriate, other parties.

6. DEVELOPMENT. Certificate holders may develop programs and submit them to the FAA for review and acceptance in accordance with the guidance provided. Ordinarily, programs are developed for specific employee groups, such as flight crewmembers, flight attendants, mechanics, or dispatchers. The FAA will determine whether a program is accepted. The FAA may suggest but may not require that a certificate holder develop an ASAP to resolve an identified safety problem.

a. Development Considerations. The development and implementation of an ASAP is a multifaceted task:

(1) The certificate holder, employee group, and the FAA must first develop a relationship that will promote the ASAP concept. The reluctance of one or more parties to commit to the program is detrimental to the process.

(2) The process for report review must be outlined in detail.

(3) Safety data collection, analysis, and retention processes must be developed and agreed upon.

(4) Event investigation tasks must be assigned.

(5) Prior to the implementation of the ASAP, a comprehensive company employee and management education program must be undertaken.

(6) The ASAP process may require cultural change for all parties involved.

(7) Continuity of ERC representation personnel during the early stages of program implementation will promote the desired partnership relationship between program members.

b. Demonstration Programs. Certificate holders initially must develop a separate demonstration program for each employee group sought to be covered by an ASAP. The objective of a demonstration program is to measure its effectiveness and ensure that it meets the safety objectives of the specific ASAP.

(1) The initial demonstration program, which shall be limited to the period of time needed to achieve the desired goals and benefits articulated in the program, should have a duration of no longer than 18 months.

(2) At the conclusion of the initial demonstration program, all parties will review the program. Demonstration programs that require modification may be extended for an additional time, not to exceed 12 months, to effectively measure any change(s) made to the original program to address a deficiency identified by any of the parties to the MOU.

c. Continuing Programs. After a demonstration program is reviewed and determined to be successful by the parties to the agreement, it may be accepted as a continuing program, subject to review and renewal every 2 years by the FAA.

d. Withdrawal. Regardless of the duration of a program, any party to the ASAP MOU may withdraw from the program at any time.

7. RESOURCES. An ASAP can result in a significant commitment of both human and fiscal resources by the parties to the program. During the development of a program, it is important that each party be willing to commit the necessary personnel, time, and monetary resources to support the program.

8. PROCESSING OF REPORTS.

a. Event Review Committee (ERC) Process. The determination of whether reports qualify for inclusion in the ASAP will be made by a consensus of the ERC.

(1) The ERC is composed of one designated representative and an alternate each from the FAA, the certificate holder, and any third party, e.g., the employee's union or representative organization.

(2) The ERC will:

- review and analyze reports submitted under the ASAP
- determine whether such reports qualify for inclusion
- identify actual or potential problems from the information contained in the reports, and
- propose solutions for those problems

(3) For official meeting purposes, a quorum exists when all designated ERC representatives, or their alternates, are present. Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA or industry persons. The ERC representatives are encouraged to consult with such persons as needed during the ASAP process.

b. Consensus of the ERC. The success of ASAP is built on the ability of the ERC to achieve consensus on each event that is reported. Consensus of the ERC means the voluntary agreement of all representatives of the ERC.

(1) The ERC must reach a consensus when deciding whether a report is accepted into the program and when deciding on corrective action recommendations arising from the event, including any FAA administrative action. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety. In order for this concept to work effectively, the ERC representative must be empowered to make decisions within the context of the ERC discussions on a given report. Senior management and supervisors should not preempt their respective ERC representative's decision-making discretion for an event reported under ASAP. If the parties to an ASAP MOU do not permit their respective ERC representative to exercise this discretion, the capacity of the ERC to achieve consensus will be undermined, and the program will ultimately fail.

(2) Recognizing that the FAA holds statutory authority to enforce the necessary rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in Title 49 of the United States Code (49 U.S.C.), and FAA Order 2150.3A. In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation(s), a qualification issue, or medical certification or qualification issue, the FAA ERC representative

will decide how the report should be handled. The FAA will not use the content of an ASAP report in any subsequent enforcement action except as described in paragraph 11c(2).

c. Reports Involving Medical Certification or Medical Qualification Issues. When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue. The ERC will work with the Regional Flight Surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report or through the processing of that report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or qualification issue(s) revealed in an ASAP report.

9. GUIDELINES FOR ACCEPTANCE OF REPORTS UNDER ASAP.

a. General. Participation in ASAP is limited to certificate holder employees and to events occurring while acting in that capacity. Each employee participating in ASAP must individually submit a report in order to receive the enforcement-related incentives and benefits of the ASAP policy. However, in cases where an event may be reported by more than one person, each individual who seeks coverage under ASAP may either sign the same report or submit separate signed reports.

b. Criteria for Acceptance. The following criteria must be met in order for a report involving a possible violation to be covered under ASAP:

(1) The employee must submit a report in a timely manner. In order to be considered timely, a report must be submitted in accordance with either of the following two criteria:

(a) Within a time period following the event that is defined in the MOU, such as within 24 hours of the end of the duty day in which the event occurred. If this criterion has been met, a report would not be rejected for timeliness, even if the FAA was already aware of the possible noncompliance with the regulations, and may have brought it to the attention of the employee;

(b) Within 24 hours of having become aware of possible noncompliance with 14 CFR in accordance with the following criteria: If a report is submitted later than the time period after the occurrence of an event stated in the MOU, the ERC will review all available information to determine whether the employee knew or should have known about the possible noncompliance with 14 CFR within that time period. If the employee did not know or could not have known about the apparent noncompliance with 14 CFR within that time period, then the report would be included in ASAP, provided the report is submitted within 24 hours of having become aware of possible noncompliance with 14 CFR, and provided all other ASAP acceptance criteria have been met. If the employee knew or should have known about the apparent noncompliance with 14 CFR, then the report will not be included in ASAP.

(2) The alleged regulatory violation must be inadvertent, and must not appear to involve an intentional disregard for safety.

(3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

(4) Sole-source reports that meet all of the above acceptance criteria except timely submission will be accepted under ASAP.

c. Repeated Violations. Reports involving the same or similar possible noncompliance with 14 CFR that were previously addressed with administrative action under ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria under paragraphs 9a and 9b above. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.

d. Non-Reporting Employees Covered Under an ASAP MOU. If an ASAP report identifies another covered employee of the certificate holder in a possible violation, and that employee has neither signed that report nor submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible violation. If the ERC determines that the employee did not know or could not have known about the apparent violation(s), and the original report otherwise qualifies for inclusion under ASAP, the ERC will offer the non-reporting employee the opportunity to submit an ASAP report. If the non-reporting employee submits a report within 24 hours of notification from the ERC, that report will be afforded the same consideration under ASAP as that accorded the report from the original reporting employee, provided all other ASAP acceptance criteria are met. However, if the non-reporting employee fails to submit a report within 24 hours of notification, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

e. Non-Reporting Employees Not Covered Under the MOU. If an ASAP report identifies another employee of the certificate holder who is not covered under the MOU, and the report indicates that employee may have been involved in a possible violation, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ASAP and invite the employee to submit an ASAP report. If the employee submits an ASAP report within 24 hours of notification, that report will be covered under ASAP, provided all other ASAP acceptance criteria are met. If the employee fails to submit an ASAP report within 24 hours of notification, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement agencies, if warranted.

10. GUIDELINES FOR EXCLUDING REPORTS FROM ASAP.

a. Exclusion. The following types of reports are excluded under an ASAP:

(1) Reports involving an apparent violation that is not inadvertent or that appears to involve an intentional disregard for safety.

(2) Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

(3) Untimely reports excluded under paragraph 9b(1) or reports where a consensus on acceptance under paragraph 9 is not reached by the ERC.

(4) Reports of events that occurred when NOT acting as an employee of the certificate holder.

b. Failure to Complete Corrective Action. Reports initially included in an ASAP will be excluded from the program if the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. In those cases, failure of any individual to complete corrective action for an apparent violation, a qualification issue, or medical certification or qualification issue in a manner acceptable to all members of the ERC, may result in the reopening of the case and referral of the matter for appropriate action.

11. ENFORCEMENT POLICY.

a. FAA Investigation of Events Involving Possible Noncompliance with 14 CFR. By public law and FAA orders, the FAA is responsible for the proper investigation and disposition of all suspected cases of noncompliance with 14 CFR. The FAA establishes investigative and enforcement jurisdiction and responsibility regarding events reported to the ASAP ERC.

(1) The FAA CHDO ERC representative is empowered to complete ASAP investigations and is responsible for coordinating all corrective and administrative actions in accordance with the current versions of the following FAA orders, as applicable:

(a) Order 2150.3, Compliance and Enforcement Program;

(b) Order 8020.11, Aircraft Accident and Incident Notification, Investigation, and Reporting;

(c) Order 8400.10, Air Transportation Operations Inspector's Handbook; and/or

(d) Order 8300.10, Airworthiness Inspector's Handbook.

(2) The determination of whether or not a reported event meets the criteria for inclusion into ASAP will be made in accordance with the applicable orders and through the ERC process. If an event meets the criteria for participation and is accepted into ASAP by the ERC, the FAA shall transfer all jurisdiction and responsibility for compliance and enforcement investigations related to the event to the CHDO, even if an enforcement investigation has been previously opened outside of ASAP.

b. Reports Covered Under ASAP.

(1) Those non-sole-source reports included in ASAP with sufficient evidence (see paragraph 4q for the definition of sufficient evidence) to support a violation of 14 CFR will be closed with administrative action. Those non-sole-source reports without sufficient evidence to support a violation of 14 CFR will be closed with a FAA Letter of No Action.

(2) Those sole-source reports that are included in ASAP will be closed with no action.

(3) Those reports included in ASAP that demonstrate a lack of qualification or raise a question of a lack of qualification will be addressed with appropriate corrective action recommended by the ERC.

c. Reports Excluded From ASAP.

(1) Reported events that are excluded from ASAP will be referred to the FAA for possible enforcement action and/or re-examination under 49 U.S.C., Subtitle VII, and as prescribed in FAA Order 2150.3A.

(2) Reports of events that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes, and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ASAP. Such reports will be accepted under ASAP provided they otherwise meet the acceptance criteria contained in paragraph 9 of this advisory circular.

(3) Neither the written ASAP report nor the content of the written ASAP report will be used to initiate or support company discipline or as evidence for any purpose in a FAA enforcement action except as provided for in 11c(2). The FAA may conduct an independent investigation of an event disclosed in a report.

12. REOPENING REPORTS BASED ON NEW EVIDENCE. All safety-related reports should be fully evaluated and, to the extent appropriate, investigated by the FAA. A closed ASAP case, including any related enforcement investigative report (EIR), involving a violation addressed with administrative action or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program.

13. VIOLATIONS OF CERTIFICATE HOLDERS. Apparent violations of certificate holders disclosed through a safety-related report under an ASAP may be handled under the Voluntary Disclosure Policy, provided the certificate holder voluntarily reports the apparent violations to the FAA and the other elements of that policy are met. (See the current version of AC 00-58 and FAA Order 2150.3A, Appendix 1: Compliance/Enforcement Bulletins, Bulletin No. 90-6.)

14. EXAMPLES. The following are examples of the disposition of events involving possible noncompliance with 14 CFR reported under ASAP:

a. Accepted Reports.

(1) Non-Sole-Source Report with Sufficient Evidence (Pilot). A pilot reports an altitude deviation where the aircraft was assigned by air traffic control (ATC) to climb to an altitude of 10,000 feet MSL, but actually levels off at 11,000 feet MSL. The report is submitted within 24 hours of the end of the flight sequence for the day in accordance with the airline's ASAP MOU. Following review of the report, the FAA ERC member determines that ATC has filed a pilot deviation report for this event, and obtains a copy of the ATC tapes, radar data, and a statement from the air traffic controller concerning this event. A review by the ERC determines that the pilot deviation was inadvertent. The ERC further determines through consensus that since this event was disclosed in a non-sole-source report for which there was sufficient evidence (i.e., evidence gathered by an investigation not caused by, or otherwise predicated on, the filing of the safety-related report), the event should be closed with administrative action. The ERC determines that the appropriate administrative action is a FAA Letter of Correction. Following verification by the ERC that the employee has satisfactorily completed the recommended corrective action to the satisfaction of all members of the ERC, the ERC closes the report.

(2) Sole-Source Report (Mechanic). A repair station discovered that the check sheet for a required inspection item (RII) accomplished seven days prior had not been signed. The company immediately informed the responsible mechanic that the required signature on the check sheet was missing. The mechanic filed an ASAP report within 24 hours of having been informed by the company of the omission. Prior to signing the check sheet, the mechanic had become distracted by an aircraft that had unexpectedly returned to the maintenance facility. The ERC determined that the mechanic did not know or could not have known about the possible noncompliance with 14 CFR within 24 hours of its occurrence. An investigation by the ERC determined that the inspection was in fact properly accomplished by the reporting employee, although the check sheet had not been signed. The ERC determined through consensus that the omission by the mechanic was inadvertent, and that the report met all ASAP acceptance criteria. As there was no evidence of the event available to the FAA, other than the employee's ASAP report, the ERC determined that the report should be considered sole-source. The report was closed with an ERC response. However, the company had evidence of the event from information outside of ASAP and elected to counsel the individual concerning the possible impact of distractions.

(3) Sole-Source Report (Mechanic). An airline mechanic reported that he had inadvertently employed an improper lubricant on a rudder component during a heavy maintenance check. The report was submitted three days following the event. An investigation by the ERC determined that in fact the wrong lubricant had been used, but that the only evidence of the event is obtained from the investigation that was predicated upon the employee's report. Upon interviewing the mechanic, the ERC determined that the employee only became aware of the possible mistake while working on a similar aircraft three days after the event, and that he had submitted the report in a timely manner thereafter. While working on the subsequent aircraft he learned that the maintenance manual had been updated to remove a previously authorized substitute lubricant, and that he had used that lubricant because he was not employing the most

recently updated revision of the manual at the time of the event. The ERC determined through consensus that the mistake was in fact inadvertent, that the employee submitted the report within 24 hours of having become aware of the event, and that the event should be accepted under ASAP as a sole-source report. The ERC recommended that changes be made to the maintenance department's procedures for timely distribution of the most recent manual revisions, in order to preclude repetition of this event by others, and the report was closed with no action other than an ERC response to the reporting employee. The ERC followed-up with the maintenance department to verify that the recommended procedural change for timely distribution of documentation revisions had been accomplished.

(4) Untimely Sole-Source Report (Pilot). A pilot reported an altitude deviation where the aircraft was assigned by ATC to climb to an altitude of 10,000 feet MSL, but actually leveled off at 11,000 feet MSL. The report was not submitted within the timeframe following the event that was specified in the MOU. The ERC investigation of this event revealed that the deviation was due to an incorrect entry into the FMS that was not noticed by either flight crewmember. The ERC also determined that the only evidence of the deviation was the pilot's safety-related report filed under the ASAP. The ERC therefore concluded that the report should be considered sole-source. Although the report was not submitted on a timely basis, the ERC determined that it otherwise met ASAP acceptance criteria. Since the pilot's safety-related report was determined to be sole-source, it was accepted under ASAP, and the ERC closed the event with no action, other than a recommendation that the pilot complete training on compliance with altitude clearances. The ERC monitored the completion by the pilot of the recommended corrective action. The ERC also solicited and received a sole-source report from the co-pilot concerning this event. That pilot's report was closed in the same fashion, including corrective action.

b. Excluded Events. Examples of events involving possible noncompliance with 14 CFR that would be excluded from the ASAP:

(1) Intentional Disregard for Safety (Pilot). An aircraft being ferried in winter from a maintenance repair facility to another station for a revenue flight experienced a compressor stall in one of its engines shortly after lift-off, followed by a compressor stall in a second engine. The flightcrew declared an emergency and returned without further mishap to the departure airport. Post flight examination of the aircraft revealed that ice was still attached to the upper wing surface near the wing root area. The captain and the first officer filed individual ASAP reports on this event. An investigation by the ERC determined that the flightcrew had been dispatched from operations via a company vehicle to the maintenance hanger at the departure airport, and had been dropped off at the forward aircraft door, from which position they could observe most, but not all, of the aircraft. The captain instructed the first officer to conduct the exterior pre-flight inspection, and proceeded to the cockpit to prepare the aircraft for departure. Thereafter the first officer entered the cockpit and reported that the exterior of the aircraft was ready for flight. The ERC investigation determined that the first officer had not performed a complete walk-around inspection of the aircraft, including inspection of the top surface of the wing. The ERC concluded that this behavior constituted intentional disregard for safety on the part of the first officer, and the event as disclosed in the first officer's report was excluded from ASAP. The ERC determined that the Captain did not violate the regulations.

(2) Intentional Disregard for Safety (Mechanic). An FAA inspection determined that an unauthorized lubricant was employed on an engine valve installation for an aircraft currently undergoing maintenance. The local FSDO immediately opened an EIR concerning the observed noncompliance with 14 CFR. Shortly thereafter, a newly hired maintenance technician submitted an ASAP report stating that he or she had used a lubricant other than what was authorized in the maintenance manual for the engine valve installation, because no authorized substitute lubricants were available in the maintenance facility at the time he or she was performing the work. As an ASAP report had been submitted, the EIR was transferred from the local FSDO to the certificate holding district office at its request. An ERC investigation revealed that the technician knowingly used a substitute non-approved lubricant at the direction of his/her immediate supervisor in order not to delay completion of the job order. The ERC determined the action by the technician in using an unauthorized lubricant constituted intentional disregard for safety, in spite of his/her having been directed to do so by his/her supervisor, and the report was excluded from the program. The event was then referred back to the FSDO having jurisdiction for further investigation, including possible enforcement action and/or reexamination against the technician and his/her supervisor under 49 U.S.C., Subtitle VII, and as prescribed in FAA Order 2150.3A.

15. CORRECTIVE ACTION. The ERC will work with a certificate holder to develop acceptable corrective action that should be taken based on information obtained under an ASAP. The corrective action must be completed in a manner satisfactory to all members of the ERC. Failure of a certificate holder to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in termination of the program. In addition, failure of any individual to complete corrective action for an apparent violation, a qualification issue, or medical certification or qualification issue in a manner acceptable to all members of the ERC, may result in the reopening of the case and referral of the matter for appropriate action.

16. MEMORANDUM OF UNDERSTANDING. The provisions of an ASAP that is acceptable to the FAA should be set forth in an MOU signed by each party. A program will be implemented in accordance with the provisions of its MOU. A sample MOU which is available as an automated template (accessible on the Flight Standards Service (AFS) ASAP webpage at http://www.faa.gov/avr/afs) is provided in appendix 1. Each MOU will be based on the parties' different needs and purposes for an ASAP.

a. MOU Elements. The MOU should set forth the elements of the ASAP, including at least the following which must be consistent with the guidance of this AC:

(1) The identification of what type of operator the program applies to: Part 121 Air Carrier or a Major Domestic Repair Station.

(2) The identification of the type of program and the employee group(s) to which it pertains. The types of programs are:

(a) Demonstration Program;

(b) Renewal of Demonstration Program;

(c) Continuing Program; or

(d) Renewal of a Continuing Program.

(3) The duration of the program should be limited to the period of time needed to achieve the desired goals and benefits articulated in the program. Demonstration programs initially should have a duration of no longer than 18 months and should be reviewed prior to renewal. Demonstration programs that undergo changes after their initial review may be renewed for no longer than 12 months. Programs that are classified as "Continuing" must be reviewed and renewed every 2 years.

(4) A statement that all parties to the ASAP have entered into this agreement voluntarily.

(5) A description of the objective(s), including the essential safety information that is reasonably expected to be obtained through the program, any specific safety issues that are of a concern to any of the parties, and the benefits to be gained through the use of the program.

(6) A description of any enforcement-related incentive that is needed to achieve the desired goal and results of the program.

(7) A statement that all safety-related reports shall be fully evaluated and, to the extent appropriate, investigated by the ERC.

(8) A description of the manner in which ASAP records and reports shall be kept. All records and documents relating to an ASAP must be appropriately kept in a manner that ensures compliance with 14 CFR and all applicable law, including the Pilot Records Improvement Act.

(9) A description of the process for timely reporting to the FAA all events disclosed under the program.

(10) A description of the procedures for the resolution of those events that are safety-related, and procedures for continuous tracking and analysis of safety-related events.

(11) A statement of the ASAP report acceptance and exclusion criteria.

(12) A description of the frequency of periodic reviews by the parties to determine whether the program is achieving the desired results. These reviews are in addition to any other review conducted by the FAA or any other party individually.

(13) A statement that the ERC shall be comprised of one representative from each party to the MOU, and a description of the duties of the ASAP manager. The ASAP manager may either be the same individual assigned as the company management representative to the ERC, or it may be another individual assigned by the company who will not serve as a voting member of the ERC.

(14) A description of the process for training and distributing information about the program to certificate holder employees and management, as well as procedures for providing feedback to individuals who make safety-related reports under the program.

(15) A statement that modifications of the MOU must be accepted by all parties.

(16) A statement that termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action, e.g., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed.

(17) A statement that the program can be terminated at any time, by any party.

(18) A statement that failure of any party to follow the terms of the agreement ordinarily will result in termination of the program.

(19) A statement that failure of a certificate holder to follow through with corrective action acceptable to the FAA to resolve any safety deficiencies ordinarily will result in termination of the program.

(20) A detailed description of the following concepts and how they will be used:

(a) Event Review Committee;

(b) Consensus of the ERC;

(c) Sole-source reporting;

(d) Sufficient evidence; and

(e) Enforcement-related incentive.

(21) A statement that repeated instances involving the same or similar possible noncompliance with 14 CFR that were previously addressed with administrative action under the ASAP will be accepted into the program, provided that they otherwise meet the acceptance criteria of ASAP. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.

(22) ASAPs that may include ATC events should include procedures in the MOU to identify the date, time, location or fix, altitude, flight number, and ATC frequency at the time the event occurred.

(23) A statement that employees initially covered under an ASAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the

recommended corrective action in a manner satisfactory to all members of the ERC. These cases may result in the reopening of the case and referral of the matter for appropriate action.

(24) A statement that any safety-related ASAP event that concerns an apparent violation(s) that is EXCLUDED from ASAP, will be referred by the FAA ERC representative to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate.

(25) A statement that a closed ASAP case, including a related EIR, that involves a violation addressed with administrative action or for which no action has been taken, may be reopened if evidence is later discovered that establishes that the event should have been excluded from the program.

(26) A statement that when the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue. The ERC will work with the Regional Flight Surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or qualification issue(s) revealed in an ASAP report.

(27) A statement that reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes and will refer such reports to law enforcement agencies, as appropriate.

(28) A statement that the ASAP manager will maintain an electronic data base that tracks each event through and including closure of that event by the ERC and enables trend analysis.

b. Signatories. The MOU must be signed by an authorized representative of each party.

17. ACCEPTANCE/RENEWAL PROCEDURES.

a. Review. The certificate holder should initially develop and present the program to the CHDO for review. If the proposed MOU does not employ the automated template from the Flight Standards Service (AFS) ASAP webpage (accessible at http://www.faa.gov/avr/afs), a completed ASAP checklist (found in Appendix 2 to this AC and on the webpage) should accompany the proposed MOU for review. The CHDO and the certificate holder will jointly review the MOU to ensure that it satisfies the guidance in AC 120-66, as amended, FAA Order 2150.3A, and the FAA Handbook Bulletins for Air Transportation and Airworthiness, entitled Establishment of Aviation Safety Action Programs (ASAP), as applicable. Prior to acceptance, the program should be reviewed to ensure that FAA resources are available to administer the program effectively. Program proposals that require excessive agency resources should be modified or not accepted.

b. Procedures. When the CHDO is satisfied that the program is acceptable under the guidance of ASAP, the CHDO manager forwards an electronic copy of the proposed MOU as well as the CHDO's recommendation for acceptance to the respective Flight Standards Division regional office and to the headquarters ASAP program office (Voluntary Safety Programs Branch, AFS-230). If the proposed MOU does not employ the automated template from the AFS ASAP webpage, the completed ASAP checklist (found in Appendix 2 to this AC and on the webpage) should accompany the proposed MOU for processing. All programs, except for renewals of Continuing programs, shall receive authorization for final acceptance from the Director, Flight Standards Service, AFS-1. AFS-1 will indicate acceptance authorization for the MOU by FAA memorandum to the CHDO manager through the regional division manager. The program office will be responsible for preparing the memorandum for AFS-1's signature and shall submit it with the ASAP package to AFS-1. Following receipt of acceptance authorization from AFS-1, the CHDO manager shall sign the MOU on behalf of the FAA. The certificate holder should allow a minimum of 60 days for the FAA acceptance process to be completed once its ASAP program is received at FAA headquarters for review.

NOTE: ASAP Demonstration programs, renewal of a Demonstration program, and the initial acceptance of a Continuing program are processed in the same manner as described in paragraphs 17a and b.

c. Renewal of a Continuing Program. The renewal of a Continuing program is accomplished every 2 years after a review by the parties to the MOU to ensure the particular ASAP program is meeting its objectives. The renewal may be accomplished at the local CHDO level by the CHDO manager signing the MOU on behalf of the FAA. The CHDO manager shall notify the ASAP program office (AFS-230) in writing, 60 days in advance of renewing a Continuing ASAP program.

d. MOU Amendments. Any amendments to an MOU that has already been accepted must be coordinated with the FAA headquarters ASAP program office (AFS-230) prior to CHDO manager signature, unless those amendments employ the exact language contained in the MOU template on the AFS ASAP webpage. Amendments which employ such pre-approved language may be accepted by the CHDO manager without further coordination, as long as an information copy is provided to the ASAP program office.

e. Revision Control. It is recommended that the certificate holder employ standard revision control methodology with respect to amendments to the MOU. The original and subsequent revisions thereto should include:

(1) For each revision to an original MOU:

(a) A change control page, identifying the revision number;

(b) A brief synopsis of each change to the original document; and

(c) Which pages are to removed and replaced.

(2) A list of effective pages.

(3) A table of contents.

(4) On each page of the MOU, a calendar date for when that page was prepared or revised.

(5) For all revisions to an original MOU, a revision number on each page which is revised.

(6) Sequential page numbers on all pages of the MOU (except the cover page, if applicable, which shall be understood to constitute page "i").

18. RECORDKEEPING. The parties should maintain those records necessary for a program's administration and evaluation. Records submitted to the FAA for review relating to an ASAP are protected to the extent allowed by law under applicable exemptions of the Freedom of Information Act. All records and documents relating to an ASAP must be appropriately kept in a manner that ensures compliance with 14 CFR and all applicable law, including the Pilot Records Improvement Act.

19. ASAP AVIATION RULEMAKING COMMITTEE. The Administrator has determined that a government/industry forum is needed to provide the FAA with advice on FAA ASAP policy and to prepare recommendations on whether rulemaking applicable to ASAP would or would not be appropriate. Accordingly, an ASAP Aviation Rulemaking Committee (ARC) was established by FAA Order 1110.129, Aviation Safety Action Program Aviation Rulemaking Committee, issued June 20, 2001, to serve as a forum for interaction among the FAA, industry employee groups, airlines, and repair stations regarding ASAP goals, issues, and concerns. The FAA order states that the Associate Administrator for Regulation and Certification shall have the sole discretion to appoint members of the committee, and shall receive all committee recommendations and reports. The ARC shall present whatever input, guidance, and recommendations that the members of the committee consider relevant to the disposition of ASAP issues, and ultimately to the achievement of the program's safety goals.

James J. Ballough
Director, Flight Standards Service

APPENDIX 1. SAMPLE MEMORANDUM OF UNDERSTANDING

This is a sample of an Aviation Safety Action Program (ASAP) memorandum of understanding (MOU) for a flight crewmember employee group at an air carrier operating under Title 14 of the Code of Federal Regulations (14 CFR) Part 121. The sample is identical to the automated template available on the Flight Standards Service (AFS) ASAP webpage located at http://www.faa.gov/avr/afs.In order to be accepted by the Federal Aviation Administration (FAA), the MOU should address the elements of an ASAP that are set forth in FAA guidance material on which this sample is based.

EXECUTIVE STAR AIRLINES

AVIATION SAFETY ACTION PROGRAM (ASAP)
FOR PILOTS

MEMORANDUM OF UNDERSTANDING

1. GENERAL. Executive Star Airlines (ESA) is a Title 14 of the Code of Federal Regulations (14 CFR), air carrier operating under Part 121 engaged in scheduled passenger service within the U.S., Europe, Asia, and South America. ESA operates 300 aircraft, and employs approximately 5000 pilots. The pilots are represented by the Executive Pilots Labor Association (EPLA).

2. PURPOSE. The Federal Aviation Administration (FAA), ESA, and EPLA are committed to improving flight safety. Each party has determined that safety would be enhanced if there were a systematic approach for pilots to promptly identify and correct potential safety hazards. The primary purpose of the ESA Aviation Safety Action Program (ASAP) is to identify safety events, and to implement corrective measures that reduce the opportunity for safety to be compromised. In order to facilitate flight safety analysis and corrective action, ESA and EPLA join the FAA in voluntarily implementing this ASAP for pilots, which is intended to improve flight safety through pilot self-reporting, cooperative follow-up, and appropriate corrective action. This Memorandum of Understanding (MOU) describes the provisions of the program.

3. BENEFITS. The program will foster a voluntary, cooperative, nonpunitive environment for the open reporting of safety of flight concerns. Through such reporting, all parties will have access to valuable safety information that may not otherwise be obtainable. This information will be analyzed in order to develop corrective action to help solve safety issues and possibly eliminate deviations from 14 CFR. For a report accepted under this ASAP MOU, the FAA will use lesser enforcement action or no enforcement action, depending on whether it is a sole-source report, to address an event involving possible noncompliance with 14 CFR. This policy is referred to in this MOU as an "enforcement-related incentive."

4. APPLICABILITY. The ESA ASAP applies to all pilot employees of ESA and only to events that occur while acting in that capacity. Reports of events involving apparent noncompliance with 14 CFR that is not inadvertent or that appears to involve an intentional

disregard for safety, criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are excluded from the program.

a. Events involving possible noncompliance with 14 CFR by ESA that are discovered under this program may be handled under the Voluntary Disclosure Policy, provided that ESA voluntarily reports the possible noncompliance to the FAA and that the other elements of that policy are met. (See the current version of AC 00-58, Voluntary Disclosure Reporting Program, FAA Order 2150.3A, Compliance and Enforcement Program, and Compliance/Enforcement Bulletin No. 90-6.)

b. Any modifications of this MOU must be accepted by all parties to the agreement.

5. PROGRAM DURATION. This is a Demonstration Program the duration of which shall be 18 months from the date this MOU is signed by the FAA (following signature by the other parties). If the program is determined to be successful after a comprehensive review and evaluation, the parties intend for it to be a Continuing Program. This ASAP may be terminated at any time for any reason by ESA, the FAA, or any other party to the MOU. The termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action; i.e., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed. Failure of any party to follow the terms of the program ordinarily will result in termination of the program. Failure of ESA to follow through with corrective action acceptable to the FAA to resolve any safety deficiencies ordinarily will result in termination of the program.

6. REPORTING PROCEDURES. When a flight crewmember observes a safety problem or experiences a safety-related event, he or she should note the problem or event and describe it in enough detail so that it can be evaluated by a third party.

a. ASAP Report Form. At an appropriate time during the workday (e.g. after the trip sequence has ended for the day), the employee should complete ESA ASAP Form (ESA Form ASAP-1234) for each safety problem or event and submit it by company mail to the Director of Flight Safety, ATTN: ASAP Manager. If the safety event involves a deviation from an ATC clearance, the pilot should note the date, time, place, altitude, flight number, and ATC frequency, along with enough other information to fully describe the event and any perceived safety problem.

b. Time Limit. Reports that the ERC determines to be sole-source will be accepted under the ASAP, regardless of the timeframe within which they are submitted, provided that they otherwise meet the acceptance criteria of paragraphs 11a(2) and (3) of this MOU. Reports which the ERC determines to be non-sole-source must meet the same acceptance criteria, and must also be filed within one of the following two possible timeframes:

(1) Within 24 hours after the end of the flight sequence for the day of occurrence, absent extraordinary circumstances. For example, if the event occurred at 1400 hours on Monday and a pilot completes the flight sequence for that day at 1900 hours, the report should be filed no later

than 1900 hours on the following day (Tuesday). In order for all employees to be covered under the ASAP for any apparent noncompliance with 14 CFR resulting from an event, they must all sign the same report or submit separate signed reports for the same event. If the company mail system is not available to the flight crewmember at the time he or she needs to file a report, the employee may contact the ASAP manager's office and file a report via fax or telephone within 24 hours after the end of the flight sequence for the day of occurrence, absent extraordinary circumstances. Reports filed telephonically within the prescribed time limit must be followed by a formal report submission within three calendar days thereafter.

(2) Within 24 hours of having become aware of possible noncompliance with 14 CFR provided the following criteria are met: If a report is submitted later than the time period after the occurrence of an event stated in paragraph 6b(1) above, the ERC will review all available information to determine whether the flight crewmember knew or should have known about the possible noncompliance with 14 CFR within that time period. If the ERC determines that employee did not know or could not have known about the possible noncompliance with 14 CFR until informed of it, then the report would be included in ASAP, provided the report is submitted within 24 hours of having become aware of possible noncompliance with 14 CFR, and provided that the report otherwise meets the acceptance criteria of this MOU. If the employee knew or should have known about the possible noncompliance with 14 CFR, then the report will not be included in ASAP.

c. Non-reporting employees covered under this ASAP MOU. If an ASAP report identifies another covered employee in an event involving possible noncompliance with 14 CFR and that employee has neither signed that report nor submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible noncompliance with 14 CFR. If the ERC determines that the employee did not know or could not have known about the apparent possible noncompliance with 14 CFR, and the original report otherwise qualifies for inclusion under ASAP, the ERC will offer the non-reporting employee the opportunity to submit his/her own ASAP report. If the non-reporting employee submits his/her own report within 24 hours of notification from the ERC, that report will be afforded the same consideration under ASAP as that accorded the report from the original reporting employee, provided all other ASAP acceptance criteria are met. However, if the non-reporting employee fails to submit his/her own report within 24 hours of notification from the ERC, the possible noncompliance with 14 CFR by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

d. Non-reporting employees not covered under this ASAP MOU. If an ASAP report identifies another ESA employee who is not covered under this MOU, and the report indicates that employee may have been involved in possible noncompliance with 14 CFR, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ASAP and invite the employee to submit an ASAP report. If the employee submits an ASAP report within 24 hours of notification from the ERC, that report will be covered under ASAP, provided all other ASAP acceptance criteria are met. If the employee fails to submit an ASAP report within 24 hours of notification from the

ERC, the possible noncompliance with 14 CFR by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement agencies, if warranted.

7. POINTS OF CONTACT. The ERC will be comprised of one representative from ESA management; one representative from the EPLA; and one FAA inspector assigned as the ASAP representative from the Certificate Holding District Office (CHDO) for ESA; or their designated alternates in their absence. In addition, the ESA Safety Department will designate one person who will serve as the ASAP manager. The ASAP manager will be responsible for program administration, and will not serve as a voting member of the ERC.

8. ASAP MANAGER. When the ASAP manager receives the report, he or she will record the date and time of any event described in the report and the date and time the report was submitted through the company mail system. The ASAP manager will enter the report, along with all supporting data, on the agenda for the next ERC meeting. The ERC will determine whether a report is submitted in a timely manner or whether extraordinary circumstances precluded timely submission. To confirm that a report has been received, the ASAP manager will send a written receipt through the company mail system to each employee who submits a report. The receipt will confirm whether or not the report was determined to be timely. The ASAP manager will serve as the focal point for information about, and inquiries concerning the status of, ASAP reports, and for the coordination and tracking of ERC recommendations.

9. EVENT REVIEW COMMITTEE (ERC). The ERC will review and analyze reports submitted by the pilots under the program, identify actual or potential safety problems from the information contained in the reports, and propose solutions for those problems. The ERC will provide feedback to the individual who submitted the report.

a. The ASAP manager will maintain a database that continually tracks each event and the analysis of those events. The ERC will conduct a 12-month review of the ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for corrective action for recurring events indicative of adverse safety trends.

b. This review is in addition to any other reviews conducted by the FAA. The ERC will also be responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report with the certificate holder's application to the FAA 60 days in advance of the termination date of the demonstration program.

10. ERC PROCESS.

a. The ERC will meet as necessary to review and analyze reports that will be listed on an agenda submitted by the ASAP manager. The ERC will determine the time and place of the meeting. The ERC will meet at least twice a month and the frequency of meetings will be determined by the number of reports that have accumulated or the need to acquire time critical information.

b. The ERC will make its decisions involving ASAP issues based on consensus. Under the ESA ASAP, consensus of the ERC means the voluntary agreement of all representatives of the ERC. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety. In order for this concept to work effectively, each ERC representative shall be empowered to make decisions within the context of the ERC discussions on a given report. The ERC representatives will strive to reach consensus on whether a reported event is covered under the program, how that event should be addressed, and the corrective action or any enforcement action that should be taken as a result of the report. For example, the ERC should strive to reach a consensus on the recommended corrective action to address a safety problem such as an operating deficiency or airworthiness discrepancy reported under ASAP. The corrective action process would include working the safety issue(s) with the appropriate departments at the airline and the FAA that have the expertise and responsibility for the safety area of concern. Recognizing that the FAA holds statutory authority to enforce the necessary rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in Title 49, United States Code, and FAA Order 2150.3A. In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation(s), a qualification issue, or medical certification or medical qualification issue, the FAA ERC representative will decide how the report should be handled. The FAA will not use the content of the ASAP report in any subsequent enforcement action, except as described in paragraph 11a(3) of this MOU.

c. It is anticipated that three types of reports will be submitted to the ERC: safety-related reports that appear to involve a possible noncompliance with 14 CFR; reports that are of a general safety concern, but do not appear to involve possible noncompliance with 14 CFR; and any other reports, e.g., involving catering and passenger ticketing issues. All safety-related reports shall be fully evaluated and, to the extent appropriate, investigated.

d. The ERC will forward non-safety reports to the appropriate ESA department head for his/her information and, if possible, internal (ESA) resolution. For reports related to flight safety, including reports involving possible noncompliance with 14 CFR, the ERC will analyze the report, conduct interviews of reporting crewmembers, and gather additional information concerning the matter described in the report, as necessary.

e. The ERC should also make recommendations to ESA for corrective action for systemic issues. For example, such corrective action might include changes to ESA flight operations procedures, aircraft maintenance procedures, or modifications to the training curriculum for crewmembers. Any recommended changes that affect ESA will be forwarded through the ASAP manager to the appropriate department head for consideration and comment, and, if appropriate, implementation. The FAA will work with ESA to develop appropriate corrective action for systemic issues. The ASAP manager will track the implementation of the recommended corrective action and report on associated progress as part of the regular ERC meetings. Any recommended corrective action that is not implemented should be recorded along with the reason it was not implemented.

f. When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue. The ERC will work with the Regional Flight Surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or medical qualification issue(s) revealed in an ASAP report.

g. Any corrective action recommended by the ERC for a report accepted under ASAP must be completed to the satisfaction of all members of the ERC, or the ASAP report will be excluded from the program, and the event will be referred to the FAA for further action, as appropriate.

h. Use of the ESA ASAP Report: Neither the written report nor the content of the written ASAP report will be used to initiate or support any company disciplinary action, or as evidence for any purpose in an FAA enforcement action, except as provided in paragraph 11a(3) of this MOU. The FAA may conduct an independent investigation of an event disclosed in a report.

11. FAA ENFORCEMENT.

a. Criteria for Acceptance. The following criteria must be met in order for a report to be covered under ASAP:

(1) The employee must submit the report in accordance with the time limits specified under paragraph 6 of this MOU;

(2) Any possible noncompliance with 14 CFR disclosed in the report must be inadvertent and must not appear to involve an intentional disregard for safety; and,

(3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Reports involving those events will be referred to an appropriate FAA office for further handling. The FAA may use the content of such reports for any enforcement purposes and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ASAP. Such referred back reports will be accepted under ASAP provided they otherwise meet the acceptance criteria contained herein.

b. Administrative Action. Notwithstanding the criteria in paragraph 205 of FAA Order 2150.3A, possible noncompliance with 14 CFR disclosed in a non-sole-source ASAP report that is covered under the program and supported by sufficient evidence will be addressed with administrative action (i.e., a FAA Warning Notice or FAA Letter of Correction, as appropriate). Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. There must be sufficient evidence to prove the violation, other than the individual's safety-related report. In order to be considered sufficient evidence under ASAP, the ERC must determine through consensus that the evidence

(other than the individual's safety-related report) would likely have resulted in the processing of a FAA enforcement action had the individual's safety-related report not been accepted under ASAP. Accepted non sole-source reports for which there is not sufficient evidence will be closed with a FAA Letter of No Action.

c. Sole-Source Reports. A report is considered a sole-source report when all evidence of the event is discovered by or otherwise predicated on the report. Apparent violations disclosed in ASAP reports that are covered under the program and are sole-source reports will be addressed with an ERC response (no FAA action). It is possible to have more than one sole-source report for the same event.

d. Reports Involving Qualification Issues. ESA ASAP reports covered under the program that demonstrate a lack, or raise a question of a lack, of qualification of a certificate holder employee will be addressed with corrective action, if such action is appropriate and recommended by the ERC. If an employee fails to complete the corrective action in a manner satisfactory to all members of the ERC, then his/her report will be excluded from ASAP. In these cases, the ASAP event will be referred to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate.

e. Excluded from ASAP. Reported events involving possible noncompliance with 14 CFR that are excluded from ASAP will be referred by the FAA ERC member to an appropriate office within the FAA for any additional investigation and re-examination and/or enforcement action, as appropriate.

f. Corrective Action. Employees initially covered under an ASAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action in a manner satisfactory to all members of the ERC. Failure of an employee to complete the ERC recommended corrective action in a manner satisfactory to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action.

g. Repeated Instances of Noncompliance with 14 CFR. Reports involving the same or similar possible noncompliance with the Regulations that were previously addressed with administrative action under ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria in paragraph 6 above. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.

h. Closed Cases. A closed ASAP case including a related enforcement investigative report involving a violation addressed with the enforcement-related incentive, or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program.

12. EMPLOYEE FEEDBACK. The ASAP manager will publish a synopsis of the reports received from flight crewmembers in the ASAP section of the monthly publication *Executive Update*. The synopsis will include enough information so that the pilots can identify their reports. Employee names, however, will not be included in the synopsis. The outcome of each

report will be published. Any employee who submitted a report may also contact the ASAP manager to inquire about the status of his/her report. In addition, each employee who submits a report accepted under ASAP will receive individual feedback on the final disposition of the report.

13. INFORMATION AND TRAINING. The details of the ASAP will be made available to all flight crewmembers and their supervisors by publication in the ESA *Executive Operations Manual*. Each ESA flight crewmember and manager will receive written guidance outlining the details of the program at least 2 weeks before the program begins. Each flight crewmember will also receive additional instruction concerning the program during the next regularly scheduled recurrent training session, and on a continuing basis in recurrent training thereafter. All new-hire flight crewmember employees will receive training on the program during initial training.

14. REVISION CONTROL. Revisions to this MOU shall be documented using standard revision control methodology.

15. RECORDKEEPING. All documents and records regarding this program will be kept by the ESA ASAP manager and made available to the other parties of this agreement at their request. All records and documents relating to this program will be appropriately kept in a manner that ensures compliance with 14 CFR and all applicable law (including the Pilot Records Improvement Act). The EPLA and the FAA will maintain whatever records they deem necessary to meet their needs.

16. SIGNATORIES. All parties to this ASAP are entering into this agreement voluntarily.

_____ _____
President, Executive Pilots Labor Association Date

_____ _____
Director of Flight Safety, Executive Star Airlines Date

_____ _____
Manager, FAA CHDO Date
For Executive Star Airlines

APPENDIX 2. ASAP MOU CHECKLIST

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU PARAGRAPH REFERENCE
1	Does this program involve a Part 121 Air Carrier or Part 145 Major Domestic Repair Station?	Yes No NA	
2	Is this ASAP:		
a	Specific to an employee group(s)?	Yes No NA	
b	A Demonstration program?	Yes No NA	
c	An Extension of a Demonstration program?	Yes No NA	
d	A Continuing program?	Yes No NA	
e	A renewal of a Continuing program?	Yes No NA	
3	Is the duration of the program limited to the period of time needed to achieve the desired goals and benefits articulated in the program? Demonstration programs initially should have a duration of no longer than 18 months and should be reviewed prior to renewal. Demonstration programs that undergo changes after their initial review may be extended for no longer than 12 months. Programs that are classified as Continuing must be reviewed and renewed every 2 years.	Yes No NA	
4	Have all parties to the ASAP entered into this agreement voluntarily?	Yes No NA	
5	Is there a description of the objective(s) of the program which includes:		
a	The essential safety information that is reasonably expected to be obtained through the program?	Yes No NA	
b	Any specific safety issues that are of a concern to any of the parties?	Yes No NA	
c	The benefits to be gained through the use of the program?	Yes No NA	
6	Is there a description of any enforcement-related incentive that is needed to achieve the desired goal and results of the program?	Yes No NA	
7	Is there a statement that all safety-related reports shall be fully evaluated and, to the extent appropriate, investigated by the ERC?	Yes No NA	
8	Is there a description of the manner in which ASAP records and reports shall be kept that ensures compliance with 14 CFR, the Pilot Records Improvement Act (PRIA), and any other applicable law?	Yes No NA	

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU PARAGRAPH REFERENCE
9	Is there a description of the process for timely reporting to the ERC all events disclosed under the program?	Yes No NA	
10	Is there a description of the procedures that provide for:		
a	The resolution of safety-related events?	Yes No NA	
b	Continuous tracking of those events?	Yes No NA	
c	The analysis of safety-related events?	Yes No NA	
11	Is there a statement of ASAP report acceptance and exclusion criteria?	Yes No NA	
12	Is there a description of the frequency of periodic reviews by the parties to determine whether the program is achieving the desired results? (These reviews are in addition to any other review conducted by the FAA or any other party individually).	Yes No NA	
13	Are the point(s) of contact responsible for oversight of the program identified for each party?	Yes No NA	
14	Is there a description of the process for training and distributing information about the program to certificate holder management and employees and procedures for providing feedback to individuals who make safety-related reports under the program?	Yes No NA	
15	Is there a statement that modifications to the MOU must be accepted by all parties?	Yes No NA	
16	Is there a statement that termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action, e.g., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed.	Yes No NA	
17	Is there a statement that the program can be terminated at any time, by any party?	Yes No NA	
18	Is there a statement that failure of any party to follow the terms of the agreement ordinarily will result in termination of the program?	Yes No NA	
19	Is there a statement that failure of a certificate holder to follow through with corrective action acceptable to FAA, to resolve any safety deficiencies, will ordinarily result in termination of the program?	Yes No NA	
20	Is there a detailed description of the following concepts and how they will be used:		

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU PARAGRAPH REFERENCE
a	Event Review Committee?	Yes No NA	
b	Consensus of the ERC?	Yes No NA	
c	Sole-source reporting?	Yes No NA	
d	Sufficient evidence?	Yes No NA	
e	Enforcement-related incentive?	Yes No NA	
21	Is there a statement that repeated instances involving the same or similar possible noncompliance with 14 CFR previously addressed with administrative action under the ASAP will be covered under the program, provided that they otherwise meet the acceptance criteria of ASAP? (The determination of appropriate corrective action for such events will be made by the ERC on a case-by-case basis.)	Yes No NA	
22	Does the ASAP include an MOU procedure to identify the date, time, location or fix, altitude, flight number, and ATC frequency at the time the event occurred? (This applies to ASAP MOUs that contain provisions for ATC events.)	Yes No NA	
23	Is there a statement that employees initially covered under an ASAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action in a manner satisfactory to all members of the ERC? (These cases may result in the reopening of the case and referral of the matter for appropriate action.)	Yes No NA	
24	Is there a statement that any safety-related ASAP event that concerns an apparent violation(s) that is EXCLUDED from ASAP, will be referred by the FAA ERC representative to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate?	Yes No NA	
25	Is there a statement that a closed ASAP case, including a related EIR, that involves a violation addressed with administrative action or for which no action has been taken, may be reopened if evidence is later discovered that establishes the event should have been excluded from the program?	Yes No NA	

NO.	ITEM	RESPONSE (Circle Yes, No, or NA)	MOU PARAGRAPH REFERENCE
26	Is there a statement that when the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue? (The ERC will work with the Regional Flight Surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or medical qualification issue(s) revealed in an ASAP report.)	Yes No NA	
27	Is there a statement that reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes and will refer such reports to law enforcement agencies, as appropriate.	Yes No NA	

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Advisory Circular

Subject: Voluntary Disclosure Reporting Program | **Date:** 9/8/06 | **AC No:** 00-58A
Initiated by: AFS-230

1. PURPOSE.

a. This advisory circular (AC) provides information and guidance material that may be used by a certificate holder, qualified fractional ownership programs (as defined in paragraph 5e of this AC), or a Production Approval Holder (PAH) operating under Title 14 of the Code of Federal Regulations (14 CFR) when voluntarily disclosing to the Federal Aviation Administration (FAA) apparent violations of those FAA regulations listed in paragraph 3. The procedures and practices outlined in this AC can be applied to the maintenance, flight operations, anti-drug and alcohol misuse prevention programs, and to the manufacturing functions of the PAH's organization. The procedures and practices outlined in this AC cannot be applied to those persons who are required to report failures, malfunctions, and defects under 14 CFR part 21, section 21.3 and who do not make those reports in the timeframe required by the regulations.

b. Certificate holders, qualified fractional ownership programs, and PAHs are encouraged, but not required, to develop internal evaluation programs that continually monitor company policies and procedures and ensure that the highest level of safety and security compliance is maintained. They may voluntarily disclose apparent violations of 14 CFR covered by this program in accordance with the procedures in this AC even though an internal evaluation program has not been established. Guidance on internal evaluation programs is contained in the current edition of AC 120-59, Air Carrier Internal Evaluation Programs.

2. CANCELLATION. AC 00-58, Voluntary Disclosure Reporting Program, dated May 4, 1998, is canceled.

3. RELATED REGULATIONS. Title 14 CFR parts 21, 119, 121, 125, 129, 133, 135, 137, 141, 142, 145, 147 and, for qualified fractional ownership programs operating under part 91, subpart K, those portions of part 91 pertaining directly to the duties and responsibilities of the program manager, as defined in part 91, subpart K or management specifications (MSpecs).

a. Voluntary disclosure of violations of Title 49 of the Code of Federal Regulations (49 CFR) part 175 (HAZMAT) should be accomplished in accordance with AC 121-37, Voluntary Disclosure Reporting Program—Hazardous Materials.

b. Except as specified in paragraph 14 of this AC, the Voluntary Disclosure Reporting Program does not apply to violations by individual airmen.

4. BACKGROUND. Civil penalties, under the FAA's enforcement program, have always been considered a means to promote compliance with the FAA's regulations, not an end in themselves. In addition to the deterrence achieved by the appropriate use of civil penalties, the public interest is also served by positive incentives to promote and achieve compliance. Indeed, the FAA believes that aviation safety is well served by incentives for certificate holders, qualified fractional ownership programs, and PAHs to identify and correct their own instances of noncompliance and to invest more resources in efforts to preclude their recurrence. The FAA's policy of forgoing civil penalty actions when one of these entities detects violations, promptly discloses the violations to the FAA, and takes prompt corrective action to ensure that the same or similar violations do not recur is designed to encourage compliance with the FAA's regulations, foster safe operating practices, and promote the development of internal evaluation programs.

5. KEY TERMS. The following key terms and phrases are defined to ensure a standard interpretation and understanding of the FAA's voluntary disclosure policy.

a. Evidence. For the purpose of voluntary disclosure, evidence generally should be in the form of written documentation or reports that support a certificate holder's, qualified fractional ownership program's, or PAH's analysis of the disclosed apparent violation and the resulting elements of the proposed comprehensive fix. Evidence generally comes from the following four elements:

(1) Documents or manuals reviewed.

(2) Equipment examined.

(3) Activities observed.

(4) Interview data.

b. Comprehensive Fix.

(1) A comprehensive fix is an action, or actions, proposed by the certificate holder, qualified fractional ownership program, or PAH and accepted by the principal inspector (PI) (see definition in paragraph 5d) to preclude recurrence of the apparent violation that has been voluntarily disclosed under this program.

(2) A schedule of the dates and events encompassed by the comprehensive fix must be established and included in a letter of correction.

c. Satisfactory Fix. A satisfactory fix is a comprehensive fix, in which all corrective measures have been completed on schedule and are satisfactory to the FAA.

d. PI. Under the Voluntary Disclosure Reporting Program (VDRP), PI refers to the appropriate maintenance, avionics, operations inspector, or other designated FAA official of the program office responsible for oversight of the area of noncompliance involved in the disclosure.

NOTE: The designated FAA official for voluntary disclosure concerning anti-drug and alcohol misuse prevention program violations is the Branch Manager, Compliance and Enforcement Branch, Drug Abatement Division, FAA Headquarters.

e. Qualified Fractional Ownership Programs. Fractional ownership programs are defined in part 91, subpart K and associated MSpecs. Participation in the VDRP by a fractional ownership program is limited by the following:

(1) Only program managers authorized in accordance with part 91, subpart K and MSpecs, may participate in the VDRP.

(2) Voluntary disclosures of apparent violations by a fractional ownership program may only be submitted by the program manager, or an authorized representative.

(3) Voluntary disclosures by fractional ownership programs are limited to apparent violations pertaining directly to the duties and responsibilities of the program manager, as defined in part 91, subpart K and MSpecs.

6. VOLUNTARY DISCLOSURE POLICY. The FAA believes that the open sharing of apparent violations and a cooperative as well as an advisory approach to solving problems will enhance and promote aviation safety. Certificate holders, qualified fractional ownership programs, and PAHs will receive a letter of correction in lieu of civil penalty action for covered instances of noncompliance that are voluntarily disclosed to the FAA in accordance with the procedures set forth in this AC. Once the letter of correction is issued, the case will be considered closed unless the agreed-upon comprehensive fix is not satisfactorily completed by the appropriate entity.

a. In evaluating whether an apparent violation is covered by this policy, the FAA will ensure that the following five conditions are met:

(1) The certificate holder, qualified fractional ownership program, or PAH has notified the FAA of the apparent violation immediately after detecting it and before the Agency has learned of it by other means.

(2) The apparent violation was inadvertent.

(3) The apparent violation does not indicate a lack, or reasonable question, of qualification of the certificate holder, qualified fractional ownership program, or PAH.

(4) Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation.

(5) The certificate holder, qualified fractional ownership program, or PAH has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. The comprehensive fix includes a followup self-audit to ensure that the action taken corrects the noncompliance. This self-audit is in addition to any audits conducted by the FAA.

b. Except as specified in paragraph 7c below, the FAA ordinarily will not forgo legal enforcement action if the certificate holder, qualified fractional ownership program, or PAH informs the FAA of the apparent violation during, or in anticipation of, an FAA investigation/inspection or in association with an accident or incident.

c. The procedures to be followed when applying the voluntary disclosure policy are further described in the following paragraphs.

7. PHASE I: NOTIFICATION TO THE FAA OF AN APPARENT VIOLATION. Except as specified below, the voluntary disclosure policy applies only when notification of an apparent violation is made to the FAA by the certificate holder, qualified fractional ownership program, or PAH immediately after the apparent violation has been discovered by that regulated entity, and before the FAA learns of the apparent violation by some other means.

a. Use of the Web-Based VDRP for Notification of an Apparent Violation. For authorized users of the Web-based VDRP, notification will normally be made via this Web tool (see Appendix 1).

(1) For regulated entities authorized use of the Web-based VDRP, submission of a voluntary disclosure via the Web-based VDRP system will result in automated notification of the PIs assigned to that certificate.

(2) The Web-based VDRP system contains provisions for indicating that the notification process was begun via another media. When acceptable to the PI, initial notice by an authorized user of the Web-based VDRP may be submitted orally, via a written hardcopy, or by electronic copy; provided, the regulated entity enters the initial notification data via the Web-based VDRP system within 72 hours of the original notification. However, compliance with the 10- (or 30-) day limit for submission of the written report will be based on the date of the original notification, regardless of the submission means or media.

> **NOTE: For regulated entities not yet authorized use of the Web-based VDRP, the notification of an apparent violation will be submitted orally, via a written hardcopy, or by electronic copy. The format for written voluntary disclosures by regulated entities not authorized use of the Web-based VDRP is provided in Appendix 2.**

b. Notification by the Certificate Holder, Fractional Ownership Program, or the PAH of an Apparent Violation. When a certificate holder, fractional ownership program, or PAH notifies the FAA of an apparent violation, contact must be made with, or directed to, the appropriate PI. It is FAA policy that initial notification should be accomplished on a timely basis, ordinarily within 24 hours of the discovery of the apparent violation. However, an inspector may accept disclosures that exceed the 24 hour policy when the inspector determines that a later submission is justified based on the specific circumstances, and in view of those circumstances, the submission is still considered timely. For example, a voluntary disclosure based on a company violation revealed in an Aviation Safety Action Program (ASAP) report may require more that 24 hours from the submission of that ASAP report in order for the responsible company entity to become aware of the information in the report and to initiate a voluntary disclosure. The FAA retains sole discretion in determining whether a voluntary

disclosure received later than 24 hours after discovery of the violation is timely. The certificate holder, fractional ownership program, or PAH should therefore not delay notification for any reason, and should address, to the maximum extent possible, the following items with the PI:

(1) A brief description of the apparent violation, including an estimate of the duration of time that it remained undetected, as well as how and when it was discovered.

(2) Verification that noncompliance ceased after it was identified.

(3) A brief description of the immediate action taken after the apparent violation was identified, the immediate action taken to terminate the conduct that resulted in the apparent violation, and the person responsible for taking the immediate action.

(4) Verification that an evaluation is underway to determine if there are any systemic problems and a description of the corrective steps necessary to prevent the apparent violation from recurring.

(5) Identification of the person responsible for preparing the comprehensive fix.

(6) Acknowledgment that a detailed written report will be provided to the PI within 10 working days.

NOTE: In the case of voluntary disclosures submitted via the Web-based VDRP, notification of the PI is accomplished by the program upon submission of the voluntary disclosure by the regulated entity. No further notification is required of the regulated entity.

c. Exceptions. If the FAA has learned of an apparent violation by a certificate holder, fractional ownership program, or PAH from an ASAP report as described in the current edition of AC 120-66, Aviation Safety Action Program, a voluntary disclosure can still be accepted by the FAA, even though the FAA has already learned of the violation from the ASAP. Similarly, if a regulated entity voluntarily agrees to conduct a joint audit (inspection) with the FAA during which an apparent violation is discovered either by the company or FAA members of the audit (inspection) team, the FAA may accept a voluntary disclosure submitted by the company, even though the FAA has already learned of the apparent violation during the course of the joint audit (inspection).

8. PHASE II: FAA RESPONSE TO CERTIFICATE HOLDER, FRACTIONAL OWNERSHIP PROGRAM, OR PAH NOTIFICATION. The PI responds with a written or electronic acknowledgment of the entity's initial notification. This acknowledgment includes the request for a written report and is sent in lieu of a letter of investigation; provided, the written report is completed in accordance with the voluntary disclosure reporting procedures set forth in this AC and Appendixes 1 and 2. The PI will open an Enforcement Investigative Report (EIR) that will be closed out with a letter of correction, following satisfactory development of a comprehensive fix and schedule of implementation agreed upon by the FAA and the entity.

NOTE: When the regulated entity has submitted the voluntary disclosure via the Web-based VDRP, action on the voluntary disclosure by the PI results in an

automated electronic reply to the regulated entity and an automated opening of the Enforcement Investigative Report (EIR).

9. PHASE III: WRITTEN REPORT OF CERTIFICATE HOLDER, FRACTIONAL OWNERSHIP PROGRAM, OR PAH'S APPARENT VIOLATION. The written report should be provided to the PI, by the regulated entity, within 10 working days after the initial notification was made. A sample format for this report is provided as Appendix 2. In summary, the written report should include the following information:

a. A list of the specific FAA regulations that may have been violated.

b. A description of the apparent violation, including the duration of time it remained undetected, as well as how and when it was detected.

c. A description of the immediate action taken to terminate the conduct that resulted in the apparent violation, including when it was taken, and who was responsible for taking the action.

d. An explanation that shows the apparent violation was inadvertent.

e. Evidence that demonstrates the seriousness of the apparent violation and the regulated entity's analysis of that evidence.

f. A detailed description of the proposed comprehensive fix, outlining the planned corrective steps, the responsibilities for implementing those corrective steps, and a time schedule for completion of the fix. If a proposed comprehensive fix is not fully developed within 10 working days, the pertinent regulated entity should provide at least an overview of its comprehensive fix plans in a written report submitted within 10 working days after the initial notification was made. In any event, a detailed description of the comprehensive fix should be submitted within 30 calendar days after initial notification.

g. Identification of the company official responsible for monitoring the implementation and completion of the comprehensive fix.

10. PHASE IV: WRITTEN REPORT REVIEW BY THE FAA. The FAA works with the certificate holder, fractional ownership program, or PAH to ensure that the regulated entity has identified any root causes and systemic issues which led to the apparent violation. This collaboration helps to ensure that the corrective actions contained in the comprehensive fix are acceptable to the FAA.

11. PHASE V: IMPLEMENTATION OF A COMPREHENSIVE FIX AND FAA SURVEILLANCE.

a. During the implementation period, the FAA and the pertinent regulated entity should continue to work together. The FAA may advise and assist the entity in correcting any identified systemic problems. Changes will be made to the proposed comprehensive fix when the need is identified. Upon determining that the initial implementation of the comprehensive fix is satisfactory, the PI will issue a letter of correction. Should a change to the comprehensive fix be identified after issuance of the letter of correction, the PI will issue an amendment to the letter of correction that reflects this change.

b. The FAA monitors the implementation of the corrective steps. Throughout the implementation period, the FAA assesses the pertinent regulated entity's corrective efforts and top management's awareness of these efforts. If, during this period, the FAA determines that the steps taken by the entity are not those documented in the comprehensive fix, the letter of correction may be rescinded, the investigative report may be reopened, and appropriate legal enforcement action may be initiated.

12. PHASE VI: INSPECTOR SIGNOFF. At the conclusion of the implementation period, the PI makes a final assessment. If all elements of the comprehensive fix have been adequately accomplished, the PI finds the fix satisfactory and closes the case. The case remains subject to reopening in the event that the agreed-upon actions, outlined in the comprehensive fix, are not completed to the satisfaction of the FAA. A statement of follow-up investigation, confirming that the comprehensive fix was satisfactorily implemented and completed, is prepared to complete the FAA's investigative package.

a. The PI has the authority to close the case. Consultation with regional specialists, legal counsel, or other FAA personnel may be accomplished when deemed appropriate by the PI.

b. Following completion of the agreed-upon corrective action(s), the certificate holder, fractional ownership program, or PAH conducts a self-audit to ensure that the action taken remedies the problem that gave rise to the apparent violation.

c. If, following FAA closure of the investigative package resulting from a voluntary disclosure, the same or similar violations are discovered to have occurred prior to submission of the associated voluntary disclosure, the FAA does not reopen the case unless it determines that the pertinent regulated entity failed to comply with all the elements of the comprehensive fix agreed upon by the FAA and the entity.

13. DISPUTE RESOLUTION. When disputes occur regarding the acceptance of a proposed comprehensive fix, or a modification thereto before the fix is considered satisfactory, the PI and the pertinent regulated entity may request that the issue be resolved at the next level of management within the FAA. This procedure will provide for an independent assessment of the areas in disagreement.

14. SEPARATE ACTIONS AGAINST AIRMEN OR OTHER INDIVIDUAL AGENTS.

a. The voluntary disclosure policy applies to individual airmen or other agents of an employing certificate holder, fractional ownership program, or PAH when the following occurs:

(1) The apparent violation involves a deficiency of the employing entity's practices or procedures that causes the employing certificate holder, fractional ownership program, or PAH to be in violation of a covered violation of an FAA regulation.

(2) The airman or other agent of the employing entity, while acting on behalf of the employing entity, inadvertently violates the FAA's regulations as a direct result of a deficiency of the employing entity that causes the employing entity to be in violation of the regulations. (The voluntary disclosure policy does not apply to the airman or other agent when his/her apparent violation is the result of actions unrelated to the employing entity's deficiency).

(3) The airman or other agent immediately makes the report of his/her apparent violation to the employing entity.

(4) The employing certificate holder, fractional ownership program, or PAH immediately notifies the FAA of both the airman or other agent's apparent violation and the apparent deficiency in its practice or procedures.

b. When all the above conditions are met, a separate EIR is opened for the individual and closed with no more than administrative action in accordance with the current edition of Order 2150.3, Compliance and Enforcement Program.

c. If all the above conditions are not met, the PI will review all facts associated with the case and determine what action is appropriate for individual airmen or other agents of the employing entity.

d. This provision does not apply to matters concerning qualifications to hold an airman certificate.

e. Special provisions exist for apparent violations by certificate holders, fractional ownership programs, or a PAH, when a voluntary disclosure is made based on information in an ASAP report. In such cases, the FAA may, at its sole discretion, accept the corrective action recommended by an ASAP Event Review Committee (ERC) for an accepted ASAP report as the comprehensive fix for the voluntary disclosure. This is acceptable when the following conditions all apply (even when an apparent employee qualification or competency issue is involved):

(1) The FAA determines that the violation is due entirely to the actions of the employee(s) and not to a systematic or procedural deficiency of the company; and

(2) The employee completes the corrective action recommended by the ASAP ERC to the satisfaction of the FAA.

15. APPLICABILITY OF THE FREEDOM OF INFORMATION ACT (FOIA) TO SELF-DISCLOSURE RECORDS. Records submitted to the FAA for review pursuant to this voluntary self-disclosure program, including information submitted using the Web-based VDRP tool (Appendix 1), are protected from release to the public in accordance with the provisions of part 193 and FAA Order 8000.89, Designation of Voluntary Disclosure Reporting Program (VDRP) Information as Protected from Public Disclosure under 14 CFR Part 193.

16. REPEATED VIOLATIONS. If a repeated violation occurs, notwithstanding the fact that a comprehensive fix was satisfactorily completed and followed, the procedures outlined in this AC may apply to the disclosure of the repeated violation. Upon consideration of the facts and circumstances surrounding the repeated violation, the FAA will determine on a case-by-case basis whether a repeated violation will be covered under this policy. Regulated entities and PIs are encouraged to evaluate the systemic issues and circumstances surrounding each apparent violation. This is particularly important when citing a common regulation. Depending upon the specific circumstances associated with the event, citations of a common regulation may not necessarily be indicative of a common systemic failure.

17. CONCLUSION. Development of internal evaluation programs should help to ensure that any apparent violations are promptly identified, corrected, and reported to the FAA. While not required, the FAA strongly encourages certificate holders, fractional ownership programs, and PAHs, to make internal evaluation programs an integral part of their everyday management process so that the full benefits of voluntary disclosure can be realized. Aviation safety is served by programs that allow certificate holders, fractional ownership programs, and PAH's to identify and correct their own instances of noncompliance and invest more resources in efforts to preclude their recurrence.

ORIGINAL SIGNED BY
James J. Ballough
Director, Flight Standards Service

APPENDIX 1. USE OF THE WEB-BASED VDRP TOOL FOR SUBMISSIONS OF VOLUNTARY DISCLOSURES

Authorized Users: Use of the Web-based Voluntary Disclosure Reporting Program (VDRP) tool will initially be limited to certificated air carriers. Subsequent revisions to the Web tool will provide access to other authorized users. Announcements relating to expansion of access to other users are available at http://av-info.faa.gov/vdrp.

Effective December 8, 2006, voluntary disclosures by air carriers must be processed utilizing the above referenced Internet application, even if initial notification to the Federal Aviation Administration (FAA) is accomplished by other means. This Web-based application offers an automated interface for regulated entities and FAA inspectors to accomplish the voluntary disclosure process virtually paper-free. In addition, the Web-based VDRP provides enhanced capabilities for tracking and managing voluntary disclosures, while protecting all submissions in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 193 and Order 8000.89, Designation of Voluntary Disclosure Reporting Program (VDRP) Information as Protected from Public Disclosure under 14 CFR Part 193.

VDRP Web Address (URL): http://av-info.faa.gov/vdrp

1. GENERAL INFORMATION.

a. The Web-based VDRP is accessible anywhere with an Internet connection, on a 24-hour, 7-day-a-week basis, subject to access privileges granted in accordance with paragraph 3(b) below.

b. Internal tracking and email alerts simplify management of voluntary self-disclosures.

c. Online data entry provides a streamlined and automated VDRP process.

(1) No software to download or install.

(2) Secure: Only authenticated users can access VDRP system. All transactions are encrypted using 128 bit Secure Socket Layer (SSL) technology.

2. USER RESPONSIBILITIES.

a. Regulated Entities. A regulated entity is responsible for submitting the voluntary disclosure, completing the written report, and implementing corrective actions satisfactory to the principal inspector (PI).

b. FAA Inspectors. A PI, or his/her designee, is assigned to a voluntary disclosure. The assigned inspector is responsible for reviewing and accepting (or declining) submissions from the regulated entity (i.e., initial notification, written report and any revisions to the written report/corrective actions). In addition, the PI will issue a Letter of Correction (or other administrative action, as appropriate), while confirming implementation of the corrective actions agreed upon with the regulated entity. The PI will close the VDRP file upon satisfactory implementation of the corrective action(s), or open an enforcement investigation if the regulated entity should fail to implement the corrective action as detailed in the Letter of Correction.

3. USER LOGIN.

a. FAA Inspector. Login information will be provided via internal channels.

b. Regulated Entity. Contact your FAA certificate-holding office to obtain access information.

4. USER SUPPORT.

a. VDRP Online Help. Provides context sensitive help for every Web form of the application. Online help is available within the Web-based application.

b. VDRP Users Guide. Contains detailed explanation of the VDRP web application, descriptions of VDRP terms, functions and features of VDRP. This is available at the VDRP Web site.

c. AVS Central Support. Provides answers to VDRP related questions and support to solve any VDRP related problems. Call AVS support central for trained personnel to aid users of the Web-based VDRP system.

(1) Hours of operation: 6:00 a.m. – 5:00 p.m. CST Monday through Friday.

(2) Telephone number: Toll-free at (866) 285-4942 or at 405-954-7272.

(3) E-mail address: 9-AMC-AVS-Support-Central@faa.gov.

APPENDIX 2. SAMPLE WRITTEN REPORT FORMAT TO BE FOLLOWED BY REGULATED ENTITIES NOT AUTHORIZED USE OF THE WEB-BASED VDRP

The following sample is only a suggested format to be followed when preparing the written report that will be submitted to the Federal Aviation Administration (FAA). While a certificate holder, qualified fractional ownership program (as defined in paragraph 5e of this AC), or Production Approval Holder (PAH) should include at least all the elements specified below, the structure of the written report can be modified by the regulated entity to fit its particular needs.

1. GENERAL.

a. Date.

b. Certificate type or equivalent.

c. Pertinent regulated entity number or equivalent.

d. Company name.

e. Company address.

f. Company official filing report.

(1) Name.

(2) Position.

(3) Telephone number.

(4) E-mail address.

2. DESCRIPTION OF APPARENT VIOLATION.

a. Applicable part of Title 14 of the Code of Federal Regulations.

b. Date apparent violation was discovered.

c. Location of discovery.

d. Company official who discovered the apparent violation.

(1) Name.

(2) Position.

(3) Telephone number.

(4) E-mail address.

e. Date and time of initial notification to the FAA.

f. Name of FAA official notified (principal inspector (PI)).

g. Company official responsible for immediate action.

(1) Name.

(2) Position.

(3) Telephone number.

(4) E-mail address.

h. Duration of time apparent violation remained undetected—hours, cycles, or days.

3. SUMMARY OF APPARENT VIOLATION. The summary should be a brief statement that describes the nature of the apparent violation and identifies the specific aircraft, engines, appliances, facilities, checkpoint, gate, cargo, and/or individuals associated with the apparent violation.

4. IMMEDIATE ACTION.

a. When immediate action was taken.

b. Description of immediate action. This description should outline the immediate steps that were taken to cease the violative action.

c. Company official responsible for immediate action.

(1) Name.

(2) Position.

(3) Telephone number.

(4) E-mail address.

5. ANALYSIS.

a. Summary of evidence. This summary should describe the scope of the apparent violation and explain how it was detected. In addition, conclusions reached regarding possible or probable systemic deficiencies (i.e., who, what, when, why, and how the noncompliance occurred) should be described.

b. Reasons why the apparent violation was inadvertent.

c. Supporting documentation. The evidence associated with the apparent violation should be attached. This evidence should include a statement regarding how the certificate holder, qualified fractional ownership program, or PAH determined the extent of the apparent violation.

6. COMPREHENSIVE FIX PROPOSAL. The proposed long-term corrective steps to be taken by the certificate holder, qualified fractional ownership program, or PAH to preclude

recurrence of the apparent violation should be listed in this section. Each corrective step should identify the individual or department responsible for implementing and completing the corrective step as well as the time allotted for completion of each corrective step. Examples of types of questions or issues that a comprehensive fix proposal should address are as follows:

a. Whether the apparent violation involves equipment, facilities, or individuals beyond those addressed in the initial notification and for which immediate action was taken.

b. Whether procedural or organizational changes are necessary.

c. How it will be determined whether any procedural or organizational changes are effective.

d. What procedures will be developed to ensure that the affected area is periodically reviewed in the future so that concerns can be identified before a violation occurs.

e. Who will be responsible for performing periodic reviews.

f. To whom in the certificate holder's, qualified fractional ownership program's, or PAH's organization the results of those periodic reviews will be reported, and how they will be documented?

7. RESPONSIBILITY FOR MONITORING THE IMPLEMENTATION OF THE COMPREHENSIVE FIX.

a. Name.

b. Position.

c. Telephone number.

d. E-mail address.

8. FAA ACCEPTANCE (TO BE COMPLETED BY THE FAA).

a. Name.

b. Position (PI).

c. Date.

d. Office.

[Federal Register: September 8, 2004 (Volume 69, Number 173)]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-246-AD; Amendment 39-13784; AD 2004-18-06]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 737-200, -200C, -300, -400, and -500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737-200, -200C, -300, -400, and -500 series airplanes, that requires repetitive inspections to find fatigue cracking of certain upper and lower skin panels of the fuselage, and follow-on and corrective actions, if necessary. This amendment also includes terminating action for the repetitive inspections of certain modified or repaired areas only. This action is necessary to find and fix fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:
http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Suzanne Lucier, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6438; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737-200, -200C, -300, -400, and -500 series airplanes was published in the Federal Register on June 18, 2003 (68 FR 36515). That action proposed to require repetitive inspections to find fatigue cracking of certain upper and lower skin panels of the fuselage, and follow-on and corrective actions, if necessary. That action also includes terminating action for the repetitive inspections of certain modified or repaired areas only.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Agreement With Proposed Rule

One commenter generally agrees with the proposed rule.

Request To Clarify Repetitive Eddy Current Inspections

Several commenters request clarification of the repetitive eddy current inspections required by paragraph (a) of the proposed rule. The commenters note that the proposed rule differs from the service bulletin in that the proposed rule requires both external detailed and eddy current inspections every 4,500 flight cycles, while the service bulletin only specifies to repeat the detailed inspections. One commenter asks if the repetitive eddy current inspections are mandatory. Another commenter points out that no explanation is given in the preamble of the proposed rule in the "Differences" paragraph. Because no technical reason is given for this change, the commenter believes the proposed rule's intent was not to include repetitive eddy current inspections that are beyond the scope of the service bulletin.

Another commenter, the manufacturer, agrees with the proposed rule that the eddy current inspections should be repetitive. The commenter states that because of recent upper row cracks found on a Model 737 series airplane with disbonded waffle doublers, it seems prudent to use the more sensitive eddy current inspection at repetitive intervals of 4,500 flight cycles. The commenter notes that only external detailed inspections were originally used because it was assumed that the tear straps were bonded and functioning to slow down the cracks until they could easily be detected using visual methods. The commenter states that in the case of a disbonded panel, it is unclear if the chem-mill type crack would slow down as it approaches the tear straps. The commenter believes that if it is assumed that tear straps do not slow the growth of the cracks, then the repetitive external detailed inspections every 4,500 flight cycles would allow more than two inspection opportunities to pass as cracks detectable by eddy current inspections become critical.

We agree with the request to clarify the repetitive eddy current inspections required by paragraph (a) of the final rule. Paragraph (a) of the proposed rule did specify repetitive external detailed and eddy current inspections but stated this as "repeat the inspections." Because the service bulletin only specifies repetitive detailed inspections, we should have explained the difference in the "Differences" paragraph of the proposed rule for the reasons stated by the last commenter (i.e. because of the recent upper row cracks found on an airplane with disbonded waffle doublers). However the "Differences" paragraph of the proposed rule is not repeated in the final rule. We have clarified the repetitive eddy current inspections by revising paragraph (a) of the final rule to state, "Repeat the external detailed and eddy current inspections * * *."

Request To Revise Text To Describe the Area of Inspection

One commenter requests to revise the text in paragraph (a) of the proposed rule from "crown area" to "crown area and other known areas of cracking." The commenter states that the inspections in Part 1 and Figure 1 of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001 (referenced as the appropriate source of service information in the proposed rule), include areas of known cracking outside the crown. The commenter believes that since paragraph (a) of the proposed rule states to inspect only the "crown area," then the areas of known cracking outside the crown as specified in the service bulletin may not get inspected. In addition, another commenter notes that it reported a crack at S12L on a Boeing Model 737-300 series airplane.

The FAA agrees with the commenter that the text to describe the area of inspection should be revised. While the heading of Part 1 of the service bulletin (like the proposed rule) makes reference only to the crown area, Part 1 includes inspections outside that area, as stated by the commenter. We proposed to require all of the actions specified in Part 1 and Figure 1 of the service bulletin. For the reasons stated by that commenter, we have clarified paragraph (a) of the final rule to state, "* * * crown area and other known areas of fuselage skin cracking, per Part 1 and Figure 1 * * *." This clarification does not expand the inspection locations specified in Part 1 and Figure 1.

Request To Reduce Inspection Area

One commenter requests reducing the area of the eddy current inspection required by paragraph (a) of the proposed rule from body station (BS) 360 to BS 1016 to the area BS 460 to BS 787. The commenter contends that the cracking reported in the upper crown at locations ranging from BS 480 to BS 777, per Boeing Service Bulletin 737-53A1210, Revision 1, does not warrant accomplishing both a visual and an eddy current inspection of areas BS 360 to BS 1016. The commenter recommends a visual inspection for areas BS 360 to BS 1016 and an eddy current inspection for areas BS 460 to BS 787.

We do not agree with the request to reduce the area of the eddy current inspection required by paragraph (a) of the final rule. Since the issuance of the service bulletin, we have received new reports of cracking. To address the identified unsafe condition, detailed and eddy current inspections are required by paragraph (a) of the final rule for areas BS 360 to BS 1016 identified in the service bulletin. No change is made to the final rule in this regard.

Request To Clarify Inspections of Chem-mill Areas

Two commenters request clarification of inspections for chem-mill areas covered by FAA-approved or accepted repairs other than external repair doublers that extend a minimum of three rows of fasteners above and below the chem-mill steps. One commenter, the manufacturer, requests that an inspection be added to the proposed rule for areas that are covered by external repair doublers that do not extend a minimum of three rows of fasteners above and below the chem-mill steps because paragraph (a) of the proposed rule does not address inspecting these areas. The commenter states that Boeing has developed a new internal inspection method for chem-mill cracks under the external repair doublers, as specified in Boeing 737 Non-Destructive Test (NDT) Manual, Part 6, Subject 53-30-20. The commenter contends that this inspection method can be used as a substitute for the external inspections with no change in the proposed compliance times. The commenter believes that chem-mill cracks under a repair doubler that do not extend beyond the chem-mill step are just as critical because three rows are required to carry failsafe loads. However, the commenter believes the cracks in this area are inspected less than cracks addressed by the proposed rule, and that it is likely repairs have been installed over undetected chem-mill cracks. The other commenter recommends that a general visual inspection of the repair for chem-milled areas covered by other FAA-approved or accepted repairs be added to the proposed rule, or that the areas be exempted from the inspections required by paragraphs (a) and (b) of the proposed rule.

We agree that inspections of the chem-mill areas should be clarified. Inspections are not required in areas that are spanned by an FAA-approved repair that has a minimum of 3 rows of fasteners above and below the chem-milled step. If an external doubler covers the chem-milled step, but does not span it by a minimum of 3 rows of fasteners above and below, operators must request an alternative method of compliance (AMOC) as required by section 39.17 of the Federal Aviation Regulations (14 CFR 39.17). In lieu of requesting an AMOC, one method of compliance with the inspection requirement of paragraphs (a) and (b) of this final rule is to inspect all chem-milled steps covered by the repair using internal nondestructive test (NDT) methods in accordance with Boeing 737 NDT Manual, Part 6, Subject 53-30-20. We have included new paragraph (i) of this final rule to provide inspection procedures, in lieu of requesting an AMOC, as one method of compliance with the requirements of paragraphs (a) and (b) of this final rule.

Request To Clarify Inspection Requirements in the Area of an Internal Doubler at the Emergency Door Surround Structure

One commenter requests that an inspection method be specified for the area of the internal doubler at the emergency exit surround structure as shown in Figure 5 of the service bulletin, or that the requirement to inspect this area be removed. The commenter notes that inspecting the area between BS 540 and BS 727 would require a different inspection procedure than the Boeing 737 NDT Manual, Part 6, Subject 53-30-18 or 53-30-19 procedures which are specified in Figure 5 of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001.

We agree with the commenter that there should not be a requirement to inspect this area because the internal doubler that extends above S-10 stabilizes the skin in this area and eliminates this area as a cracking concern. However, there is not a need to clarify this in the final rule because the service bulletin does not specify to inspect this area. This area is shown with a dotted line in Figure 5 of the service bulletin and is excluded from the inspections in Figure 5. Therefore, no change to the final rule is necessary.

Request To Clarify Terminating Action for Repetitive Inspections

Two commenters request that the terminating action for the repetitive inspections required by paragraph (a) of the proposed rule be clarified. One commenter states that the proposed rule requires to "Repeat the inspections at least every 4,500 flight cycles until paragraph (c) or (d)(1)(ii) of this AD has been done, as applicable." The commenter notes that paragraph (c) and (d)(1)(ii) of the proposed rule do not cover the joint cutout modification per paragraph (g) of AD 2002-07-08, amendment 39-12702 (67 FR 17917). The commenter contends that the lap joint repair per paragraph (g) of AD 2002-07-08 ends the repetitive inspections for those lap joints, and therefore, should be included as a terminating action in paragraph (a) of the proposed rule. The other commenter questions if the statement "Installation of the lap joint repair * * * is considered acceptable for compliance with * * *" in paragraph (d)(1) of the proposed AD ends the repetitive inspections per paragraph (a) of the proposed AD for those lap joints.

We agree with the commenters that we should clarify the terminating actions for the repetitive actions for the reasons stated by the first commenter. The lap joint modification (repair) is an alternate method of compliance for the repetitive requirements of paragraph (a) of the final rule. There is language in paragraph (d)(1) of the AD that does specify, "Installation of the lap joint repair specified in paragraph (g) of AD 2002-07-08, amendment 39-12702, is considered acceptable for compliance with the corresponding action specified in this paragraph for the lap joint areas only." We have moved this language to paragraph (d)(1)(ii) of the final rule to clarify that modifications performed in accordance with paragraph (g) of AD 2002-07-08 are considered a terminating modification for the chem-mill step areas within the modified areas.

Request To Add New Repair Option

One commenter requests that a new repair option be added to paragraph (d) of the proposed rule. Paragraph (d) of the proposed rule provides two options for repair if cracking is found. The commenter points out that general skin repairs have been added to Boeing 737 structural repair manuals, and that these repairs meet or exceed the requirements as stated in paragraph (d) of the proposed rule. The commenter suggests adding paragraph (d)(3) to the proposed rule stating, "For cracking in any area within the limitations of 737-100/200 SRM 53-30-3 Figure 48 for -100's and -200 aircraft, 737-300 SRM 53-00-01 Figure 229 for -300 aircraft, 737-400 SRM 53-00-01 Figure 231 for -400 aircraft, and 737-500 SRM 53-00-01 Figure 229 for -500 aircraft, cracks can be repaired per these SRM figures as applicable. Accomplishment of these repairs ends the repetitive inspections required by paragraph (b) of this AD for the repaired area only." The commenter also suggests revising the first sentence of paragraph (d) of the proposed rule to state, " * * * specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD, as applicable * * *." The commenter points out that these SRM repairs are being used extensively within the industry to repair skin damage, including chem-mill cracks.

We agree with the commenter that the new repair option should be added and concur with its justification. Accordingly, we have added paragraph (e) to the final rule as follows: "For cracking in any area specified in paragraphs (d)(1) and (d)(2) of this AD within the limitations of Chapter 53, Subject 53-30-3, Figure 48 (for Model 737-100 and -200 series airplanes), of the Boeing 737-100 and -200 Structural Repair Manual (SRM); Chapter 53, Subject 53-00-01, Figure 229 (for Model 737-300 airplanes), of the Boeing 737-300 SRM; Chapter 53, Subject 53-00-01, Figure 231 (for Model 737-400 series airplanes), of the Boeing 737-400 SRM; and Chapter 53, Subject 53-00-01, Figure 229 (for Model 737-500 series airplanes), of the Boeing 737-500 SRM; repair cracks per the applicable SRM. Accomplishment of the applicable repair terminates the repetitive inspections required by paragraphs (a) and (b) of this AD for the repaired area only." We also revised paragraphs (a) and (b) of the final rule to include paragraph (e) of the final rule as an optional terminating action for the repaired area only. In addition, we revised paragraphs (d)(1) and (d)(2) of the final rule by adding paragraph (e) of the final rule as a repair option.

Request To Revise Repair Instructions

One commenter requests that the repair instructions in paragraph (d)(2) of the proposed rule be revised. The commenter notes that paragraph (d)(2) gives instructions to "* * * repair per Part 2 of the Work Instructions of the service bulletin * * *," and the service bulletin specifies to ask Boeing for repair data. The commenter contends that an operator may interpret paragraph (d)(2) of the proposed rule as requiring them to contact Boeing for all repairs in the lower lobe and section 41. The commenter suggests revising paragraph (d)(2) of the proposed rule to state, "For cracking of the lower lobe area and Section 41, repair per paragraph (d)(3) of this AD before further flight * * *."

We disagree with the commenter to revise paragraph (d)(3) of the final rule per its suggested wording. As stated earlier, paragraph (d)(2) of the final rule has been revised by adding paragraph (e) of the final rule as an option to the repair of the cracking of the lower lobe and Section 41 done per Part 2 of the Work Instructions of the service bulletin. Operators should note that while the service bulletin does specify to contact Boeing for repair, paragraph (d) of the final rule requires operators to contact the FAA or a Designated Engineering Representative (DER) if the service bulletin specifies to contact Boeing for repair instructions. No change is made to the final rule in this regard.

Request To Add Inspection Requirement

One commenter requests that the external subsurface inspection of the chem-mill steps in adjacent bays per step 2 of Figure 18 of the service bulletin be added to paragraph (e)(2) of the

proposed rule. The commenter notes that paragraph (e)(2) of the proposed rule requires an "internal eddy current inspection of the skin, tear straps, and lap joint * * *" The commenter states that, while this agrees with the service bulletin, the service bulletin also specifies an external subsurface inspection of the chem-mill steps in adjacent bays. The commenter points out that when the time-limited repair required by paragraph (e) of the proposed rule is accomplished at remote sites, it may not be possible to do an NDT inspection of the adjacent chem-mill steps. The commenter states that, often times in service, the bays adjacent to the cracked bay will also have cracks. The commenter also notes that inspection of the adjacent bays within 4,000 flight cycles after doing the repair is recommended by the service bulletin as a precautionary measure.

We agree with the commenter that the service bulletin also specifies external subsurface inspection of the chem-mill steps in adjacent bays. In our effort to describe the types of inspections referenced in Part 4 of the service bulletin, we inadvertently omitted the one mentioned by the commenter. We had no intention of deviating from the service bulletin. To clarify this intent, the final rule has been revised to track the precise wording of Part 4 of the service bulletin: "Do inspections of the repaired area * * *."

Request To Remove "Tear Straps" From Inspection Description

One commenter requests that the words "tear straps" be removed from paragraph (e)(2) of the proposed rule. The commenter notes that the internal inspection shown in Figure 18 of the service bulletin looks for cracks in the skin under the tear strap and does not look for cracks in the tear straps.

We agree with the commenter that the words "tear straps" be removed from paragraph (f)(2) of the final rule (specified as paragraph (e)(2) of the proposed rule). As stated previously, paragraph (f)(2) of the final rule (specified as paragraph (e)(2) of the proposed rule) has been changed to state, "Do the inspections of the repaired area * * *."

Request To Add Inspection for Disbonding To Terminate Repetitive Eddy Current Inspections

One commenter requests that an inspection for disbonding be added that would terminate the repetitive eddy current inspections required by paragraph (a) of the proposed rule. The commenter recommends that the inspection for disbonding specified in Boeing Service Bulletin 737-53-1179, Revision 2, dated October 25, 2001, be added as a terminating action for the repetitive eddy current inspections required by paragraph (a) of the proposed rule, and then only repetitive detailed inspections would be needed to ensure safety.

We agree that an inspection for disbonding should be added to terminate the repetitive eddy current inspections required by paragraph (a) of the final rule. The inspection for disbonding specified in Boeing Service Bulletin 737-53-1179, Revision 2, dated October 25, 2001, will verify the integrity of the doublers, and therefore, the repetitive eddy current inspections will no longer be required. The service bulletin is the source of service information for paragraphs (b) and (c) of AD 2003-14-06, amendment 39-13225. That AD requires repetitive inspections for cracking of certain lap splices, and corrective action if necessary. We have added paragraph (g) to the final rule as follows: "Accomplishment of paragraph (b) or (c), as applicable, of AD 2003-14-06, amendment 39-13225, terminates the repetitive eddy current inspections required by paragraph (a) of this AD; however the repetitive detailed inspections required by paragraph (a) of this AD are still required."

Request To Exclude Appendix A From Service Bulletin References

Two commenters request that the phrase "including Appendix A" in paragraphs (a) through (e) of the proposed rule either be removed or changed to "excluding Appendix A." One commenter notes that Appendix A of the service bulletin is an optional cost benefit analysis worksheet that is included in the service bulletin for the benefit of the operators if they elect to use it and that it has no effect on the repair, modification, or compliance instructions of the referenced service bulletin. The other

commenter questions why Appendix A is mandatory and what operators should do with it if it is not excluded from the proposed rule.

We agree that Appendix A should be excluded from the service bulletin references for the reasons stated by the first commenter. We removed the wording "including Appendix A" from paragraphs (a) through (d) of the final rule and paragraph (f) of the final rule (specified as paragraph (e) of the proposed rule). We also removed the wording "excluding Evaluation Form."

Explanation of Editorial Changes

We have revised certain wording regarding the compliance times of the repetitive inspection requirements specified in paragraphs (a), (b), and (f)(1) (specified as paragraph (e)(1) of the proposed rule) of the final rule. Instead of specifying that the repetitive inspections be repeated "at least every," as stated in paragraphs (a), (b), and (e)(1) of the proposed rule, this final rule specifies that the inspections be repeated "at intervals not to exceed."

Clarification of Type of Inspection

We have clarified one of the inspection requirements contained in the proposed rule. Whereas paragraph (f)(1) of the proposed rule specifies a general visual inspection, we have revised paragraph (f)(1) of the final rule to clarify that our intent is to require a detailed inspection, as specified in the service bulletin.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Interim Action

This is considered to be interim action for Group 7 airplanes. Although the service bulletin described previously does not include the inspection of the crown area (upper lobe) for Group 7 airplanes, as specified in paragraph (a) of this final rule, the manufacturer has advised that it currently is developing a new service bulletin to address those airplanes. Once the FAA has reviewed and approved the service bulletin, we may consider additional rulemaking to mandate those inspections.

Cost Impact

There are approximately 2,200 airplanes of the affected design in the worldwide fleet. The FAA estimates that 903 airplanes of U.S. registry will be affected by this proposed AD.

It will take approximately 94 work hours per airplane to accomplish the inspections of the crown area, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of these inspections on U.S. operators is estimated to be $5,517,330, or $6,110 per airplane, per inspection cycle.

It will take approximately 96 work hours per airplane to accomplish the inspections of the lower lobe area, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of these inspections on U.S. operators is estimated to be $5,634,720, or $6,240 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator elect to install the preventive modification, it will take approximately 108 work hours to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the preventive modification is estimated to be $7,020 per airplane.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39–AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AIRWORTHINESS DIRECTIVE

Aircraft Certification Service
Washington, DC

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

We post ADs on the internet at "www.faa.gov"

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner Airworthiness Directives affect aviation safety and are regulations which require immediate attention You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39 3)

2004-18-06 Boeing: Amendment 39-13784. Docket 2001-NM-246-AD.

Applicability: Model 737-200, -200C, -300, -400, and -500 series airplanes, as listed in Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (j) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix fatigue cracking of certain upper and lower skin panels of the fuselage, which could result in sudden fracture and failure of the skin panels and consequent rapid decompression of the airplane, accomplish the following:

External Detailed and Eddy Current Inspections

(a) For Groups 1 through 6 and Group 8 airplanes: Before the accumulation of 35,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever is later, do external detailed and eddy current inspections of the crown area and other known areas of fuselage skin cracking, per Part 1 and Figure 1 of the Work Instructions of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001, except as provided by paragraph (i) of this AD. Repeat the external detailed and eddy current inspections at intervals not to exceed 4,500 flight cycles until paragraph (c), (d)(1)(ii), (e), (f), or (g) of this AD has been done, as applicable. Although paragraph 1.D. of the service bulletin references a reporting requirement, such reporting is not required by this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(b) For all airplanes: Before the accumulation of 40,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever is later, do an external detailed inspection of the lower lobe area and section 41 of the fuselage for cracking, per Part 2 and Figure 2 of the Work Instructions of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001, except as provided by paragraph (i) of this AD. Repeat the inspection at intervals not to exceed 9,000 flight cycles until paragraph (d)(2) or (e) of this AD has been done, as applicable.

Preventive Modification

(c) For Groups 3, 5, 6, and 8 airplanes: If no cracking is found during any inspection required by paragraph (a) of this AD, doing the preventive modification of the chem-milled pockets in the upper skin as specified in Part 5 of the Work Instructions of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001, ends the repetitive external detailed and eddy current inspections required by paragraph (a) of this AD for the modified area only.

Corrective Actions

(d) If any cracking is found during any inspection required by paragraph (a) or (b) of this AD, before further flight, do the actions specified in paragraphs (d)(1) and (d)(2) of this AD, as applicable, per the Work Instructions of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001. Where the service bulletin specifies to contact Boeing for repair instructions, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(1) Except as provided by paragraph (e) of this AD, for cracking of the crown area, do the repair specified in either paragraph (d)(1)(i) or (d)(1)(ii) of this AD.

(i) Do a time-limited repair per Part 4 of the Work Instructions of the service bulletin, then do the actions required by paragraph (f) of this AD at the times specified in that paragraph.

(ii) Do a permanent repair per Part 3 of the Work Instructions of the service bulletin. Installation of a permanent repair ends the repetitive inspections required by paragraph (a) of this AD for the repaired area only. Installation of the lap joint repair specified in paragraph (g) of AD 2002-07-08, amendment 39-12702, is considered acceptable for compliance with the corresponding permanent repair specified in this paragraph for the repaired areas only.

(2) Except as provided by paragraph (e) of this AD, for cracking of the lower lobe area and Section 41, repair per Part 2 of the Work Instructions of the service bulletin. Accomplishment of this repair ends the repetitive inspections required by paragraph (b) of this AD for the repaired area only.

Optional Repair Method

(e) For cracking in any area specified in paragraphs (d)(1) and (d)(2) of this AD within the limitations of Chapter 53, Subject 53-30-3, Figure 48 (for Model 737-100 and -200 series airplanes), of the Boeing 737-100 and -200 Structural Repair Manual (SRM); Chapter 53, Subject 53-00-01, Figure 229 (for Model 737-300 airplanes), of the Boeing 737-300 SRM; Chapter 53, Subject 53-00-01, Figure 231 (for Model 737-400 series airplanes), of the Boeing 737-400 SRM; and Chapter 53, Subject 53-00-01, Figure 229 (for Model 737-500 series airplanes), of the Boeing 737-500 SRM; repair cracks per the applicable SRM. Accomplishment of the applicable repair terminates the repetitive inspections required by paragraphs (a) and (b) of this AD for the repaired area only.

Follow-on and Corrective Actions

(f) If a time-limited repair is done, as specified in paragraph (d)(1)(i) of this AD: Do the actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, at the times specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, per the Work Instructions of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001.

(1) Within 3,000 flight cycles after doing the repair: Do a detailed inspection of the repaired area for loose fasteners per Part 4 of the Work Instructions of the service bulletin. If any loose fastener is found, before further flight, replace with a new fastener per the service bulletin. Then repeat the inspection at intervals not to exceed 3,000 flight cycles until permanent rivets are installed in the repaired area, which ends the repetitive inspections for this paragraph.

(2) Within 4,000 flight cycles after doing the repair: Do inspections of the repaired area for cracking per Part 4 of the Work Instructions of the service bulletin. If any cracking is found, before further flight, repair per a method approved by the Manager, Seattle ACO, or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(3) Within 10,000 flight cycles after doing the repair: Make the repair permanent per Part 4 and Figure 20 of the Work Instructions of the service bulletin, which ends the repetitive inspections for the repaired area only.

Optional Terminating Action for Repetitive Eddy Current Inspections

(g) Accomplishment of paragraph (b) or (c), as applicable, of AD 2003-14-06, amendment 39-13225, ends the repetitive eddy current inspections required by paragraph (a) of this AD for that skin panel only; however the repetitive external detailed inspections required by paragraph (a) of this AD are still required for all areas.

Credit for Actions Done Per Previous Service Bulletin

(h) Inspections, repairs, and preventive modifications done before the effective date of this AD per Boeing Alert Service Bulletin 737-53A1210, dated December 14, 2000, are acceptable for compliance with the corresponding actions required by this AD.

Exception to Service Bulletin Procedures

(i) For airplanes subject to the requirements of paragraphs (a) and (b) of this AD: Inspections are not required in areas that are spanned by an FAA-approved repair that has a minimum of 3 rows of fasteners above and below the chem-milled step. If an external doubler covers the chem-milled step, but does not span it by a minimum of 3 rows of fasteners above and below, in lieu of requesting approval for an alternative method of compliance (AMOC), one method of compliance with the inspection requirement of paragraphs (a) and (b) of this AD is to inspect all chemical-milled steps covered by the repair using internal nondestructive test (NDT) methods in accordance with Boeing 737 Non-Destructive Test NDT Manual, Part 6, Subject 53-30-20.

Alternative Methods of Compliance

(j)(1) An alternative method of compliance (AMOC) or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) AMOCs, approved previously in accordance with AD 2003-14-06, amendment 39-13225, for paragraphs (b) and (c) of AD 2003-14-06, are approved as AMOCs with paragraphs (a) and (g) of this AD for the applicable terminating action for the repetitive eddy current inspections only.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

(k) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(l) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001, excluding Appendix A. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(m) This amendment becomes effective on October 13, 2004.

Issued in Renton, Washington, on August 26, 2004.
Kevin M. Mullin,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 04-20120 Filed 9-7-04; 8:45 am]
BILLING CODE 4910-13-P

NOTICE **U.S. DEPARTMENT OF TRANSPORTATION**
FEDERAL AVIATION ADMINISTRATION

N 8900.36

National Policy

Effective Date:
03/13/08

Cancellation Date:
06/30/08

SUBJ: Special Emphasis Validation of Airworthiness Directives Oversight

1. Purpose of This Notice. This notice directs an audit of Title 14 Code of Federal Regulations (14 CFR) part 121 air carrier compliance with Airworthiness Directives (AD). The audit is necessary to validate our system for overseeing air carrier management of ADs.

2. Audience. The primary audience for this notice is Flight Standards District Office or certificate management office principal maintenance inspectors (PMI) and principal avionics inspectors (PAI) responsible for the approval/review and surveillance of air carrier AD management programs. The secondary audience includes Flight Standards branches and divisions in the regions and in headquarters.

3. Where You Can Find This Notice. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at http://fsims.avs.faa.gov. Operators and the public can find this notice at http://fsims.faa.gov.

4. Background. Current events involving one air carrier's noncompliance with ADs make it necessary to validate our system for overseeing air carrier management of this regulatory requirement.

a. In December 2007, all Federal Aviation Administration (FAA) Certificate Management Teams (CMTs) for 14 CFR part 121 air carriers completed their transition to the Air Transportation Oversight System (ATOS)—a systems-based approach to ensuring air carrier compliance with regulations. ATOS requires systematic, risk-based surveillance of all of the processes that an air carrier uses to comply with regulations and deliver its product. ATOS structures air carrier processes into 97 elements. Inspectors use detailed data collection tools to assess the design and performance of the processes represented by each element. Inspectors use Safety Attribute Inspections (SAIs) to collect data for design assessments and Element Performance Inspections (EPIs) for performance assessments. The SAI and EPI for element 1.3.6, Airworthiness Directive Management, provide specific references to regulations and FAA policy and guidance for an air carrier's management of compliance with ADs.

b. Element 1.3.6 is extremely complex. Multiple ADs affect every aircraft used in air transportation. Literally inspecting each of these aircraft for compliance with all ADs affecting it far exceeds FAA resources. Therefore, ATOS emphasizes the importance of an air carrier's responsibility to have a process that effectively manages the regulatory requirement to comply with ADs.

c. ATOS requires a performance assessment of element 1.3.6 every six months. Many recently transitioned CMT have not yet completed an assessment of element 1.3.6. For this reason, as well as the highly publicized noncompliance of one air carrier, this special emphasis audit is necessary to validate our system of oversight.

5. Action. PMIs and PAIs shall determine their assigned air carriers' compliance with ADs by auditing a sample of ADs applicable to their air carriers' fleets, in conjunction with a retargeted performance assessment of element 1.3.6. The audit consists of two phases. Phase 1 of the audit shall sample 10 ADs for each of the air carriers' fleets, including AD-2002-07-08 and AD-2004-18-06 for the Boeing 737 aircraft, if applicable. Phase 2 of the audit shall sample additional ADs to total 10 percent of the ADs applicable to the air carriers' fleets.

a. PMIs and PAIs shall complete Phase 1 of the audit by March 28, 2008 and Phase 2 as soon as possible but no later than June 30, 2008.

b. The audit shall:

(1) Validate the air carrier's work instructions (e.g., task cards, engineering authorizations, engineering orders, engineering change orders) to accomplish the AD by verifying that the instructions correctly describe the method of compliance contained within the AD and any referenced service information (e.g., service bulletins, service letters) or any related alternative methods of compliance; and

(2) Validate the proper performance of the AD by reviewing the complete work instructions "package" on at least one aircraft.

c. For Phases 1 and 2, PMIs and PAIs shall audit a different aircraft, to the extent practicable, for each AD. This review should also ensure that entries into the AD tracking system were performed correctly. Give emphasis to sampling those ADs which involve required inspections of fuselage, empennage, and wing areas for cracking or similar issues.

d. To initiate Phase 1 of the audit, complete the following steps:

(1) Use ATOS automation to create a Constructed Dynamic Observation Report(s) (ConDOR) for airworthiness element 1.3.6.

(2) In the Local/Regional/National use field enter N8900.36.

(3) In the Requested Completion Date field enter March 28, 2008.

(4) Select EPI question 1.2.

(5) Determine and document data collection requirements in accordance with the instructions above.

(6) Document the results of each AD sampled in the comment field associated with the yes/no response.

e. To initiate Phase 2 of the audit, complete the following steps of the ATOS version 1.2 business process:

(1) Step 2.4, adjust the due date of the next performance assessment of element 1.3.6 to June 30, 2008.

(2) Step 2.6, determine data collection requirements in accordance with the instructions above.

(3) Step 2.7, document data collection requirements in accordance with the instructions above. Include instructions for specific ADs to be sampled and deadlines to save EPI activities to "final" in ATOS automation to comply with Phase 1 and 2 completion dates.

(4) Step 5.1, use the comment field to document the results of each AD sampled.

(5) Step 7.4 or 7.5, complete the performance assessment of element 1.3.6. Include ConDOR data collected in Phase 1.

f. If the audit affirms the performance of element 1.3.6, take no further action.

g. If you cannot affirm performance, follow the ATOS business process to initiate required action, including scheduling a design assessment if systemic issues exists.

h. If the audit finds evidence of noncompliance with ADs, initiate immediate corrective action.

6. Tracking.

a. Document the results of this audit of the air carrier's compliance with sampled ADs in the comment field of the EPI for element 1.3.6, Airworthiness Directive Management. Enter N8900.36 in the Local/Regional/National Use block of the activity screen.

b. If the air carrier did not comply with any of the sampled ADs, take immediate corrective action. Use the ATOS Risk Management Process (RMP), if appropriate.

7. Disposition. This is a special emphasis audit. Therefore, Flight Standards will not incorporate the information in this notice into FSIMS. Direct questions concerning this notice to the Certification and Surveillance Division, AFS-900, at (703) 661-0550.

Original signed by

James J. Ballough
Director, Flight Standards Service

ORDER

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

8000.82

9/3/03

SUBJ: DESIGNATION OF AVIATION SAFETY ACTION PROGRAM (ASAP) INFORMATION AS PROTECTED FROM PUBLIC DISCLOSURE UNDER 14 CFR PART 193

1. PURPOSE. This order designates information received by the agency from an Aviation Safety Action Program (ASAP) as protected from public disclosure in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 193.

2. DISTRIBUTION. This order is distributed to the branch level in the Washington headquarters Flight Standards Service; Aviation System Standards; all Regional Administrators; to the Directors of the Mike Monroney Aeronautical Center and the Europe, Africa, and Middle East Area Office; to the Regulatory Standards Division at the FAA Academy; to the branch level in the regional Flight Standards Divisions; to all Flight Standards District Offices; to all International and Aeronautical Quality Assurance Field Offices; to all Flight Standards Certificate Management Offices; and to all Aircraft Evaluation Groups.

3. BACKGROUND. Under Title 49 of the United States Code (49 U.S.C.), section 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the Federal Aviation Administration (FAA). The FAA must first issue an order that specifies why the agency finds that the information should be protected in accordance with 49 U.S.C., section 40123. The FAA's rules for implementing that section are in 14 CFR part 193. If the Administrator issues an order designating information as protected under 49 U.S.C., section 40123, that information will not be disclosed under the Freedom of Information Act (Title 5 of the United States Code (5 U.S.C.), section 552) or other laws, except as provided in 49 U.S.C. section 40123, 14 CFR part 193, and the order designating the information as protected. This order is issued under part 193, section 193.11, which sets out the notice procedure for designating information as protected.

4. APPLICABILITY. This order is applicable to any FAA office that receives information covered under this designation from an ASAP program. The order also is applicable to any other government agency that receives such information from the FAA. In order for any other government agency to receive ASAP information covered under this designation from the FAA, each such agency must first stipulate, in writing, that it will abide by the provisions of part 193 and this order.

5. SUMMARY OF THE ASAP VOLUNTARY INFORMATION SHARING PROGRAM.

a. Who may participate? Certificate holders who have an FAA-accepted ASAP, and their covered employees.

Distribution: A-W(FS/VN)-3; A-XY-1; AMA-200 (80 cys); AEU-1 (1 cy); A-X(FS)-3; A-FFS-5/7/8/9/10 (MAX)

Initiated by: AFS-230

b. What voluntarily provided information would be protected from disclosure under this proposed designation? Except for ASAP reports that involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, the following information would be protected from disclosure when provided to the FAA:

(1) The employee's ASAP report, and the content of that report.

(2) The identity of the certificate holder associated with an accepted ASAP report.

(3) The name of the employee who submits an accepted ASAP report(s).

(4) The information from sources other than the FAA of an Event Review Committee (ERC) investigation concerning an accepted ASAP report.

(5) Evidence and other information gathered during an ERC investigation by persons other than the FAA.

(6) Statistical analysis and trend information provided by the certificate holder that is based on events reported under a particular certificate holder's ASAP.

(7) A certificate holder's database of reports and events collected over time from that certificate holder's ASAP.

(8) Corrective action on sole source reports when such corrective action is successfully completed.

NOTE: The type of information or circumstances under which the information listed above would not be protected from disclosure is discussed in paragraph 6e(2) of this order.

c. How do you participate? Certificate holders participate by executing an ASAP memorandum of understanding (MOU) with the FAA and by voluntarily sharing information from the ASAP with the FAA.

d. What is the duration of this information-sharing program? This information-sharing program continues for a given certificate holder until the associated ASAP MOU is terminated by any of the parties to the MOU.

6. FINDINGS. The FAA designates information received from an accepted ASAP as protected under 49 U.S.C., section 40123 and part 193, section 193.7, based on the following findings:

a. Summary of why the FAA finds that the information will be provided voluntarily. The FAA finds that the information will be provided voluntarily. No certificate holder is required to participate in ASAP, and no employee is required to submit reports even if his or her employer participates in ASAP. An ASAP MOU may be terminated at any time by any of the parties to the MOU. Besides access by the FAA ERC representative, the FAA anticipates that information

from a certificate holder's ASAP will be more widely shared with the FAA because the voluntary establishment of an ASAP constitutes a partnership between the FAA and certificate holder in the interest of achieving joint safety improvement goals.

b. Description of the type of information that may be voluntarily provided under the program and a summary of why the FAA finds that the information is safety- or security-related.

(1) An ASAP is created specifically to provide a means for employees to report safety-related events. All individual ASAP reports are clearly labeled as such and must be signed by each employee seeking the enforcement incentives available under an ASAP. Two types of reports are ordinarily submitted under the ASAP:

- Safety-related reports that appear to involve one or more violations of the regulations (e.g., deviating from an Air Traffic Control (ATC)-assigned altitude)

- Reports that identify a general safety concern, but do not appear to involve a violation of the regulations (e.g., flight crewmember concerns that the design of a flight checklist could lead to an error)

(2) Each ASAP report must contain sufficiently detailed information about a safety event so that it can be evaluated by a third party. If the report is submitted by a flight crewmember, and the safety event involves a deviation from an ATC clearance, the ASAP report would include the date, time, place, altitude, flight number, and ATC frequency, along with a description of the safety-related event. The only types of reports that are expected to be submitted under an ASAP are those that are safety- or security-related.

c. Summary of why the FAA finds that the disclosure of the information would inhibit persons from voluntarily providing that type of information. The FAA finds that disclosure of the information would inhibit the voluntary provision of that type of information. Certificate holders and their employees are reluctant to share sensitive safety information with the FAA, including employee self-reports of alleged violations, if such submissions might be subject to public disclosure.

(1) A significant impediment to the sharing of ASAP information with the FAA is the aviation industry's concern over public disclosure of the information, and, if disclosed, the potential for it to be used for other than the safety enhancement purposes for which the ASAP was created. As a result, certificate holders have not permitted ASAP reports and related information to leave the certificate holder's premises, and, except for ASAP information made available for review by the FAA ERC representative at the certificate holder's place of business, no ASAP information is presently submitted to the FAA. This information is considered to be confidential by the participating certificate holders and their employees who are involved in the program.

(2) While the FAA does not anticipate receiving ASAP reports for retention in FAA files or an FAA database, the FAA believes that the extraction and submission of certain categories of

information from such reports for trending purposes could benefit safety. For example, an FAA database of perceived contributing factors for runway incursions (extracted from ASAP reports) could be beneficial to the FAA and airlines in the development of corrective strategies to reduce the probability of such incidents.

d. Summary of why the receipt of that type of information aids in fulfilling the FAA's safety and security responsibilities. The FAA finds that receipt of ASAP information aids in fulfilling the FAA's safety and security responsibilities. Because of its capacity to provide early identification of needed safety improvements, an ASAP offers significant potential for incident and accident avoidance. Currently, FAA experience has clearly established that an ASAP can produce safety-related data that is not available from any other source. For example, ASAP reports concerning altitude deviations have identified common causal factors in producing such incidents. Receipt of this previously unavailable information has provided the FAA with an improved basis for modifying procedures, policies, and regulations in order to improve safety and efficiency.

e. Consistencies and inconsistencies with FAA safety and security responsibilities. The FAA finds that withholding ASAP information provided to the FAA is consistent with the FAA's safety responsibilities. ASAP specifically provides that corrective action will be taken when necessary.

(1) Withholding ASAP information from disclosure is consistent with the FAA's safety and security responsibilities because, unless the FAA can provide assurance that it will not be disclosed, the FAA will not receive the information. If the FAA does not receive the information, the FAA and the public will be deprived of the opportunity to make the safety improvements that receipt of the information otherwise enables. Corrective action under ASAP can be accomplished without disclosure of protected information. For example, for acceptance under the ASAP, the reporting employee must comply with ERC recommendations for corrective action, such as additional training for an employee. If the employee fails to complete corrective action in a manner satisfactory to all members of the ERC, the ASAP event will be referred to an appropriate office within the FAA for any additional investigation, reexamination, and/or enforcement action, as appropriate.

(2) The FAA will release ASAP information submitted to the agency, as specified in part 193 and this order. For example, in order to explain the need for changes in FAA policies, procedures, and regulations, the FAA may disclose de-identified (no operator or employee identity), summarized information that has been derived from ASAP information or extracted from the protected information listed under paragraph 5b. The FAA may disclose de-identified, summarized ASAP information that identifies a systemic problem in the aviation system, when other people need to be advised of the problem in order to take corrective action. The FAA may release the name of an air carrier or repair station that has an ASAP that has been accepted by the FAA. Under the current version of Advisory Circular (AC) 120-66, Aviation Safety Action Program (ASAP), reported events and possible violations may be referred to the FAA for appropriate action, including investigation, reexamination, and/or enforcement action. Although the report itself and the content of the report are not used as evidence, the FAA may use the knowledge of the event or possible violation to generate a separate investigation, and, in that

regard, the information is not protected from disclosure. To withhold information from such limited release would be inconsistent with the FAA's safety responsibilities because the limited situations in which this is done do not involve matters that are covered by ASAP. In addition, reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes, and will refer such reports to law enforcement agencies, if appropriate. To withhold information in these circumstances would be inconsistent with the agency's safety responsibilities because it could prevent the agency, or at least diminish its ability, to effectively address such egregious misconduct.

f. Summary of how the FAA will distinguish information protected under part 193 from information the FAA receives from other sources.

(1) All employee ASAP reports are clearly labeled as such. A single report must be signed by all employees seeking the enforcement incentives available under an ASAP for the event, or each such employee must submit a separate signed report.

(2) Any other information received by the FAA from the certificate holder concerning the content of ASAP reports, except for ASAP reports involving possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification (such as statistical analyses, program review reports, and trend information), must be clearly labeled as follows in order to be protected under this designation:

WARNING: The information in this document may be protected from disclosure under 49 U.S.C., section 40123 and 14 CFR part 193.

7. DESIGNATION. The FAA designates the information described in paragraph 5b to be protected from disclosure in accordance with 49 U.S.C., section 40123, and 14 CFR part 193, when submitted pursuant to an accepted ASAP.

Nicholas A. Sabatini
Associate Administrator for Regulation and Certification

APPENDIX 1. SUMMARY OF SIGNIFICANT COMMENTS RECEIVED AND THE FAA'S RESPONSE

A proposed Federal Aviation Administration (FAA) order designating Aviation Safety Action Program (ASAP) information as protected from disclosure under Title 14 of the Code of Federal Regulations (14 CFR) part 193 was published in the Federal Register on September 5, 2002 (Federal Register, Volume 67, Number 172, pages 56774 - 56776). Comments were received from four commenters, including one major airline trade association and one major pilots labor association. These comments and the FAA responses are as follows:

(1) The information may already be available to the public through the National Aeronautics and Space Administration (NASA) Aviation Safety Reporting Program (ASRS).

(a) Comment. If ASAP reports are sent to the NASA ASRS as part of an ASAP program, it would render moot any attempt by the FAA to keep information private. Therefore, if operators share this information with NASA, thereby voluntarily making it public information, any attempt by the FAA to protect the information would be a waste of time. I do not feel there is a need to adopt the proposed order.

(b) The FAA Response. While it is certainly the case that most ASAP Memorandums of Understanding (MOU) include provisions for submitting events reported under ASAP to the NASA ASRS, this circumstance does not preclude the need to protect the information specified in this order from public disclosure. All information that could be used to derive the identity of the submitting pilot is removed from an ASRS report before it is entered into the ASRS database, whereas only the employee name is redacted from an ASAP report entered into an ASAP database. In addition, the information protected under this order includes evidence and other information gathered during an Event Review Committee (ERC) investigation by persons other than the FAA that is not obtained by the ASRS. Unlike ASAP, ASRS does not include such followup information on individual events reported under that program.

(2) ASAP MOU content and signatories should not be disclosed.

(a) Comment. The content of ASAP MOUs and signatories to these MOUs should not be disclosed. While acknowledging the existence of an ASAP MOU is not problematic, ASAP programs are highly confidential and, at times, have been the subject of discovery disputes in civil litigation. Furthermore, it is very likely that MOUs will contain information about ASAP programs that operators would keep confidential under normal circumstances. For these reasons, we urge the FAA to determine that it will not release or disclose the content of MOUs, including the identification of the signatories. The public does not have a need to know exactly who signs an MOU on behalf of an operator. An identification of that person could lead to unwanted public inquiries.

(b) The FAA Response. The FAA does not agree that ASAP MOUs should contain information that operators would keep confidential under normal circumstances. The appropriate content of an ASAP MOU is fully described in FAA advisory materials available to the public. Certainly there is nothing in those advisory materials that would require or recommend inclusion of confidential information in the MOU. Because it involves an agreement by the FAA to take lesser enforcement action than might otherwise be taken for alleged violations of 14 CFR (when voluntarily reported by an employee in accordance with the ASAP MOU), the public has a right to know the provisions of the MOU on which basis the FAA has modified its enforcement policy for a particular operator and employee group. Similarly, since this modified enforcement policy does not take effect until an ASAP MOU is signed by an authorized representative of each party to the MOU, it is not appropriate for the identities of such signatories to be withheld from public disclosure.

(3) Use of the term "information-sharing program" is not accurate.

(a) Comment. Two commenters took exception to the characterization of ASAP programs in the notice as "information-sharing programs". One commenter stated that these characterizations are not quite accurate since they would suggest that a formal ASAP information-sharing program exists. The commenter states that is not the case. The commenter notes that the process by which the industry will share ASAP information with the FAA is evolving through the efforts of the ASAP Aviation Rulemaking Committee (ARC) and the combined ASAP/Flight Operation Quality Assurance (FOQA) Information-Sharing Subcommittee. For this reason, the commenter recommends that the FAA delete the phrase "information-sharing program" from the final order. The commenter states that it is not necessary to characterize the ASAP as an information-sharing program at all. The goal of ASAP is to prevent accidents. The means by which certificate holders share information is ancillary to the corrective and preventative action process. The second commenter stated that although not adverse to a formal ASAP information-sharing program, such a program should be developed and implemented through the ASAP ARC.

(b) The FAA Response. As employed in this order, use of the phrase "information-sharing program" simply refers to ASAP information that is voluntarily provided to the FAA. The order would provide protection from disclosure of the information specified in paragraph 5b herein, regardless of the means of submission, including any such means to be developed for ASAP in the future through the efforts of the ASAP ARC and the combined ASAP/FOQA Information-Sharing Subcommittee. The FAA notes that ASAP information is already being shared with the FAA by virtue of the participation of an FAA representative on every ASAP ERC for every existing such program. The present order would extend part 193 protection to such information as specified.

(4) The current ASAP process does not provide for the FAA to take possession of individual ASAP reports.

(a) Comment. The current process does not provide for the FAA to take possession of individual ASAP reports, except for those reports that are excluded from the program for criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. Additionally, the current version of Advisory Circular (AC) 120-66, Aviation Safety Action Program (ASAP) expressly prohibits the FAA from using either the report or the content of the report for enforcement action. The commenter states that, therefore, all references to "ASAP reports that are in the possession of the FAA" should be replaced with "aggregate ASAP trend information in possession of the FAA."

(b) The FAA Response. The FAA does not concur. The intent of this order is to protect sensitive information that may be obtained by the FAA from an ASAP, including an ASAP report, from disclosure. This order does not establish any submission requirements for such information or reports. However, if the information or reports specified in paragraph 5b of this order are obtained by the FAA, they will be protected in accordance with part 193 and this order. As was stated in the notice of proposed designation, the FAA does not anticipate receiving ASAP reports for retention in FAA files or in an FAA database. However, if under any circumstances, the FAA finds itself in possession of an ASAP report, it will be protected from disclosure, as specified in part 193 and this order. For example, if in the course of accomplishing the duties and responsibilities of membership in an ASAP ERC, the FAA representative of that committee is temporarily in possession of a de-identified ASAP report, that report will be protected from disclosure in accordance with part 193 and this order. The FAA believes that the goals of the ASAP are best served by extending disclosure protection to both individual ASAP and certain trend information, as specified in paragraph 5b of this order. To better emphasize that it is the FAA's intent to protect ASAP reports from disclosure, the wording of paragraph 5b(1) of this order has been modified to specify that both the "employee's ASAP report and the content of that report" will be protected under part 193 and this order.

(5) There are other possibilities for a national safety information resource besides the FAA.

(a) Comment. We do not know what is meant by the last sentence under Proposed Findings (4) in the notice, "It would also permit the FAA to serve as a national safety-information resource for certificate holders." There are already other possibilities for this endeavor, such as the Air Transportation Association's Aviation Safety Exchange System or the NASA ASRS. Most importantly, the FAA, through the ASAP programs in place, currently has access to ASAP reports on a periodic basis during the ERC meetings. During this process, the FAA helps identify safety issues, develops corrective actions, and monitors the success of these corrective actions during subsequent ASAP reports reviews. Therefore, additional ASAP

information submission to the FAA should be in aggregate form in order to support the identification and correction of National Airspace safety issues. Therefore, a statement in the paragraph describing the proposed data-sharing program should describe this concept.

(b) The FAA Response. This order does not establish requirements for ASAP information submissions to the FAA. Rather, it establishes part 193 disclosure protection for the ASAP information specified in paragraph 5b of this order. The FAA concurs with the commenter that additional ASAP information submissions to the FAA, beyond the sharing that already occurs in association with FAA membership on an ASAP ERC, should be in aggregate form in order to support the identification and correction of National Airspace safety issues. This order would provide part 193 protection for such aggregate information submitted to the FAA, except as described in paragraph 6e(2). In view of that protection, the FAA concurs with the commenter that the sentence from the notice that reads, "It would also permit the FAA to serve as a national safety information resource for certificate holders," is inappropriate. While such aggregated information could serve as a national resource for the FAA to monitor the identification and correction of safety trends, it would not serve as a national information resource in the same sense as the NASA ASRS or other potential national repositories because the aggregate ASAP information at the FAA would be subject to the disclosure protections of part 193 and this order. The sentence has therefore been deleted from this order. In view of that deletion, a description of the proposed data-sharing national resource program, as requested by the commenter, is not needed.

(6) The FAA's proposal is not properly within the scope of 49 U.S.C., section 40123.

(a) Comment. The effect of this order would be the designation of information provided to the agency from an ASAP as protected from public disclosure under 14 CFR part 193 and 49 U.S.C., section 40123. However, the FAA's proposal is not properly within the scope of that section of the U.S.C. In the Notice of Proposed Order, the FAA represents that certificate holders have not permitted ASAP reports and related information to leave the certificate holder's premises due to their concerns over public disclosure. But under ASAP, the voluntary submitter of the information is not the certificate holder. Rather, the employee of the certificate holder is the submitter, and the protections afforded by 49 U.S.C., section 40123 and 14 CFR part 193 run to the employee submitting information under the program, not to the certificate holder. The idea here is to avoid inhibiting the employee that has a desire to report under ASAP, not to protect the certificate holder. It is not the case that this order is needed in order to encourage submission of ASAP reports by employees, since such reports are in fact already being submitted. Although the certificate holders may obstruct the flow of these reports to the FAA, such obstruction is not the same thing as inhibiting the voluntary submission of the reports in the first place. A certificate holder who is afforded protection for a report submitted by an employee will have received a benefit to which it is not entitled. Such a certificate holder has hijacked the process and is using its physical control over a properly submitted ASAP report to extort compliance from the FAA. Should the FAA submit to the demands of the certificate holders, its action will all but foreclose the flow of this incredibly useful information into the aviation community and endanger the viability of other aviation safety-related resources. The

failure of certificate holders to provide the reported information to the FAA is simply wrong, and the acquiescence of the FAA in extending protection to those certificate holders in return for the information shows only complicity.

(b) The FAA Response. As is discussed in the preamble to part 193 (Federal Register, volume 66, number 122, pages 33792-33805) regarding the FAA's implementation through rulemaking of 49 U.S.C., section 40123, a major goal of the law and part 193 regulation is to address air carrier concerns about voluntarily allowing information to be released from their premises to the FAA that could be subject to disclosure under the Freedom of Information Act or other laws. The rationale for protecting safety-related information voluntarily provided to the FAA, including in particular ASAP information obtained by the certificate holder, is specifically discussed in that preamble. The public law and part 193 are broadly applicable to any voluntarily provided safety- or security-related information, if the Administrator finds that its disclosure would inhibit the voluntary provision of that type of information and its receipt aids in fulfilling the Administrator's safety and security responsibilities. It is clear that the wording of 49 U.S.C., section 40123 is intended to apply to information that is provided to the FAA. The commenter's observation that ASAP reports are already voluntarily provided to the certificate holder is not the issue. In order for the FAA to employ ASAP information for safety improvement, it must receive that information from certificate holders. The FAA has determined that without the disclosure protections provided under part 193 and this order, certificate holders will not voluntarily release ASAP information from their premises to the FAA. Unless the FAA receives that information, it cannot be aggregated from multiple carriers for FAA safety tracking purposes at a national level.

(7) A part 193 designation for ASAP would inhibit future submissions under the NASA ASRS.

(a) Comment. Our greatest fear is that, as an adjunct to "protecting" ASAP data, the FAA will stop the flow of ASAP information into the ASRS database. This would be a tragedy. Although employees of certificate holders are free to file under both ASAP and ASRS programs, the likelihood of such dual filings, especially given the certificate holder's distaste for the dissemination of this kind of information, is exceedingly rare. Safety information needs to be shared, and the aviation community needs to be able to have access to useful data.

(b) The FAA Response. The FAA is a strong supporter of ASRS (both conceptually and financially), and does not intend or expect that this part 193 designation for ASAP will negatively impact the NASA program. Nearly all ASAPs entail the submission of a NASA ASRS report as a standard procedure whenever an ASAP report involves possible noncompliance with the regulations. These NASA ASRS submissions are made either by the company on behalf of the ASAP reporting pilot or by the pilot himself. The FAA believes that this will continue to occur because ASRS can provide the submitter with eligibility for a waiver of the imposition of sanction from FAA enforcement action in the event that an ASAP report is excluded from the program. Since at the time of submission of an ASAP report, a pilot cannot know with certainty whether an ASAP ERC will determine that the report should be accepted under ASAP, there is a strong incentive for air carrier pilots to continue to submit reports to both programs. The FAA does not agree that extending part 193 protection to ASAP will stop the

flow of useful information into the NASA ASRS. Rather, the FAA anticipates that establishing part 193 protection for ASAP will have the opposite effect. It will increase industry participation in ASAP, thereby also increasing the reporting of events under the NASA ASRS. At the same time, it will allow the FAA to obtain the more detailed information on specific events and their followup that occurs under an ASAP, but cannot occur under the ASRS, due to the requirement to deidentify the data so thoroughly. ASRS will continue to serve as a valuable source to the aviation community of thoroughly de-identified safety-related information.

(8) FAA should not protect the content of an ASAP report once the identity of the employee and certificate holder have been redacted.

(a) Comment. We object to protecting the content of an employee's ASAP report. We believe the FAA has failed to articulate a convincing case for protecting the entire content of an employee's ASAP report when "sanitization" is all that is called for to afford the protection that the FAA claims is required. In short, why withhold the entire content of the ASAP report when simply withholding the identity of the employee and the certificate holder would eliminate the problems described by the FAA?

(b) The FAA Response. In order to protect the identity of the employee who has submitted an accepted ASAP report, and that of the certificate holder, more than simply removing the identities of each is required. For example, reports entered into the ASRS database also entail removing information on make, model, and series of aircraft, airport city pair information, and any other specific information that might potentially enable a third party to derive identity information. Because of the thoroughness with which ASRS has removed all information that might enable identification of the employee or certificate holder, the ASRS has been effective in establishing a high level of trust with the aviation community that identity information would be protected. In contrast, the value of ASAP for safety enhancement lies in its capacity to retain specific information on individual events, including, for example, specific information on aircraft make, model, and series. In addition, an ASAP requires that the ERC determine whether corrective action is required to resolve a safety issue associated with an individual report. If so, the employee must complete that corrective action to the satisfaction of all members of the ERC, or the report will be excluded from the program. For this reason, this order protects not only the actual report and the content of the report, but also the information gathered during an ERC investigation by persons other than the FAA, and a certificate holder's database of reports and events collected over time. While the ASRS achieves protection of identity information by a thorough process of "sanitization," the FAA seeks through this order of designation under part 193 to enable it to access the more specific information on safety-related events and their followup than is available through ASRS. The FAA believes that the public interest in aviation safety enhancement is better served by enabling the acquisition through ASAP of specific information on safety-related events and their resolution and the protection from disclosure of that information under part 193. The FAA also believes that extending this protection to ASAP is clearly consistent with the intent of Congress in enacting 49 U.S.C., section 41023.

VOLUME 11 FLIGHT STANDARDS PROGRAMS

CHAPTER 2 VOLUNTARY SAFETY PROGRAMS

Section 1 Aviation Safety Action Program (ASAP)

11-35 PURPOSE. Aviation Safety Action Programs (ASAP) prevent accidents and incidents by encouraging employees of certificate holders to voluntarily report safety issues and events. ASAPs provide for education of appropriate parties and the analysis and correction of safety concerns that are identified in the program. ASAPs are intended to create a nonthreatening environment to encourage the employee to voluntarily report safety issues even though they may involve violation of Title 49 of the United States Code (49 U.S.C.), Subtitle VII, or violation of Title 14 of the Code of Federal Regulations (14 CFR). ASAP is based on a safety partnership between the Federal Aviation Administration (FAA) and the certificate holder and may include any third party such as an employee labor organization. These programs are intended to generate safety information that may not otherwise be obtainable.

A. Information obtained from these programs will permit ASAP participants to identify actual or potential risks throughout their operations. Once identified, the parties to an ASAP can implement corrective actions in order to reduce the potential for occurrence of accidents, incidents, and other safety-related events. In order to gain the greatest possible positive benefit from ASAP, it may be necessary for certificate holders to develop programs with compatible data collection, analysis, storage, and retrieval systems. The information and data, which are collected and analyzed, can be used as a measure of aviation system safety.

B. An ASAP provides a vehicle whereby employees of participating air carrier and domestic repair station certificate holders can identify and report safety issues to management and to the FAA for resolution, without fear that the FAA will use reports accepted under the program to take legal enforcement action against them, or that companies will use such information to take disciplinary action. These programs are designed to encourage participation from various employee groups, such as flight crewmembers, mechanics, flight attendants, and dispatchers.

> NOTE: The FAA may use ASAP reports for legal enforcement purposes where such reports disclose events that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

C. The elements of ASAP are set forth in a Memorandum of Understanding (MOU) between FAA, certificate holder management, and an appropriate third party, such as an employee labor organization or other employee representatives.

11-36 BACKGROUND. The FAA's safety mission requires it to take action to reduce or eliminate the possibility or recurrence of accidents in air transportation. The FAA and the air transportation industry have sought innovative means for addressing safety problems and identifying potential safety hazards. The FAA, in cooperation with industry, established several demonstration ASAPs in an effort to increase the flow of safety information to both the air carrier and FAA, and issued Advisory Circular (AC) 120-66, Aviation Safety Action Program (ASAP), January 1997. Among these programs were the USAir Altitude Awareness Program,

the American Airlines Safety Action Partnership, and the Alaska Airlines Altitude Awareness Program. These programs included incentives to encourage employees of air carriers participating in the programs to disclose information which may include possible violations of 14 CFR without fear of punitive enforcement sanctions or company disciplinary action. Events reported under a program that involved an apparent violation of the regulations by the air carriers were handled under the Voluntary Disclosure Reporting Program, provided that the elements of the policy were satisfied. In view of the positive safety results from those programs, the FAA issued a revised AC 120-66 in March 2000 (AC 120-66A), which established industry-wide guidelines for participation. The FAA revised AC 120-66 again in November 2002 (AC 120-66B), incorporating the lessons learned from over two dozen programs that have been established. This chapter contains revised guidance to facilitate achievement of ASAP's safety goals, as well as to encourage wider participation in the program. ASAP includes incentives that encourage participating employees to disclose safety information which may include possible violations of 14 CFR.

11-37 KEY TERMS. The following key terms and phrases are defined for the purposes of ASAP to ensure a standard interpretation of the guidance.

A. Administrative Action. Under paragraph 205 of the current edition of FAA Order 2150.3, Compliance and Enforcement Program, administrative action is a means for disposing of violations or alleged violations that do not warrant the use of enforcement sanctions. The two types of administrative action are a warning notice and a letter of correction.

B. Air Carrier. A person who undertakes directly by lease, or other arrangement, to engage in air transportation.

C. ASAP Manager. The person serving as the focal point for program administration, including but not limited to: recording and acknowledging receipt of reports, maintaining the ASAP database, providing information about, and responding to, inquiries concerning the status of ASAP reports, and for the coordination and tracking of Event Review Committee (ERC) corrective action recommendations. The ASAP manager may or may not be the voting representative from company management on the ERC

D. Certificate Holder. Refers to a person authorized to operate under 14 CFR part 121, or who holds a certificate issued under 14 CFR part 145.

E. Certificate-Holding District Office (CHDO). The Flight Standards District Office (FSDO) or certificate management office (CMO) having overall responsibility for all FAA reporting requirements, technical administration requirements, and regulatory oversight of a certificate holder.

F. Consensus of the ERC. Under ASAP, consensus of the ERC means the voluntary agreement of all voting representatives of the ERC to each decision required by the MOU.

G. Corrective Action. For the purposes of ASAP, corrective action refers to *any* safety-related action or recommendation determined necessary by the ERC based upon a review and analysis of the reports submitted under an ASAP. Corrective action may involve joint or individual action by the parties to the ASAP MOU.

H. Covered Under the Program/Qualified for Inclusion/Included in ASAP. For the purposes of ASAP, these terms all have the same meaning. They mean that the enforcement-related incentives and other provisions of the ASAP apply to the employee who submitted the report.

I. Enforcement Decision Tool (EDT). The EDT is utilized to determine the safety risk posed by an event as a function of the type of conduct involved. The EDT process uses systems safety risk management principles. (See FAA Order 2150.3, appendix F.) For non-sole source reports accepted by the ASAP ERC and determined by the ERC to be supported with sufficient evidence of a violation, the ERC may use the EDT along with associated guidance to determine the type of corrective action to take under ASAP (administrative or informal action).

J. Enforcement-Related Incentive. Refers to an assurance that lesser enforcement action will be used to address certain alleged violations of the regulations to encourage participation by the employees of a certificate holder.

K. ERC. A group comprised of a representative from each party to an ASAP MOU. The group reviews and analyzes reports submitted under an ASAP. The ERC may share and exchange information and identify actual or potential safety problems from the information contained in the reports. The ERC is usually comprised of a management representative from the certificate holder, a representative from the employee labor association (if applicable), and a specifically qualified FAA inspector from the CHDO. Where an employee group is not represented by a labor association, the ERC may include a voting representative chosen from the employee group, even though in that case the labor group is not a signatory to the ASAP MOU.

L. Informal Action. Oral or written counseling of individuals.

M. Intentional Falsification. For the purposes of ASAP, intentional falsification means a false statement in reference to a material fact made with knowledge of its falsity. It does not include mistakes or inadvertent omissions or errors.

N. Major Domestic Repair Station. Refers to a part 145 certificated repair station located in the United States that is certificated to perform airframe and/or engine maintenance for certificate holders.

O. Memorandum of Understanding (MOU). Refers to the written agreement between two or more parties setting forth the purposes for, and terms of, an ASAP.

P. Party/Parties. Refers to the certificate holder, the FAA, and any other person or entity (e.g., labor union or other industry or Government entity) that is a signatory to the MOU.

Q. Person. A person refers to an individual, firm, partnership, corporation, company, association, joint stock association, or government entity. It includes a trustee, receiver, assignee, or similar representative of any of them.

R. Runway Incursion Information Evaluation Program (RIIEP). An FAA-sponsored initiative for gathering critical safety data not otherwise available concerning the root causes of runway incursions and surface incidents. The primary means of gathering the data is through

in-depth interviews of pilots and maintenance technicians involved in these incidents, as well as completion of a RIIEP questionnaire. ASAP participants are encouraged to incorporate RIIEP as a voluntary part of their ASAP process by providing RIIEP awareness information to their pilot and maintenance-technician groups. ERC members should provide the RIIEP Questionnaire to a pilot or maintenance technician who submits an ASAP report involving a runway incursion or surface incident, and request voluntary completion of the questionnaire by that employee. In the case of a sole source report, the employee should be instructed not to enter the name identification information requested in section 1 of the RIIEP questionnaire.

S. Safety-Related Report. Refers to a written account of an event that involves an operational or maintenance issue related to aviation safety reported through an ASAP. The reporting venue is specified in the ASAP MOU.

T. Streamlined No Action and Administrative Action Process (SNAAP). The SNAAP provides an automated means for issuance of a warning notice, letter of correction, or FAA letter of no action. The automated process does not replace the more formal process for administrative action described in Order 2150.3. The SNAAP is not be used for remedial training, voluntary disclosures, or cases where further corrective action must be taken. It should not be used when an inspector determines that inclusion in an administrative action letter of summary of facts text is appropriate, since SNAAP does not allow for entry of such text. It should not be used for ASAP administrative action letters when, based on the consensus of the ASAP ERC, inclusion of summary of facts information in the letter is determined to be appropriate. The SNAAP is highly recommended for letters of no action and should replace the manual preparation of such letters.

U. Sole-Source Report. For the purposes of FAA action under ASAP, the ERC shall consider a report to be sole source when all evidence of the event available to the FAA outside of ASAP is discovered by or otherwise predicated on the ASAP report. It is possible to have more than one sole source report for the same event.

V. Sufficient Evidence. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report. There must be sufficient evidence to prove the violation, other than the individual's safety-related report. In order to be considered sufficient evidence under ASAP, the ERC must determine through consensus that the evidence (other than the individual's safety-related report) would likely have resulted in the processing of an FAA enforcement action had the individual's safety-related report not been accepted under ASAP. Accepted ASAP reports for which there is sufficient evidence must be closed with FAA administrative action unless the ERC has elected through unanimous consensus to employ the EDT for an accepted non-sole source report and determines through the EDT process that informal action is appropriate, as follows: If sufficient evidence supports a violation for an accepted non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (see Order 2150.3). This matrix may be used to determine, through ERC consensus under the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action if appropriate).

W. Voluntary Disclosure Reporting Program. A policy under which regulated entities may voluntarily report apparent violations of the regulations and develop corrective action satisfactory to the FAA to preclude their recurrence. Certificate holders that satisfy the elements of the Voluntary Disclosure Reporting Program (VDRP) receive a letter of correction in lieu of civil penalty action. Voluntary disclosure reporting procedures are outlined in the current edition of AC 00-58, Voluntary Disclosure Reporting Program.

11-38 APPLICABILITY. ASAPs are intended for air carriers that operate under part 121 and major domestic repair stations certificated under part 145. Other certificated entities may also apply, and will be evaluated for acceptance on a case-by-case basis to determine whether adequate resources are available to maintain program quality control. ASAPs are entered into voluntarily by the FAA, a certificate holder, and if appropriate, other parties.

11-39 DEVELOPMENT. Certificate holders may develop programs and submit them to the FAA for review and acceptance in accordance with the guidance provided. Ordinarily, programs are developed for specific employee groups, such as flight crewmembers, flight attendants, mechanics, or dispatchers. The FAA will determine whether a program is accepted. The FAA may suggest, but may not require, that a certificate holder develop an ASAP to resolve an identified safety problem.

A. Development and Implementation of an ASAP.

1) The certificate holder, employee group, and the FAA must first develop a relationship that will promote the ASAP concept. The reluctance of one or more parties to commit to the program is detrimental to the process.

2) The process for report review must be outlined in detail.

3) Safety data collection, analysis, and retention processes must be developed and agreed upon.

4) Event investigation tasks must be assigned.

5) Before implementing the ASAP, a comprehensive company employee and management education program must be undertaken.

6) The ASAP process may require cultural change for all parties involved.

7) Continuity of ERC representation personnel during the early stages of program implementation will promote the desired partnership relationship between program members.

B. Demonstration Programs. Certificate holders initially must develop a demonstration program for each employee group sought to be covered by an ASAP. The objective of a demonstration program is to measure its effectiveness and ensure that it meets the safety objectives of the specific ASAP.

1) The initial demonstration program should have a duration of 18 months. However, the FAA may authorize extension of a demonstration program, when the FAA

determines that a longer period of time is needed to achieve the desired goals and benefits articulated in the program.

2) At the conclusion of the initial demonstration program, all parties will review the program. Demonstration programs that require modification may be extended for an additional time, ordinarily not to exceed 12 months, to effectively measure any change(s) made to the original program to address a deficiency identified by any of the parties to the MOU.

3) The ERC is responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report with the certificate holder's application to the FAA 60 days in advance of the termination date of the demonstration program. All demonstration programs will be subject to an FAA program review prior to transition from a demonstration to a continuing ASAP.

C. Continuing Programs. After a demonstration program is reviewed and determined to be successful by the parties to the agreement, it may be accepted as a continuing program, subject to review and renewal every 2 years by the FAA.

D. Withdrawal. Regardless of the duration of a program, any party to the ASAP MOU may withdraw from the program at any time for any reason.

11-40 RESOURCES. An ASAP can result in a significant commitment of both human and fiscal resources by the parties to the program. During the development of a program, it is important that each party is willing to commit the necessary personnel, time, and monetary resources to support the program. Programs for which adequate resources from all parties are not available, including the FAA in particular, should not be recommended by a CHDO for acceptance.

11-41 ASAP CONCEPTS. The specific provisions of an ASAP are described by an MOU which is primarily developed by the certificate holder, FAA CHDO, and in some cases, a third party such as an employee labor union. A sample MOU is provided in AC 120-66, current edition. An automated MOU template is also available through the FSS Web page at: http://www.faa.gov/safety/programs_initiatives/aircraft_aviation/asap. The guidance material contained in this section and in the current edition of AC 120-66 provide structure and guidance in preparing a program acceptable for FAA participation. Several workable concepts have emerged from the ASAP demonstration programs. These concepts should be addressed in the MOU, and are explained below:

A. ERC. The determination of whether reports qualify for inclusion in the ASAP will be made by a consensus (unanimous agreement) of the ERC.

1) The ERC is composed of one designated representative and an alternate each from the FAA, the certificate holder, and a third party, if applicable (e.g., a representative from the employee's union or a person chosen from the employee group to serve as an employee voting representative on the ERC).

2) The ERC will:

- Review and analyze reports submitted under the ASAP.
- Determine whether such reports qualify for inclusion, including, if appropriate, interviewing or requesting clarification from the reporter. The ERC may elect to interview an employee prior to an acceptance decision.
- Identify actual or potential problems from the information contained in the reports.
- Propose solutions for those problems.
- Conduct an annual review of the ASAP database to determine whether corrective actions have been effective in preventing or reducing the recurrence of targeted safety-related events.

3) For official meeting purposes, a quorum exists when all designated ERC representatives or their alternates are present. Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA or industry persons. The ERC representatives are encouraged to consult with such persons as needed during the ASAP process.

B. FAA ERC Member Responsibilities.

1) Determine if the FAA has received independent evidence on a reported event (e.g., preliminary pilot deviation report, Administrator's Daily Alert Bulletin, etc.).

2) Assist in determination of a possible 14 CFR regulatory violation.

3) Assure ERC investigation ascertains all pertinent facts and circumstances prior to acceptance/exclusion, including, where appropriate, ERC interview of the employee(s) prior to acceptance of a report.

4) Assist in determining event resolution in the best interest of safety.

5) Recommend corrective action whenever it is appropriate.

6) Follow-through on corrective action to ascertain satisfactory completion.

NOTE: Some reported events may involve matters that are complex or sensitive, or that require the expertise of other FAA or industry persons. FAA ERC representatives are encouraged to consult with such persons as may be needed during the ASAP process to better understand the nature of an event and its appropriate disposition. FAA management should be advised when potentially controversial events have been submitted for consideration under ASAP. Providing briefings and information to other FAA personnel concerning the nature of the safety event and associated results of ERC/FAA investigation is appropriate, provided that the identity of the reporting employee is not disclosed outside of the ERC. It is appropriate for the FAA member of an ASAP ERC to share information on safety issues identified through ASAP with other FAA personnel.

C. Consensus of the ERC. The success of ASAP is built on the ability of the ERC to achieve consensus on each event that is reported. Consensus of the ERC means the voluntary agreement of all representatives of the ERC.

1) The ERC must reach a consensus when deciding whether a report is accepted into the program and when deciding on corrective action recommendations arising from the event, including whether FAA administrative action is appropriate. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety. In order for this concept to work effectively, the ERC representative must be empowered to make decisions within the context of the ERC discussions on a given report. Senior management and supervisors should ordinarily not preempt their respective ERC representative's decisionmaking discretion for an event reported under ASAP. If the parties to an ASAP MOU do not permit their respective ERC representative to exercise this discretion, the capacity of the ERC to achieve consensus will be undermined, and the program will ultimately fail.

2) Recognizing that the FAA holds statutory authority to enforce the necessary rules and regulations, it is understood that the FAA retains all legal rights and responsibilities contained in 49 U.S.C. and FAA Order 2150.3. In the event there is not a consensus of the ERC on decisions concerning a report involving an apparent violation(s), a qualification issue, or medical certification or qualification issue, the FAA ERC representative will decide how the report should be handled (e.g., acceptance or exclusion of the report, or corrective action for an event accepted under ASAP). The FAA will not use the content of an ASAP report in any subsequent enforcement action except as described in paragraph 11-43B1).

3) When the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue. The ERC will work with the Regional Flight Surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or medical qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or qualification issue(s) revealed in an ASAP report.

4) The program may be terminated at any time by any party for any reason.

5) Report De-identification. ASAP provides for confidentiality of reporter identity outside of the ERC, but not reporter anonymity within the ERC itself. The ASAP manager may elect to remove the employee's name (but should not remove any other information, such as date of the event, tail number, etc.) for initial ERC report review. The purpose of removing the reporters name is simply to reduce the likelihood that personal knowledge of the individual may bias the initial evaluation of the event. FAA ERC members need the specifics (other than employee identity) concerning the event (date, flight number, location, etc.) in order to efficiently accomplish their responsibility to determine whether the FAA has received independent information (i.e., information, such as a preliminary pilot deviation report, outside of ASAP) concerning the event.

6) Safety Data Collection, Analysis, and Retention Processes. Through the collection and aggregation of de-identified ASAP data, the parties to the MOU can identify and analyze trends and target resources to reduce risks. Data are gathered from the reports and used to identify trends. Corrective actions are devised to counter adverse trends. Data are again gathered to determine the effectiveness of any corrective actions undertaken. If needed, new or additional corrective actions are devised and implemented. Data are used to evaluate the effectiveness of these new actions. This process continues until the actions are deemed successful, and then data are used to monitor long-term success and ensure there is no recurrence.

7) ASAP Manager. The person, designated by the air carrier, serving as the focal point for information about, and inquiries concerning the status of, ASAP reports, and for the coordination and tracking of ERC recommendations. Duties include:

a) Receives, records, tracks, analyzes and responds to ASAP reports.

b) Maintaining the ASAP database and facilitating ERC member access, as needed.

c) Preparing meeting agenda.

d) Tracking corrective action(s).

e) Recording repeat instances of noncompliance with 14 CFR.

f) Providing employee feedback.

8) ASAP Database. Individual program participants may develop data acquisition, event categorization, and risk analysis schemes that work best for them. However, FAA representatives should be cognizant of FAA-sponsored development and implementation of a voluntary national information sharing venue for ASAP, and should convey that information to their ERC counterparts, as well as to the ASAP manager. In order to enable voluntary sharing of ASAP information from multiple program participants, a common taxonomy (classification scheme) tailored to the type of events and corrective actions appropriate for a particular employee group must be created. Although not required to do so, operators interested in participating in safety information sharing at a national level may want to consider adopting part or all of the endorsed national classification scheme for a given employee group, in order to facilitate their participation in that initiative. In any case, regardless of a participant's internal classification scheme for ASAP events, participants who wish to participate in national information sharing will need to map their events to the agreed upon national scheme for a given employee group in order to participate in that information sharing effort. Information concerning the national information sharing initiative for ASAP is available from the Manager, Voluntary Safety Programs Branch, AFS-230.

a) Suggested items for inclusion in a report tracking/categorization scheme include:

- Report number (certificate holder defined),
- Event category (certificate holder defined),

- Report type (sole or non-sole source),
- Referred to another line of business (when, what department, followup),
- Possible 14 CFR violation (yes/no),
- Sufficient evidence (yes/no),
- Risk category (certificate holder defined),
- ATOS element (if appropriate),
- Corrective action recommendation (description),
- FAA action, if any (letter of correction, warning notice or letter of no action),
- Written counseling, or oral counseling action accomplished, if any,
- Completion date, followup required (yes/no),
- Corrective action effective (yes/no),
- Time to completion, and
- Person responsible for additional information (investigation/interview, etc.).

b) Database information retention requirements: safety related information should be retained for a period of time sufficient for the ERC to determine whether its recommended corrective actions have been effective, but not less than for two years.

D. Sole-Source Reporting. Often, the only information available concerning a safety event will be the individual's ASAP report. Under ASAP this is referred to as a "sole source" report. Therefore, for the purposes of FAA action under ASAP, an individual' s ASAP report is considered sole source when all evidence of the individual reporter's involvement in the event available to the FAA is discovered by or otherwise predicated on the report. The intent of the ASAP is to correct safety concerns that are identified by the program. Safety risks/threats identified in sole source reports must be addressed by the ASAP ERC. Corrective action for the individual and/or the air carrier should be recommended, if appropriate.

1) The ERC will close the sole source report and provide feedback to the reporting employee in a form and manner acceptable to the ERC.

2) It is possible to have more than one sole source report for the same event.

3) After the investigation is complete and the only evidence of the individual reporter's involvement in the event available to the FAA is obtained from the reporting individual, or is caused by or predicated upon that individual's accepted sole source report, *no additional* FAA enforcement action or correspondence outside of the ERC is required. Such reports are closed with an ERC response to the submitter, and corrective action under ASAP, if the ERC determines that such corrective action is appropriate.

4) Accepted sole source reports shall *NOT* be closed with an FAA Letter of No Action, letter of correction or a warning notice.

E. Sufficient Evidence. Sufficient evidence means evidence gathered by an investigation not caused by, or otherwise predicated on, the individual's safety-related report.

(See paragraph 11-37V for the complete definition.) Reports which are accepted into the program and supported by sufficient evidence are referred to as non-sole source reports.

1) For accepted non-sole source reports, the inspector should only open an Enforcement Investigative Report (EIR) at such time during the investigation that it is determined that sufficient evidence of an apparent violation exists, as defined in paragraph 11-37V.

a) For non-sole source reports that are accepted under an ASAP, neither administrative action nor informal action will be taken against an individual for an apparent violation unless there is sufficient evidence of the violation, other than the individual's safety-related report.

NOTE: If sufficient evidence supports a violation for a non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (see Order 2150.3, current edition). This matrix may be used to determine, through ERC consensus under the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action if appropriate).

b) For non-sole source reports that are accepted under ASAP, an FAA warning notice, letter of correction, or informal action (see note above), in addition to an appropriate ERC reply to the reporter, would be used to close an ERC investigation when the evidence provided for the accepted non-sole source report is sufficient to prove a violation.

c) For non-sole source reports that are accepted under ASAP, an FAA letter of no action, in addition to an appropriate ERC reply to the reporter, would be used to close an ERC investigation when there is not sufficient evidence, as defined in paragraph 11-37V.

2) Under ASAP, except for reports that appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification, the content of any individual's ASAP report will not be used as evidence by FAA for any purpose in an FAA enforcement action.

3) Corrective action refers to *any* safety-related action determined necessary by the ERC based upon a review and analysis of the reports submitted under an ASAP. Corrective action may involve joint or individual action by the parties to the ASAP MOU.

a) Corrective action for employees is any safety-related action determined necessary by the ERC based upon a review, investigation, and analysis of the event(s).

b) Corrective action for certificate holder systemic issues is any safety-related recommendation determined necessary by the ERC, based upon a review, investigation, and analysis of the event(s).

1. The ASAP manager should convey such ERC recommendations to the appropriate company department head for consideration.

2. The certificate holder may implement as recommended, modify, or decline to implement.

3. The ASAP manager must record, track, and followup company response and action.

4. Any recommended corrective action that is not implemented will be recorded along with the stated reason why it was not implemented.

5. Repeated occurrences of systemic issues should be brought to the attention of company and FAA management.

4) FAA ERC representative:

a) Should recommend corrective action whenever it is appropriate given the nature of the event, regardless of whether it is sole source or non-sole source.

b) Is responsible for tracking and followup for ERC-recommended corrective action to assure that it has been accomplished to the satisfaction of the FAA.

c) May elect to observe accomplishment of corrective action to ascertain acceptability.

F. Enforcement-Related Incentive. An enforcement-related incentive is the minimum FAA enforcement action that is needed to achieve the desired goal(s) and results of the program when alleged infractions of 14 CFR are involved.

NOTE: If sufficient evidence supports a violation for a non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (see Order 2150.3). This matrix is used to determine, through ERC consensus under the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action if appropriate).

1) Apparent violations of the regulations by employees of a certificate holder disclosed through safety-related reports will be addressed with administrative action or informal action if (see note above):

a) Sufficient evidence exists; and

b) The apparent violation(s) is inadvertent and does not involve an intentional disregard for safety.

2) Violations that are not inadvertent or that involve an intentional disregard for safety are specifically excluded from the program and any enforcement-related incentive will not apply to these violations.

NOTE: ASAP ERC members are encouraged to consider the conduct definitions and associated attributes found in Order 2150.3, when determining whether a report should or should not be accepted under the ASAP.

3) Reports that appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification are automatically excluded from the program and are turned over to the proper authorities for further investigation.

4) Conduct that raises a question of a lack of airman competence or qualification, medical certification or other employee competence/qualification issues may be addressed by ASAP; however, the employee must successfully complete all of the recommendations in a manner satisfactory to all members of the ERC to be covered by the program and the ERC must comply with paragraph 11-41C3).

5) Reports initially accepted under an ASAP will be excluded from the program if the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. Failure of a certificate holder to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in termination of the program. In addition, failure of any individual to complete corrective action for an apparent violation, a competence or qualification issue, or medical certification issue in a manner acceptable to all members of the ERC, may result in the reopening of the case and referral of the matter for appropriate action.

11-42 GUIDELINES FOR ACCEPTANCE AND EXCLUSION OF REPORTS UNDER ASAP. Participation in ASAP is limited to certificate holder employees and to events occurring while acting in that capacity. Each employee participating in ASAP must individually submit a report in order to receive the enforcement-related incentives and benefits of the ASAP policy. However, in cases where an event may be reported by more than one person, each individual who seeks coverage under ASAP must either sign the same report or submit separate signed reports. The ERC should not complete its deliberations on acceptance/exclusion of a report, classification as sole source/non-sole source, etc., until the FAA member informs the ERC that he/she has completed the investigation of the event.

A. Criteria for Acceptance. The following criteria must be met in order for a report involving a possible violation to be covered under ASAP:

1) The employee must submit a report in a timely manner. In order to be considered timely, a report must be submitted in accordance with either of the following two criteria:

a) Within a time period following the event that is defined in the MOU, such as within 24 hours of the end of the duty day in which the event occurred. If the ERC reaches consensus that this criterion has been met, a report would not be rejected for timeliness, even if the FAA was already aware of the possible noncompliance with the regulations, and may have brought it to the attention of the employee;

b) Within 24 hours of having become aware of possible noncompliance with 14 CFR in accordance with the following criteria:

1. If a report is submitted later than the time period after the occurrence of an event stated in the MOU, the ERC will review all available information to determine whether the employee knew or should have known about the possible noncompliance with 14 CFR within that time period.

2. If the employee did not know or could not have known about the apparent noncompliance with 14 CFR within that time period, then the report would be included in ASAP, provided the report is submitted within 24 hours of having become aware of possible noncompliance with 14 CFR, and provided all other ASAP acceptance criteria have been met.

3. If the employee knew or should have known about the apparent noncompliance with 14 CFR, then the report will not be included in ASAP, unless the MOU states that a sole source report that meets all other ASAP acceptance criteria except timeliness will be accepted.

2) The alleged regulatory violation must be inadvertent, and must not appear to involve an intentional disregard for safety. As stated in Order 2150.3, inadvertent apparent violations are generally the result of simple failure to exercise reasonable care.

NOTE: ASAP ERC members are encouraged to consider the conduct definitions and associated attributes found in Order 2150.3, when determining whether a report should or should not be accepted under the ASAP.

3) The reported event must not appear to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

4) Sole source reports that meet all of the MOU acceptance criteria except timely submission will be accepted under ASAP, provided that the ASAP MOU includes a specific provision to that effect.

5) Reports involving the same or similar possible noncompliance with 14 CFR that were previously addressed with administrative action under ASAP will be accepted into the program, provided they otherwise satisfy the acceptance criteria under paragraph 11-42A above. The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.

B. Nonreporting Employees. Nonreporting employees are employees of the certificate holder that have been identified in an ASAP report as possibly having been involved in an alleged violation and have neither signed that report nor submitted a separate report. For the purposes of ASAP, there are two types of nonreporting employees—those employees of the group covered by an ASAP MOU and those employees that are not covered by an ASAP MOU.

1) If an ASAP report identifies another covered employee of the certificate holder in a possible violation, and that employee has neither signed that report nor submitted a separate report, the ERC will determine on a case-by-case basis whether that employee knew or reasonably should have known about the possible violation. If the ERC determines that the employee did not know or could not have known about the apparent violation(s), and the original

report otherwise qualifies for inclusion under ASAP, the ERC will offer the nonreporting employee the opportunity to submit his/her own ASAP report.

a) If the nonreporting employee submits his/her own report within 24 hours of notification from the ERC, that report will be afforded the same consideration under ASAP as that accorded the report from the original reporting employee, provided all other ASAP acceptance criteria are met.

b) If the nonreporting employee fails to submit his/her own report within 24 hours of notification by the ERC, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement authorities, if warranted.

2) If an ASAP report identifies another employee of the certificate holder who is not covered under an ASAP MOU, and the report indicates that employee may have been involved in a possible violation, the ERC will determine on a case-by-case basis whether it would be appropriate to offer that employee the opportunity to submit an ASAP report. If the ERC determines that it is appropriate, the ERC will provide that employee with information about ASAP and invite the employee to submit an ASAP report.

a) If the employee submits an ASAP report within 24 hours of notification by the ERC, that report will be covered under ASAP.

b) If the employee fails to submit an ASAP report within 24 hours of notification by the ERC, the possible violation by that employee will be referred to an appropriate office within the FAA for additional investigation and reexamination and/or enforcement action, as appropriate, and for referral to law enforcement agencies, if warranted.

C. Excluding Reports from ASAP. The following types of reports are excluded under an ASAP:

1) Reports involving an apparent violation that is not inadvertent or that appears to involve an intentional disregard for safety. For example, a pilot misreading an item on a checklist ordinarily would be considered inadvertent. Failure to use the checklist, however, would not be considered inadvertent.

NOTE: ASAP ERC members are encouraged to consider the conduct definitions and associated attributes found in Order 2150.3, when determining whether a report should or should not be accepted under the ASAP.

2) Reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification;

3) Untimely reports excluded under paragraph 11-42A1) or reports where a consensus on acceptance under paragraph 11-42 is not reached by the ERC;

4) Reports of events that occurred when NOT acting as an employee of the certificate holder; and

5) Reports initially included in an ASAP will be excluded from the program if the employee fails to complete the recommended corrective action in a manner satisfactory to all members of the ERC. In those cases, failure of any individual to complete corrective action for an apparent violation, a competence or qualification issue, or medical certification or qualification issue in a manner acceptable to all members of the ERC may result in the reopening of the case and referral of the matter for appropriate action. Failure of a certificate holder to follow through with corrective action acceptable to all members of the ERC to resolve any safety deficiencies will ordinarily result in termination of the program.

11-43 ENFORCEMENT POLICY. The content of the ASAP report will not be used to initiate or support any company disciplinary action, or as evidence for any purpose in an FAA enforcement action, except as provided in paragraph 11-43B1). The following enforcement policy shall apply to reports submitted under ASAP:

A. Reports Accepted Under ASAP. An individual's report that is accepted into ASAP will be addressed using the following enforcement policy:

1) Those non-sole source reports included in ASAP with sufficient evidence (see paragraph 11-37V for the definition of sufficient evidence) to support a violation of 14 CFR will be closed with administrative action or informal action (see note). Those non-sole source reports without sufficient evidence to support a violation of 14 CFR will be closed with an FAA letter of no action.

NOTE: If sufficient evidence supports a violation for a non-sole source report, the ERC may employ the EDT—Individual matrix and associated guidance (see Order 2150.3). This matrix may be used to determine, through ERC consensus under the ASAP process, whether the accepted non-sole source ASAP report should be closed with administrative or informal action (and corrective action if appropriate).

NOTE: *Important:* If the Streamlined No Action and Administrative Action Process (SNAAP) is used, source code 44 must be entered on the SNAAP job aid. If it is not used, code 44 must be entered on the FAA Form 2150-5, Enforcement Investigation Report, for those non-sole source reports included in ASAP supported by sufficient evidence and closed with administrative action. Code 44 signifies that the information is protected from release under 14 CFR part 193.

2) Those sole source reports that are included in ASAP will be closed with appropriate corrective action and an ERC response to the submitter (no FAA action).

3) Those reports included in ASAP that demonstrate a lack of qualification or competence, or raise a question of a lack of qualification or competence, will be addressed with appropriate corrective action recommended by the ERC, provided the employee completes the corrective action in a manner satisfactory to all members of the ERC.

B. Reports Excluded from ASAP. Reported events that are excluded from ASAP will be referred to the FAA for possible enforcement action and/or re-examination under 49 U.S.C., Subtitle VII, and as prescribed in the current edition of FAA Order 2150.3.

1) Reports of events that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling. The FAA may use such reports for any enforcement purposes, and will refer such reports to law enforcement agencies, if appropriate. If upon completion of subsequent investigation it is determined that the event did not involve any of the aforementioned activities, then the report will be referred back to the ERC for a determination of acceptability under ASAP. Such reports will be accepted under ASAP provided they otherwise meet the acceptance criteria contained in paragraph 11-42A.

2) Neither the written ASAP report nor the content of the written ASAP report will be used to initiate or support company discipline or as evidence for any purpose in an FAA enforcement action except as provided for in paragraph 11-43B1). The FAA may conduct an independent investigation of an event disclosed in a report.

C. Reopening Reports Based o n New Evidence. All safety-related reports should be fully evaluated and, to the extent appropriate, investigated by the FAA. The ERC should not accept or close a report until all member investigations concerning the event are completed, including the determination of whether independent information on the event (i.e., information not obtained from, or predicated upon, the ASAP report) is known to the FAA. A closed ASAP case, including any related EIR, involving a violation addressed with administrative action, informal action, or for which no action has been taken, may be reopened and appropriate enforcement action taken if evidence later is discovered that establishes that the violation should have been excluded from the program.

D. Violations of Certificate Holders. Apparent violations of certificate holders disclosed through a safety-related report under an ASAP may be handled under the VDRP, provided the certificate holder voluntarily reports the apparent violations to the FAA and the other elements of that policy are met. (See the current edition of AC 00-58 and FAA Order 2150.3) The FAA shall use the knowledge of the event to conduct such independent investigation of the operator's apparent violation(s) as is deemed appropriate, including opening an enforcement investigative report, and, where the FAA has accepted the voluntary disclosure of a violation by the regulated entity, the FAA shall close the event with an FAA letter of correction (administrative action).

1) Special provisions exist for apparent violations by certificate holders when a voluntary disclosure is made based on information in an ASAP report. If the FAA has learned of an apparent violation by a certificate holder from an ASAP report, a voluntary disclosure can still be accepted by the FAA, even though the FAA has already learned of the violation from the ASAP. In such cases, the FAA may, at its sole discretion, accept the corrective action recommended by an ASAP ERC for an accepted ASAP report as the comprehensive fix for the voluntary disclosure. This is acceptable when the following conditions all apply (even when an apparent employee qualification or competency issue is involved):

a) The FAA determines that the violation is due entirely to the actions of the employee(s) and not to a systematic or procedural deficiency of the company; and

b) The employee completes the corrective action recommended by the ASAP ERC to the satisfaction of the FAA.

E. Enforcement Investigation Coordination. The CHDO is the focal point of all enforcement-related investigations resulting from events reported through the ASAP.

1) If an event occurs within the jurisdiction of a FSDO other than the CHDO of the certificate holder involved, the FSDO will contact the CHDO of the certificate holder to coordinate appropriate action. The FSDO should delay opening an EIR until establishing contact with the appropriate CHDO. The FSDO should determine whether the certificate holder has an ASAP for the applicable employee group by accessing the Flight Standards Service (AFS) ASAP Web page at http://www.faa.gov/safety/programs_initiatives/aircraft_aviation/asap/.

2) The CHDO, upon learning of an ASAP event that may involve a violation of 14 CFR, will contact the investigating FSDO which has jurisdiction over the geographical area where the event occurred. If the alleged violator has submitted an ASAP report that has been accepted into the certificate holder's ASAP, that FSDO shall transfer the investigation, including any open EIR, to the CHDO for further investigation and disposition. If the ASAP report was not accepted into the program, the investigation and EIR remain at the FSDO where the ASAP-reported event occurred unless the Regional headquarters agrees to transfer the case in accordance with chapter 6, paragraph 8b of Order 2150.3.

NOTE: Other related reports, such as an incident report or preliminary pilot deviation report, must be completed in accordance with current guidance materials regarding such reports. These reports should normally be completed by the FAA office having jurisdiction over the event. However, the CHDO may request the transfer of an incident, preliminary pilot deviation report. or other report associated with an event reported under ASAP. If the CHDO requests transfer of a report, the CHDO must ensure that AFS responsibilities with respect to that report are completed in a timely manner.

11-44 MEMORANDUM OF UNDERSTANDING. The elements of an ASAP are set forth in an MOU between the FAA, certificate holder management, and an appropriate third party, such as an employee labor organization or their representatives. A program will be implemented in accordance with the provisions of its MOU. Each MOU will be based on the parties' different needs and purposes for an ASAP. Required elements of an MOU are identified in the ASAP MOU Checklist Job Aid (see Figure 11-11).

A. Parties to the MOU. For the purpose, the term "party/parties" refers to the certificate holder, FAA, and any other person or entity that is a signatory to the MOU and would be a major contributor to the success of the respective ASAP. This could include labor unions or other industry or government entities. It should be noted that FAA only regulates certificate holders and other persons subject to 14 CFR. However, all signatories are expected to conform to the provisions of the MOU.

B. Development Theme. The MOU should be written with the theme of open communication and trust between the parties to the agreement.

C. MOU Elements. Each MOU will be based on the parties' different needs and purposes for an ASAP. The MOU shall set forth the elements of the ASAP.

1) An automated AFS ASAP MOU template is available for downloading at http://www.faa.gov/safety/programs_initiatives/aircraft_aviation/asap/. While use of this template is not mandatory, it is recommended for use by certificate holders in developing their ASAP MOU. Benefits of using this template include expedited review and acceptance processes of the MOU.

2) Certificate holders may develop a proposed ASAP MOU that does not make use of the template referenced in the preceding paragraph. In these cases, the checklist provided (see Figure 11-11) shall be used by the FAA when the MOU is being reviewed. Certificate holders should use this checklist during development of their MOU to verify that all of the required content is present. This checklist provides the minimum elements necessary for an ASAP MOU to be accepted by the FAA. The checklist should be completed in its entirety and forwarded with the MOU for processing. The CHDO should verify accurate completion of the checklist by the certificate holder prior to forwarding the MOU for review at the respective regional FAA headquarters and AFS-230.

D. MOU Signatories. The MOU must be signed by an authorized representative of each party. The MOU will be signed by the CHDO office manager on behalf of the FAA following receipt of a letter of authorization from the Director, Flight Standards Service, AFS-1.

11-45 ASAP PROGRAM ACCEPTANCE, EXTENSION, RENEWAL, AND AMENDMENT PROCEDURES. When a certificate holder submits an MOU, assigned inspectors should review the key terms and concepts in AC 120-66, current edition, and this section. The checklist job aid (Figure 11-11) should then be completed if applicable, to ensure that the MOU complies with FAA policy.

A. Initial Review by CHDO. The certificate holder should initially develop and present the program to the CHDO for review.

1) The CHDO and the certificate holder will review it to ensure that it satisfies the guidance in AC 120-66, current edition, and this section. Prior to acceptance, the program should be reviewed to ensure that sufficient FAA and company resources are available to administer the program effectively. Program proposals that require agency resources exceeding available levels should not be recommended by the CHDO for acceptance.

2) When the CHDO is satisfied that the program is acceptable under the guidance of ASAP, the CHDO manager forwards an electronic copy of the proposed MOU, and the CHDO's recommendation for acceptance, to the respective Flight Standards division regional office and to the ASAP program office, AFS-230. If the proposed MOU does not employ the ASAP MOU Flight Standards Service automated template referenced in paragraph 11-45F, a completed ASAP checklist (Figure 11-11) shall accompany the proposed MOU for processing.

NOTE: For the purposes of review by the Flight Standards division regional office and Headquarters FAA, AFS-230, a signed copy of the MOU is not required. The MOU may be signed by the respective parties following receipt by

the FAA CHDO manager authorized by the Director, Flight Standards Service, to sign the MOU on behalf of the FAA.

a) The ASAP program office shall review and, if required, forward a copy of the MOU to the Office of the Chief Counsel, Enforcement Division, AGC-300, for appropriate legal review. MOUs that utilize the template do not require AGC review.

b) All programs, except for renewals of continuing programs, shall receive authorization on final acceptance from AFS-1. AFS-1 will indicate authorization for acceptance of the MOU by FAA memorandum to the CHDO manager through the regional division manager. AFS-230 will be responsible for preparing the memorandum for AFS-1's signature and submitting it with the ASAP package to AFS-1.

c) Following authorization by AFS-1, the CHDO manager shall sign the MOU on behalf of the FAA. The certificate holder should allow a minimum of 60 days for the FAA acceptance process to be completed once its ASAP program is received at FAA headquarters for review.

B. Demonstration Program Extensions. If the company requests an extension of the initial demonstration program beyond 18 months, the local CHDO manager shall inform the Manager, AFS-230, of the request by electronic message. Upon receipt of authorization from AFS-230 by return electronic message, the CHDO manager shall grant the request by CHDO letter to the company. The CHDO manager must forward a signed copy of the extension letter to the ASAP program office, AFS-230, for program tracking purposes.

C. Continuing Program Initial Acceptance. Initial acceptance of a continuing program is processed in the same manner as described in paragraph 11-45A.

D. Renewal of a Continuing Program. The renewal of an existing continuing program is accomplished every 2 years after a review by the parties to the MOU to ensure the particular ASAP program is meeting its objectives. The renewal may be accomplished at the local CHDO level by the CHDO manager signing the MOU on behalf of FAA. The company should notify the CHDO of its request for renewal 60 days in advance of the expiration of an existing continuing program ASAP MOU. The CHDO manager shall notify the ASAP program office, AFS-230, by email 45 days in advance of renewing an existing continuing ASAP program.

E. Program Reviews and Reports.

1) Annual Review. The ERC conducts an annual review of the ASAP database with emphasis on determining whether corrective actions have been effective in preventing or reducing the recurrence of safety-related events of a similar nature. That review will include recommendations for corrective action for recurring events indicative of adverse safety trends.

2) End of Demonstration Program Report. The ERC is responsible for preparing a final report on the demonstration program at its conclusion. If an application for a continuing program is anticipated, the ERC will prepare and submit a report with the certificate holder's application to the FAA 60 days in advance of the termination date of the demonstration program. This allows the effective measurement of any change(s) made to the original program that addresses a deficiency identified by any of the parties to the MOU.

3) FAA Program Review. The purpose of the program review is to collect information, data, and feedback from participants that will enable an assessment of whether the safety objectives of the program are being achieved, and whether those results are being effectively documented. To the maximum extent possible the FAA program review is scheduled to coincide with the end of demonstration or first continuing program MOU expiration. The review is completed on site during a regularly scheduled ERC meeting. The review incorporates a survey questionnaire combined with an observation of the ERC meeting followed by feedback concerning the conduct of the meeting, including a discussion of the program review questionnaire responses. In addition the reviewer provides clarification of ASAP policy, guidance, discussions of national program trends, and concludes with a short question and answer session.

F. FAA ASAP Policy Updates. As the FAA and industry gain experience with ASAP, §FAA ASAP policy will evolve to reflect lessons learned. AFS has established a Web page (http://www.faa.gov/safety/programs_initiatives/aircraft_aviation/asap/) to provide the most current information on ASAP policy updates. If the FAA makes changes to ASAP policy, they will appear on the ASAP Web page prior to publication elsewhere. The Web page also contains an automated template to facilitate the generation of an ASAP MOU by airlines and major domestic repair stations interested in starting new programs. Although not required, use of the automated template is strongly encouraged, because MOUs that use the standard language from that program can be quickly accepted. The template will always reflect the most current FAA policy on ASAP. If the certificate holder and, where applicable, its associated labor association elect to revise an accepted MOU to incorporate updates to FAA ASAP policy, the following acceptance procedures will apply:

1) The AFS ASAP Web page will serve as the reference source for updates to FAA ASAP policy. Until revised, guidance to industry provided in AC 120-66, current edition, will continue to apply, except as noted on the ASAP Web page. The ASAP Web page will contain the exact language that describes policy updates to these documents.

2) The CHDO manager will accept revisions to accepted ASAP MOUs that are revised to incorporate updates to FAA ASAP policy when such revisions employ the exact policy language that appears in the MOU template on the AFS ASAP Web page. The FAA does

not require coordination and review of such revisions above the level of the CHDO manager. However, an information copy of the revised MOU shall be provided to the Manager, AFS-230, P.O. Box 20027, Washington, DC 20041, following acceptance.

3) Following CHDO review, revisions to accepted ASAP MOUs that do not incorporate the exact policy language that appears in the MOU template on the AFS ASAP Web page must be forwarded for further review through FAA regional headquarters to AFS-230. The CHDO must provide, by cover letter, its recommendations regarding acceptance of such revisions.

G. Revision Control. Certificate holder should employ standard revision control methodology with respect to revisions to the MOU. The original and subsequent revisions should include:

1) For each revision to an original MOU, a change control page, identifying the revision number, a brief synopsis of each change to the original document, and specifying which pages are to be removed and replaced.

2) A list of effective pages.

3) A table of contents.

4) On each page of the MOU, a calendar date for when that page was prepared or revised.

5) For all revisions to an original MOU, a revision number on each page that is revised.

6) Sequential page numbers on all pages of the MOU (except the cover page, if applicable, which shall be understood to constitute page (i)).

H. Recordkeeping. The parties should maintain those records necessary for a program's administration and evaluation. Records submitted to the FAA for review relating to an ASAP are protected to the extent allowed by law under applicable exemptions of the Freedom of Information Act. All records and documents relating to an ASAP must be kept in a manner that ensures compliance with 14 CFR and all applicable laws, including the Pilots Records Improvement Act.

I. Aviation Safety Inspector (ASI) Training. ASIs should be adequately prepared to perform ASAP-related duties as outlined below:

1) ASIs who will review an ASAP MOU for recommended acceptance or will participate in an ERC should attend training as prescribed by the Flight Standards Training Division.

2) ASIs who will serve as ERC representatives should meet the following minimum qualifications:

a) Three years of AFS experience (Series 1825).

b) One year of 14 CFR part 121 certificate management experience.

c) ASAP initial/continuing training.

d) Except for new ASAP programs, attendance at three ERC meetings. For a new ASAP program, inspector attendance, if feasible, at another certificate holder's ERC is recommended for training purposes prior to the inspector's participation in the new program.

11-46 PROGRAM TRACKING AND REPORTING SUBSYSTEM (PTRS) INPUT. For activity associated with participation in the ASAP review committee, operations and cabin safety inspectors should enter the PTRS code 1391 for each set of such reports reviewed; maintenance inspectors should use PTRS code 3395, and avionics inspectors should use 5395 for these reviews. Enter the designator code appropriate to the air carrier or major domestic repair station whose ASAP program was associated with the reports. Use the numeric-miscellaneous field to record the number of reports reviewed. Comments regarding the report content or conduct of the ASAP program may be entered as necessary. For sole source reports regarding actions of individual employees, the inspector should not enter the name of the employees.

A. If an enforcement investigation associated with an ASAP report is initiated, the inspector shall enter the code ASAP in the National Use block of the PTRS initiated, in order to track aspects of ASAP. This entry is in addition to the PTRS code appropriate for the specific activity (e.g., 1735/33, 3731/33, 5731/33). It is also important to complete the Designator Block with the appropriate air carrier or major domestic repair station designator code even when completing a PTRS activity involving an employee of the certificate holder.

B. General comments regarding the report content or conduct of the ASAP program may be entered as necessary. For sole source reports regarding actions of individual employees, the inspector should not enter the name of the employees.

11-47 QUARTERLY REPORTS ON SAFETY ENHANCEMENTS.

A. The fundamental purpose of ASAP is to enhance safety. It is therefore important to maintain an audit trail of the extent to which the program is achieving that objective. Office managers shall prepare a summary report of safety enhancements achieved each quarter by each certificate holder's ASAP program(s) for which they have oversight responsibility. Quarterly reports shall be sent by electronic mail to the respective regional headquarters AFS division office and to the Manager, AFS-230, using the report format provided in the example, Figure 11-12.

B. This information is maintained on an FAA internal SharePoint site, access to which is available to any AFS inspector upon request to AFS-230. Regional division ASAP coordinators should use the SharePoint site to track compliance by individual FAA offices with the quarterly report submission requirement, as well as to review safety enhancements achieved in their region through ASAP. The information should be considered protected from public release under FAA Order 8000.82, Designation of Aviation Safety Action Program (ASAP) Information as Protected from Public Disclosure under 14 CFR Part 193, and part 193. Direct access requests should be sent to the Manager, AFS-230.

11-48 ASAP DATA AND INFORMATION CONFIDENTIALITY AND NON-DISCLOSURE CRITERIA.

A. A significant impediment to the sharing of ASAP information with the FAA is the aviation industry's concern over public disclosure of the information, and, if disclosed, the potential for it to be used for other than the safety enhancement purposes for which the ASAP was created. Under Title 49 of the United States Code (49 U.S.C.), § 40123, certain voluntarily provided safety and security information is protected from disclosure in order to encourage persons to provide the information to the FAA.

B. Order 8000.82 designates information received by the agency from an ASAP as protected from public disclosure in accordance with the provisions of part 193.

C. Title 14 CFR part 193 protection—with the exception of ASAP MOUs, and de-identified summarized information as specified in Order 8000.82, other ASAP data and information is protected from disclosure under FOIA.

D. FAA Guidelines on Use of Information from ASAP

1) Classification—"Protected from disclosure under 49 U.S.C., section 40123 and 14 CFR part 193" and therefore should be considered "For Official Use Only"—to be disclosed within the FAA on a "need to know" basis.

2) ASAP Reports—De-identified information on an event may be used within the FAA for mission pertinent purposes, such as surveillance planning, policy development, or rulemaking.

3) ERC Deliberations—the FAA ERC member may communicate within the FAA the facts disclosed by the investigation and disposition of any event reported under ASAP, including follow-up for corrective actions. However, it is not considered a "best practice" for office managers and supervisors in inquire as to specific content of discussion within the ERC.

Figure 11–11, Aviation Safety Action Program (ASAP) Checklist

If the certificate holder chooses not to use the ASAP Memorandum of Understanding (MOU) template, available on the Web at: http://www.faa.gov/safety/programs_initiatives/aircraft_aviation/asap/, when developing an MOU, it should use the following checklist to ensure that the MOU adequately addresses all necessary elements. FAA personnel shall use this checklist when reviewing an MOU developed without the aid of the template. An MOU may contain additional information not included in the checklist that is necessary for the operation of the program. This checklist shall be submitted to the FAA certificate-holding district office (CHDO) along with the completed MOU at the time of submission for FAA acceptance. The CHDO shall review this checklist to ensure that all provisions of the ASAP have been met in accordance with the guidance material and that the certificate holder has accurately completed the checklist. The CHDO shall include the completed checklist along with other applicable items discussed in this section for Regional and Headquarters review. The RESPONSE column should be answered for each question. The response should be YES, NO, or NA (not applicable). All NO or NA responses should include a brief explanation as to why that item was marked NO or NA. The REFERENCE column should also be completed by identifying the location of the particular item's response in the certificate holder's MOU (e.g., MOU, page 2, paragraph 3a).

ASAP MOU Checklist

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
1	Does this program involve a part 121 Air Carrier or part 145 Major Domestic Repair Station?	Yes No NA	
2	Is this ASAP:		
a	Specific to an employee group(s)?	Yes No NA	
b	A Demonstration program?	Yes No NA	
c	An Extension of a Demonstration program?	Yes No NA	
d	A Continuing program?	Yes No NA	
e	A renewal of a Continuing program?	Yes No NA	

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
3	Is the duration of the program limited to the period of time needed to achieve the desired goals and benefits articulated in the program? Demonstration programs initially should have a duration of no longer than 18 months and should be reviewed prior to renewal. Demonstration programs that undergo changes after their initial review may be renewed for no longer than 12 months. Programs that are classified as Continuing must be reviewed and renewed every 2 years.	Yes No NA	
4	Have all parties to the ASAP entered into this agreement voluntarily?	Yes No NA	
5	Is there a description of the objective(s) of the program which includes:		
a	The essential safety information that is reasonably expected to be obtained through the program?	Yes No NA	
b	Any specific safety issues that are of a concern to any of the parties?	Yes No NA	
c	The benefits to be gained through the use of the program?	Yes No NA	
6	Is there a description of any enforcement-related incentive that is needed to achieve the desired goal and results of the program?	Yes No NA	
7	Is there a statement that all safety-related reports shall be fully evaluated and, to the extent appropriate, investigated by the ERC?	Yes No NA	
8	Is there a description of the manner in which ASAP records and reports shall be kept that ensures compliance with Federal Aviation Regulations or the Pilot Records Improvement Act (PRIA), and any other applicable laws?	Yes No NA	
9	Is there a description of the process for timely reporting to the ERC all events disclosed under the program?	Yes No NA	
10	Is there a description of the procedures that provide for:		
a	The resolution of safety-related events?	Yes No NA	
b	Continuous tracking of those events?	Yes No NA	
c	The analysis of safety-related events?	Yes No NA	

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
11	Is there a description of the ERC ASAP report acceptance and exclusion criteria?	Yes No NA	
12	Is there a description of the frequency of periodic reviews by the parties to determine whether the program is achieving the desired results? (These reviews are in addition to any other review conducted by the FAA or any other party individually).	Yes No NA	
13	Is there a statement that the ERC shall be comprised of one representative from each party to the MOU, and a description of the duties of the ASAP manager? (The ASAP manager may either be the same individual assigned as the company management representative to the ERC, or it may be another individual from company management who will not serve as a voting member of the ERC.)	Yes No NA	
14	Is there a description of the process for training and distributing information about the program to certificate holder management and employees and procedures for providing feedback to individuals who make safety-related reports under the program?	Yes No NA	
15	Is there a statement that modifications to the MOU must be accepted by all parties?	Yes No NA	
16	Is there a statement that termination or modification of a program will not adversely affect anyone who acted in reliance on the terms of a program in effect at the time of that action. (i.e., when a program is terminated, all reports and investigations that were in progress will be handled under the provisions of the program until they are completed.)	Yes No NA	
17	Is there a statement that the program can be terminated at any time, by any party?	Yes No NA	
18	Is there a statement that failure of any party to follow the terms of the agreement ordinarily will result in termination of the program	Yes No NA	
19	Is there a statement that failure of a certificate holder to follow through with corrective action acceptable to FAA, to resolve any safety deficiencies, will ordinarily result in termination of the program?	Yes No NA	

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
20	Is there a detailed description of the following concepts if they are included in the program and, if appropriate, how they will be used:		
a	ERC?	Yes No NA	
b	Consensus of the ERC?	Yes No NA	
c	Sole-source reporting?	Yes No NA	
d	Sufficient evidence?	Yes No NA	
e	Enforcement-related incentive?	Yes No NA	
21	Is there a statement that repeated instances involving the same or similar possible noncompliance with 14 CFR that were previously addressed with Administrative Action under the ASAP will be accepted into the program, provided that they otherwise meet the acceptance criteria of ASAP? (The ERC will consider on a case-by-case basis the corrective action that is appropriate for such reports.)	Yes No NA	
22	Does the ASAP include an MOU procedure to identify the date, time, location or fix, altitude, flight number, and ATC frequency at the time the event occurred? (This applies to ASAP MOUs that contain provisions for ATC events.)	Yes No NA	
23	Is there a statement that employees initially covered under an ASAP will be excluded from the program and not entitled to the enforcement-related incentive if they fail to complete the recommended corrective action in a manner satisfactory to all members of the ERC? (These cases may result in the reopening of the case and referral of the matter for appropriate action.)	Yes No NA	
24	Is there a statement that any safety-related ASAP event that concerns an apparent violation(s) that is EXCLUDED from ASAP, will be referred by the FAA ERC representative to an appropriate office within the FAA for any additional investigation and reexamination and/or enforcement action, as appropriate?	Yes No NA	

NO.	ITEM	RESPONSE (CIRCLE YES, NO, OR NA)	MOU PARAGRAPH REFERENCE
25	Is there a statement that a closed ASAP case, including a related EIR, that involves a violation addressed with Administrative Action or for which no action has been taken, may be reopened if evidence is later discovered that establishes the event should have been excluded from the program?	Yes No NA	
26	Is there a statement that when the ERC becomes aware of an issue involving the medical qualification or medical certification of an airman, the ERC must immediately advise the appropriate Regional Flight Surgeon about the issue? (The ERC will work with the Regional Flight Surgeon and the certificate holder's medical department or medical consultants to resolve any medical certification or qualification issues or concerns revealed in an ASAP report, or through the processing of that report. The FAA ERC member must follow the direction(s) of the Regional Flight Surgeon with respect to any medical certification or medical qualification issue(s) revealed in an ASAP report.)	Yes No NA	
27	Is there a statement that reports that appear to involve possible criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification will be referred to an appropriate FAA office for further handling? The FAA may use such reports for any enforcement purposes and will refer such reports to law enforcement agencies, as appropriate.	Yes No NA	
28	Is there a statement that the ASAP manager will maintain an electronic database that tracks each event through and including closure of that event by the ERC and enables trend analysis?	Yes No NA	

Figure 11–12, ASAP Safety Enhancement Report Format Example

CHDO: AEA-FSDO-99

REGION: EA

FISCAL YEAR: 2007

FISCAL YEAR (SEPT - OCT) QUARTER: 1ST

ASAP MOU HOLDER NAME: ABC Airlines

ASAP MOU HOLDER FAA DESIGNATOR: ABCA

ASAP MOU EMPLOYEE GROUP(S): Pilot, Mechanic

ASAP ERC CONTACT INFORMATION & PRESENT QUARTER STATISTICS

Pilot MOU

FAA Member: John Smith, john.smith@faa.gov, (718) 456-7890
Company Member: Fred Jones, fsjones@abcair.com, (718) 567-8901
Labor Member: Allan Doe, adoe@labor.org, (718) 678-9012
ASAP Manager: Mary Moppett, mmop@abcair.com (718) 567 -9001

Number of ASAP reports submitted present quarter: 20
Number of ASAP reports accepted present quarter: 19
Number of accepted reports present quarter that were sole source to the FAA: 17
Number of accepted reports present quarter (both sole source & non-sole source) closed with corrective action under ASAP for the employee: 12
Number of reports present quarter which resulted in recommendations to the company for corrective action: 5

Mechanic MOU

FAA Member: James Goodrench, james.goodrench@faa.gov, (718) 654-0987
Company Member: Miles Togo, mtogo@abcair.com, (718) 765-1098
Labor Member: Will Walker, wwalker@labor.org, (718) 876-2109
ASAP Manager: Miles Togo, mtogo@abcair.com

Number of ASAP reports submitted present quarter: 15
Number of ASAP reports accepted present quarter: 15
Number of accepted reports present quarter that were sole source to the FAA: 10
Number of accepted reports (both sole source & non-sole source) closed with corrective action under ASAP for the employee: 14
Number of reports present quarter which resulted in recommendations to the company for corrective action: 2

DESCRIPTION OF SAFETY ENHANCEMENTS:

Pilot ASAP:

Safety Issue Identified: Ambiguous procedures for radio frequency change on landing: An ASAP report was submitted stating that after landing in San Francisco, CA (SFO), the flight crew was never advised to change frequency to Ramp Control. The report stated that the crew was under the impression that they were not supposed to change frequency unless advised to do so, and they therefore had taxied to the gate without contacting Ramp Control.

Corrective Action Taken: A Pilot Bulletin was issued to change the Jeppesen page 10-7 instructions, replacing "expect to contact Ramp Control on 127.57" with "You are required to contact Ramp Control on 127.57."

Safety Issue Identified: Repeated instances of flightcrew members failing to take immediate and decisive aircraft flightpath modification in response to TCAS Warnings

Corrective Action Taken: Need for pilot immediate compliance to TCAS warnings highlighted in quarterly Safety Newsletter. TCAS events added to LOFT scenarios for all pilot recurrent training

Mechanic ASAP:

Safety Issue Identified: Conflicting guidance between the General Procedures Manual (GPM) and the Aircraft Maintenance Manual (AMM). The GPM requires a leak check of the static lines after using a quick disconnect. The AMM does not require leak checks for quick disconnects.

Corrective Action Taken: A Quality Control Alert was issued to notify everyone that the GPM procedures take priority over the AMM and quick disconnects will be leak checked prior to returning the aircraft to service.

Safety Issue Identified: Repeated instances of failure to use the torque wrench required in the maintenance manual, resulting in bolts coming loose during flight

Corrective Action Taken: Purchased additional torque wrench equipment to increase availability at all maintenance locations. Highlighted need to use torque wrenches as prescribed by maintenance manual procedures in monthly mechanic newsletter. Emphasized the safety issue to all maintenance supervisors in quarterly maintenance safety meeting.

John Doe
CHDO/CMO Manager
Copy to: AEA-230
AFS-230

NOTE: This report should be prepared and forwarded electronically to the regional division office and to the Manager, AFS-230, as a Word document. In order to preclude submission of multiple files with the same file name and to facilitate archiving of reports over time, a specific file naming format should be used, as follows: ASAP-AIRLINE DESIGNATOR-FISCAL YEAR-FISCAL QUARTER-EMPLOYEE CATEGORY CODE(S).DOC. The following employee category codes should be employed: P for Pilot, D for Dispatch (or flight follower), M for Maintenance, L for Load Planners, F for Flight Attendant, R for ramp worker, X for other. For reports containing safety enhancements for more than one employee group, multiple employee category codes should be strung together in the file name. Examples: ASAP-ABCA-2007-1-PM.doc; ASAP-ABCA-2007-1-PDM.doc.

RESERVED. Paragraphs 11-49 through 11-62.

close window

Fact Sheets

FOR IMMEDIATE RELEASE
April 2003
Contact: Les Dorr, Jr.
Phone: 202-267-3462

FAA Customer Service Initiative (April 2003)

Good Customer Service = Good Business Practice

The Federal Aviation Administration (FAA) has begun a new customer-service initiative that provides written guidance and training to all managers and supervisors in our Regulation and Certification offices throughout the country on applying FAA rules and policies in a standard, consistent manner.

- Program builds on efforts that helped make FAA the most improved government agency -- a gain of 9 points -- in the 2002 American Customer Satisfaction Index survey.
- Customers have the right to ask for review on any inspector's decision made in the regulatory or certification process without fear of retribution.
- Information on how to do this — names, titles, and phone numbers — will be prominently displayed on the Internet and in all FAA regional and field offices.

Goals of FAA's Customer Service Initiative

- Promote more consistency and fairness in applying FAA regulations.
- Promote earlier resolution of disagreements.
- Better document regulation and certification decisions.
- Make every FAA employee accountable for achieving the agency's mission.

What Customers Can Expect from the FAA

- Service that promotes a safe, secure and efficient aviation system
- Considerate, respectful and professional service
- Clear explanation of the requirements, alternatives and possible outcomes associated with their inquiry or request
- Timely and complete responses to inquiries and requests
- Clear explanation of FAA decisions
- An environment where FAA decisions can be questioned or challenged without fear of retribution
- Fair and careful consideration of their issue
- Clear guidance on elevating concerns to the next-highest level of FAA authority

What the FAA Asks of its Customers

- Understand that safety is the FAA's first priority
- Display the same level of professionalism they expect from the FAA
- Provide all pertinent information in a timely manner
- Use the FAA's established "chain of command" to elevate concerns

Questions About This Page

CSI: FLIGHT STANDARDS CUSTOMER SERVICE INITIATIVE IMPLEMENTATION IN FLIGHT STANDARDS

What is the Purpose of CSI: Flight Standards?

Flight Standards' mission is to provide the public with accident-free aircraft operations through the highest standards in the world. In fulfilling that mission, Flight Standards and aviation operators may find themselves on opposing sides of an interpretation of a regulation or a standard. The process outlined on the following pages helps both Flight Standards and its customers understand how differences may be resolved. The emphasis is resolution at the lowest possible level but with the opportunity for the customer to elevate a decision through Flight Standards' and, then, the FAA's "chain-of-command."

Who are our Customers?

Our customers are people and companies requesting certification, other aviation services, or information related to the products and mission of Flight Standards. Though *CSI: Flight Standards* is geared toward certificated operators—airlines, air agencies, and other commercial operators—it is also applicable to individual airmen as well as the non-aviation public.

What Services do we Provide Our Customers?

- Flight Standards employees review applications for certification and conduct appropriate inspections and tests to determine that the applicant meets regulatory requirements and standards.
- Flight Standards employees conduct inspections and surveillance to assure that an operator continues to meet regulatory requirements and standards.
- Flight Standards employees provide information, advice, and guidance to operators.

What is our Customer Commitment?

- Schedule appointments as soon as workload permits or offer reasonable alternatives, e.g., if a certification practical test cannot be scheduled to your satisfaction, we will refer you to an appropriate designated pilot examiner
- Explain regulatory requirements and provide copies of all necessary guidance documents
- Begin initial review of air operator or air agency applications within 20 working days of receipt
- Respond to correspondence and other inquiries as soon as possible
- Make decisions based on regulatory requirements, established standards, and approved policy regardless of the operator's history or prior experience with the office

Associate Administrator for Aviation Safety (AVS)

Flight Standards (AFS) Aircraft Certification (AIR) Air Traffic Safety Oversight (AOV) Accident Investigation (AAI) Aerospace Medicine (AAM) Quality, Integration, and Executive Services (AQS) Rulemaking (ARM) Suspected Unapproved Parts (SUP)

CUSTOMER SERVICE PRINCIPLES

As our customer, you can expect from us:

- ✓ *Service that promotes a safe, secure, and efficient aviation system*
- ✓ *Considerate, respectful, and professional service*
- ✓ *A clear explanation of the requirements, alternatives and possible outcomes associated with your inquiry or request*
- ✓ *A timely and complete response to your inquiry or request*
- ✓ *A clear explanation of our decisions*
- ✓ *An environment without fear of retribution if you challenge our decisions*
- ✓ *Fair and careful consideration of your issue*
- ✓ *Clear guidance on how you can elevate your concerns to the next higher level of authority*

We ask our customers to:

- ✓ *Understand that FAA's first priority is safety*
- ✓ *Display the same level of professionalism with which you wish to be treated*
- ✓ *Provide all pertinent information in a timely manner*
- ✓ *Use our "chain-of-command" to elevate your concerns*

We share the responsibility to work together with mutual respect and integrity to continue to make the U.S. aviation system the safest in the world.

U.S. Department
of Transportation
Federal Aviation Administration

Southwest Region
Arkansas, Louisiana,
New Mexico, Oklahoma
Texas

Office of Regional Counsel
2601 Meacham Blvd., Rm. 663
Fort Worth, TX 76137-0007
(817) 222-5099
(817) 222-5945/5092 FAX

March 6, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED and VIA FACSIMILE

Ms. Colleen Barrett
President
Southwest Airlines Co.
P.O. Box 36611
Love Field
Dallas, TX 75235-1611

Case No. 2008SW290012

Dear Ms. Barrett:

Based on a report of investigation, it appears that:

1. Southwest Airlines Co. (SWA) holds Air Carrier Operating Certificate No. SWAA304A and Operations Specifications issued under Part 121 of the Federal Aviation Regulations (FAR) authorizing it to engage in scheduled passenger carrying operations as a domestic air carrier.

2. At all times pertinent herein, SWA operated the following aircraft in its Part 121 operations:

a. Boeing 737, civil aircraft no. N301SW
b. Boeing 737, civil aircraft no. N302SW
c. Boeing 737, civil aircraft no. N303SW
d. Boeing 737, civil aircraft no. N304SW
e. Boeing 737, civil aircraft no. N305SW
f. Boeing 737, civil aircraft no. N306SW
g. Boeing 737, civil aircraft no. N308SA
h. Boeing 737, civil aircraft no. N309SW
i. Boeing 737, civil aircraft no. N310 SW
j. Boeing 737, civil aircraft no. N311SW
k. Boeing 737, civil aircraft no. N312SW
l. Boeing 737, civil aircraft no. N313SW
m. Boeing 737, civil aircraft no. N314SW
n. Boeing 737, civil aircraft no. N315SW
o. Boeing 737, civil aircraft no. N316SW
p. Boeing 737, civil aircraft no. N318SW
q. Boeing 737, civil aircraft no. N319SW

r. Boeing 737, civil aircraft no. N320SW
s. Boeing 737, civil aircraft no. N321SW
t. Boeing 737, civil aircraft no. N322SW
u. Boeing 737, civil aircraft no. N323SW
v. Boeing 737, civil aircraft no. N324SW
w. Boeing 737, civil aircraft no. N325SW
x. Boeing 737, civil aircraft no. N326SW
y. Boeing 737, civil aircraft no. N327SW
z. Boeing 737, civil aircraft no. N357SW
aa. Boeing 737, civil aircraft no. N659SW
bb. Boeing 737, civil aircraft no. N660SW
cc. Boeing 737, civil aircraft no. N662SW
dd. Boeing 737, civil aircraft no. N663SW
ee. Boeing 737, civil aircraft no. N664WN
ff. Boeing 737, civil aircraft no. N665WN
gg. Boeing 737, civil aircraft no. N672SW
hh. Boeing 737, civil aircraft no. N673AA
ii. Boeing 737, civil aircraft no. N674AA
jj. Boeing 737, civil aircraft no. N675AA
kk. Boeing 737, civil aircraft no. N676SW
ll. Boeing 737, civil aircraft no. N677AA
mm. Boeing 737, civil aircraft no N678AA
nn. Boeing 737, civil aircraft no. N679AA
oo. Boeing 737, civil aircraft no. N680AA
pp. Boeing 737, civil aircraft no. N682SW
qq. Boeing 737, civil aircraft no. N687SW
rr. Boeing 737, civil aircraft no. N689SW
ss. Boeing 737, civil aircraft no. N693SW
tt. Boeing 737, civil aircraft no. N699SW

3. Airworthiness Directive (AD) 2004-18-06, requires repetitive inspections to find fatigue cracking of certain upper and lower skin panels of the fuselage, and follow-up and corrective actions, if necessary.

4. AD 2004-18-06 is applicable to the aircraft listed in paragraph 2. These aircraft are also known as Group 3 aircraft.

5. AD 2004-18-06 required inspections at locations and intervals in accordance with procedures identified in Boeing Service Bulletin 737-53A1210, revision 1, dated October 25, 2001.

6. If there was previous compliance with AD 2002-07-08, then compliance with certain inspections required by AD 2004-18-06 was eliminated.

7. All of the aircraft listed in paragraph 2 complied with AD 2002-07-08.

8. SWA created Special Items 11485-53 and 11486-53 specifically to ensure accomplishment of the inspections required by AD 2004-18-06 that were not eliminated by compliance with AD 2002-07-08.

9. Special Items are part of SWA's Continuous Airworthiness Maintenance Program (CAMP).

10. SWA failed to incorporate all of the inspections AD 2004-18-06 required when Special Items 11485-53 and 11486-53 were incorporated into its Continuous Airworthiness Maintenance Program (CAMP).

11. SWA failed to incorporate the repetitive external detailed and eddy current inspections of Stringers 10 Left and 10 Right at Body Stations 540-597 and 663-727 at intervals not to exceed four thousand five hundred (4,500) flight cycles.

12. SWA notified the Federal Aviation Administration on March 15, 2007, that it may not have been in compliance with AD 2004-18-06 and the requirements of the AD may have been overflown by some aircraft.

13. SWA accomplished the required inspections to bring all forty-six (46) aircraft into compliance with the requirements of AD 2004-18-06 from March 15, 2007, until March 23, 2007. Six (6) aircraft inspected were found to have fatigue cracks present.

14. SWA overflew AD 2004-18-06 as follows:

SEE THE CHART BEGINNING ON THE NEXT PAGE

Aircraft Tail Number	Cycles AD Last Accomplished	Cycles AD Due	Cycles AD Accomplished	Cycles AD Overflown	Cycles at time FAA notified of self disclosure	Number of Cycles flown after self disclosure
N301SW	62,999	67,499	69,320	1821	69,284	36
N302SW	63,483	67,983	69,606	1623	69,565	41
N303SW	62,526	67,026	68,684	1658	68,641	43
N304SW	60,977	65,477	67,038	1561	67,019	19
N305SW	60,385	64,885	66,264	1379	66,264	0
N306SW	60,757	65,257	67,022	1765	66,987	35
N308SA	37,778	42,278	44,156	1878	44,156	0
N309SW	60,617	65,117	66,570	1453	66,553	17
N310SW	59,743	64,243	65,430	1187	65,395	35
N311SW	59,725	64,225	65,572	1347	65,542	30
N312SW	59,492	63,992	65,486	1494	65,416	70
N313SW	59,193	63,693	64,941	1248	64,903	38
N314SW	60,433	64,933	65,053	120	65,035	18
N315SW	57,701	62,201	63,636	1435	63,596	40
N316SW	58,111	62,611	64,131	1520	64,094	37
N318SW	57,370	61,870	63,387	1517	63,387	0
N319SW	55,240	59,740	61,184	1444	61,153	31
N320SW	55,763	60,263	61,864	1601	61,849	15
N321SW	55,377	59,877	61,192	1315	61,164	28
N322SW	54,709	59,209	60,794	1585	60,767	27
N323SW	54,972	59,472	60,192	720	60,153	39
N324SW	55,735	60,325	61,316	1081	61,268	48
N325SW	54,157	58,657	60,410	1753	60,410	0
N326SW	54,437	58,937	60,619	1682	60,619	0
N327SW	54,234	58,734	60,235	1501	60,213	22
N657SW	36,781	41,281	41,570	289	41,533	37
N659SW	44,588	49,088	49,219	131	49,219	0
N660SW	45,375	49,875	50,104	229	50,032	72
N662SW	49,981	54,481	55,426	945	55,378	48
N663SW	48,520	53,020	53,746	726	53,729	17
N664WN	45,109	49,609	51,141	1532	51,141	0
N665WN	43,349	47,849	49,614	1765	49,534	80
N672SW	50,726	55.226	56,994	1768	56,977	17
N673AA	53,086	57,586	59,382	1796	59,361	21
N674AA	48,355	52,855	54,543	1706	54,517	44
N675AA	53,938	58,438	58,483	45	58,453	30
N676SW	49,443	53,943	55,787	1844	55,756	31
N677AA	48,241	52,741	54,572	1831	54,511	61
N678AA	51,257	55,757	57,499	1742	57,447	52
N679AA	51,136	55,636	57,070	1431	57,004	66
N680AA	49,613	54,113	54,831	718	54,793	38
N682SW	44,516	49,016	50,471	1455	50,430	41
N687SW	45,004	49,504	51,170	1666	51,124	46
N689SW	50,960	55,460	57,012	1552	57,012	0
N693SW	49,018	53,518	54,152	634	54,100	52
N699SW	46,427	50,927	52,673	1746	52,644	29

15. SWA operated the aircraft listed in paragraph 2 at a time when AD 2004-18-06 had not been complied with for a total of sixty one thousand two hundred forty two (61,242) flight cycles.

Count I.

16. Fifty nine thousand seven hundred ninety one (59,791) of the flight cycles addressed in paragraph 16 were operated at a time when SWA was unaware of its failure to incorporate the repetitive external detailed and eddy current inspections of Stringer 10 Left and Right at Body Stations 540-597 and 663-727 at intervals not to exceed four thousand five hundred (4,500) flight cycles into Special Items 11485-53 and 11486-53.

17. The aircraft addressed in paragraph 2 were unairworthy when they were operated on the flights above because required AD inspections had not been accomplished.

18. By reason of the foregoing, SWA violated the following sections of the Federal Aviation Regulations (Title 14, Code of Federal Regulations):

a. Section 39.7 in that SWA operated forty six (46) aircraft on fifty nine thousand seven hundred ninety one (59,791) flight cycles at a time when the aircraft did not meet the requirements of an applicable airworthiness directive.

b. Section 121.153(a)(2), in that SWA operated forty six (46) aircraft on fifty nine thousand seven hundred ninety one (59,791) flight cycles when the aircraft were not in an airworthy condition.

Under 49 U.S.C. §46301, SWA is subject to a civil penalty not to exceed $25,000 for each of the violations noted. After careful consideration of all available information, we are willing to accept $200,000.00 in settlement for Count 1 of this matter.

Count II

19. Fourteen hundred fifty one (1451) of the flight cycles addressed in paragraph 16 were for operations after SWA became aware of its failure to incorporate the repetitive external detailed and eddy current inspections of Stringer 10 Left and Right at Body Stations 540-597 and 663-727 at intervals not to exceed four thousand five hundred (4,500) flight cycles into Special Items 11485-53 and 11486-53.

20. The aircraft addressed in paragraph in paragraph 2 were unairworthy when they were operated on the flights above because required AD inspections had not been accomplished.

By reason of the foregoing, SWA violated the following sections of the Federal Aviation Regulations (Title 14, Code of Federal Regulations):

a. Section 39.7 in that SWA operated forty six (46) aircraft on fourteen hundred fifty one (1451) flight cycles at a time when the aircraft did not meet the requirements of an applicable airworthiness directive.

b. Section 121.153(a)(2), in that SWA operated forty six (46) aircraft on fourteen hundred fifty one (1451) flight cycles when the aircraft were not in an airworthy condition.

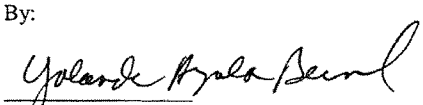
21. Under 49 U.S.C. §46301, SWA is subject to a civil penalty not to exceed $25,000 for each of the violations noted. After careful consideration of all available information, we are willing to accept $10,000,000.00 in settlement for Count 2 of this matter.

The Federal Aviation Administration is willing to accept a total of $10,200,000.00 in settlement of Counts 1 and 2.

We will take no further action for a period of 30 days after your receipt of this letter to afford you an opportunity to submit a reply in accordance with the attached information sheet.

LYNETTE WORD
Regional Counsel
Southwest Region

By:



Yolanda Ayala Bernal
Attorney
817-222-5070

Enclosures
Information Sheet
Reply Form
List of Regional Office Locations
Request for Visit to DOT/FAA Facility

FAA News

F deral Aviation Administration, Washington, DC 20591

Date: April 2, 2008
Contact: Alison Duquette, Les Dorr
Phone: 202-267-3883

Fact Sheet
FAA Aviation Safety Action Plan

The Federal Aviation Administration (FAA) is today announcing a number of substantive new measures to enhance airline safety. These initiatives, which will further improve on an existing program that has produced an outstanding record of safety for the flying public, include:

- ***Amending the Voluntary Disclosure Reporting Program*** guidance to ensure there is awareness and sensitivity at the highest level by requiring that reports detailing compliance deviations are submitted by senior airline officials such as the Director of Safety, the Director of Operations or the Director of Maintenance;

- ***Development and deployment of the Safety Issues Reporting System*** (SIRS), which will be implemented by April 30, 2008. The SIRS will provide employees an additional mechanism to raise safety concerns if they feel they are not receiving the necessary airing or response from supervisory and management personnel. This is in addition to existing channels, including the Administrator's Hotline and the Safety Hotline;

- ***Toughening inspector post-employment restrictions*** to avoid conflicts of interest. The FAA will initiate a rulemaking project, which bring existing ethics policies in line with or exceed existing restrictions for other federal employees. Currently, FAA prohibits new inspectors who are hired from an airline from overseeing that airline for a period of two years;

- ***Initiating a plain language review of Airworthiness Directives (ADs)*** to ensure that they are written clearly and can be implemented by the industry to ensure their accurate interpretation; and

- ***Speed up the expansion of our comprehensive aviation safety database***, which will incorporate data from all 117 air carriers we oversee, as well as a number of voluntary reporting systems. This new, richer data source will enable us spot safety trends and address them well before they lead to accidents or incidents.

These measures are in addition to actions that have already been taken by the FAA to improve airline safety:

- ***Performed a special emphasis audit of compliance*** by reviewing a select number of ADs at all air carriers to ensure that work instructions describe the method of compliance contained in the AD and the work was properly performed;

- ***Initiated an Air Carrier Evaluation Program,*** beginning with Southwest Airlines, to review certain air carrier maintenance programs to confirm that the programs meet regulatory standards;

- ***Took all appropriate disciplinary personnel action*** against the FAA employee who failed to maintain oversight responsibilities by relieving him of his safety inspector duties. Additional measures will be considered at the conclusion of the DOT Inspector General's investigation, which may result in actions against one or more employees.

- ***Directed senior FAA safety officials*** to review with their senior staffs and with every office their role in maintaining the safety of the aviation system, the value of receiving implementation of oversight programs and review the ethical, operational, evaluation and reporting elements of the safety improvement programs;

TIMELINE OF FAA ACTIONS

FAA Actions: Southwest Airlines

- On March 6, the FAA proposed a $10.2 million civil penalty against Southwest Airlines for operating 46 airplanes without performing mandatory inspections for fuselage fatigue cracking. Subsequently, the airline found that six of the 46 airplanes had fatigue cracks. Specifically:

    - The FAA alleges that Southwest Airlines operated 46 Boeing 737 airplanes on 59,791 flights from June 18, 2006 to March 14, 2007 while failing to comply with a September 8, 2004 FAA AD that required repetitive inspections of certain fuselage areas to detect fatigue cracking.
    - The September 8, 2004 FAA AD (2004-18-06) mandated repetitive external detailed and eddy-current inspections at intervals of no more than 4,500 flight cycles to detect fatigue cracking in areas of the fuselage skin on some Boeing 737 models.
    - The FAA alleges that after Southwest Airlines discovered that it had failed to accomplish the required repetitive inspections, between March 15, 2007 and March 23, 2007, it continued to operate those same 46 airplanes on an additional 1,451 flights. The amount of the civil penalty reflects the serious nature of those deliberate violations.

- On March 11, a national team of FAA inspectors began an Air Carrier Evaluation Program review of Southwest Airlines' AD management, continuing analysis and surveillance, and inspection programs.

- On March 12, Acting FAA Administrator Robert A. Sturgell and his top safety executives met with the senior leadership of Southwest Airlines. Gary Kelly, Southwest's Chief Executive Officer and Vice Chairman of the Board, outlined the steps the airline is taking to ensure its aircraft comply with all airworthiness directives. He also discussed the progress of reviews being conducted by Southwest's maintenance staff and an independent group hired by the airline. During the meeting, Southwest Airlines notified the FAA that, as part of an internal safety audit, they grounded 41 aircraft the previous evening until they could verify with the FAA that they had correctly followed inspection guidance stated in an AD related to a specific area of the aircraft surrounding the windows on 737-300's and -500's.

FAA Actions: All U.S. Air Carriers

- On March 11, the FAA began a national Air Carrier Evaluation Program campaign that will focus on a review of the design and effectiveness of the air carrier programs.
    - 2008: Beginning with Southwest Airlines, FAA inspectors will verify compliance with regulations regarding airworthiness directives, inspection programs, and management of maintenance programs.
    - 2009 and beyond: The focus will be determined by analysis of current conditions such as trends in surveillance, outsourcing, or financial conditions.

- On March 13, the FAA initiated an audit of AD compliance at all 118 U.S. air carriers.
    - Phase 1: The initial review was completed on March 28. Inspectors assessed air carrier compliance by auditing a sample of 10 ADs, including two directives (2002-07-08 and 2004-18-06) addressing fatigue cracking on certain Boeing 737s. Inspectors validated that air carrier work instructions correctly described the method of compliance contained in the 10 ADs and in addition, physically inspected the complete work package on at least one aircraft.
    - Phase 2: Inspectors will complete a random sample of 10 percent of the ADs per carrier fleet by June 30.

- The agency will notify inspectors of an amendment to the Voluntary Disclosure Reporting Program guidance to require that reports be submitted by a senior airline official such as the Director of Safety, the Director of Operations or the Director of Maintenance.

FAA Actions: Internal

- On March 11, Nicholas Sabatini, Associate Administrator for Aviation Safety, directed his top 88 senior safety leaders from across the nation to meet with their staffs to strongly review and reinforce ethical, managerial and operational responsibilities in the regulatory process. They were charged with communicating to all staff the roles and responsibilities outlined in the regulatory process as it applies to airline compliance and they were directed to review the importance of complying with national policies and processes to assure consistent application of the safety standards.

- On March 14, the Aviation Safety Organization provided all supervisors the specific chain of events and timeline from the Southwest incident to serve as a case study for corrective actions by regulators, management, airlines and anyone with supervisory and oversight responsibility.

- On March 18, Associate Administrator Sabatini conducted a town hall meeting for all 6,800 Aviation Safety employees to personally asked all safety and inspection staff to redouble efforts to adhere strictly to all directives and guidelines as well as to work vigorously to manifest the benefits of the voluntary reporting system, which allows airlines to make voluntary, timely disclosures before there is any threat or likelihood of an impact to safety.

- The Aviation Safety Organization has designed and will deploy the Safety Issues Reporting System (SIRS) by April 30. The new system will allow an employee to document and escalate a safety issue to their supervisor/manager or escalate the safety issue directly to headquarters if they believe the issue needs immediate attention. SIRS will supplement resources already available to employees, such as the Administrator's Hotline and the Safety Hotline.

- The Aviation Safety Organization is working with the manufacturers and air carriers to develop a system to assure that ADs are written clearly and can be implemented by the industry.

- By June 30, the FAA will start a rulemaking project to address ethics policies that enhance inspector post-employment restrictions, bringing them in line, or possibly exceeding, existing restrictions for other federal employees. Currently, FAA prohibits new inspectors who are hired from an airline from overseeing that airline for a period of two years

- By June 30, the Aviation Safety Organization will survey all employees to assess the effectiveness of workplace communications, values, and guiding principles.

- On August 25, the Aviation Safety Organization will convene a meeting of more than 700 managers to discuss the survey results and develop detailed action plans. Based on the survey results, managers will look towards the creation of enhanced training or communications projects that will supplement existing programs.

- By September 30, the Aviation Safety Organization will add a module to the training course for new managers on leadership, accountability and expectations.

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Committee on Transportation and Infrastructure

Hearing on "Critical lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory Partnership Programs"
Thursday, April 3, 2008

Statement – Congressman Jason Altmire (PA-04)

Thank you, Chairman Oberstar, for holding today's hearing to investigate the recent actions of Southwest Airlines and the Federal Aviation Administration, which resulted in at least 117 aircraft operating in direct violation of Federal Aviation Regulations. I would like to begin by thanking Mr. Charalambe "Bobby" Boutris and Mr. Douglas Peters – employees of Southwest Airlines - for courageously stepping forward and bringing these violations to the attention of this Committee. Their actions are commendable and may very well have saved hundreds of lives.

Upon hearing from Mr. Boutris and Mr. Peters, we launched a full investigation into the matter - an investigation which has uncovered a number of regulatory lapses resulting in aircraft operating despite the fact that they did not comply with Airworthiness Directives (AD). Of the 117 aircraft identified, 47 performed service without a fuselage crack check. The remaining 70 aircraft were out of compliance due to the fact that their rudder inspections had been expired for one year or more.

Aviation safety and adherence to Federal Aviation Regulation is of particular importance to me. My constituents remember all to well the 1994 crash of USAir flight 427 in Aliquippa, Pennsylvania. This tragic incident, which claimed the lives of 132 passengers, was caused by a rudder malfunction. Following this incident, the FAA implemented strict regulations regarding rudder inspections to ensure that future incidents do not occur. These are the very same rudder inspections, which Southwest Airlines failed to perform on at least 70 of its aircraft.

Chairman Oberstar, I would like to again thank you for holding this critically important hearing. I look forward to hearing from each of our witnesses today and working with you to ensure passengers will be safe when they travel.

###

Corrine Brown

Statement of Honorable Corrine Brown
Full Committee Hearing on Critical Lapses in FAA Safety Oversight of Airlines:
Abuses of Regulatory Partnership Programs
Thursday, April 3, 2008

Thank you Mr. Chairman. It has been very clear for some time that the entire Bush Administration has suffered from a lack of oversight from Congress, and I'm glad that with your leadership our committee has taken the lead in ensuring that the agencies under our jurisdiction are protecting the traveling public.

I find it troubling that the Chairman of the Transportation and Infrastructure Committee would have to threaten the Federal Aviation

Administration with a subpoena to provide us with critical safety documents.

The Aviation industry is a key part of our nation's economy, but can be a very fragile industry. My home state of Florida relies on tourism as the base of its economy, and when there is a problem with the airlines; my state can suffer long term harm.

The flying public, including Members of Congress who travel back and forth from their districts each week, put their trust in the FAA

Numerous and serious allegation of improper action have been made concerning both FAA and industry employees, and today's panelists have a lot of serious questions to answer to this committee.

Members of Congress fly back and forth from their districts every week and have a

OPENING STATEMENT OF
THE HONORABLE RUSS CARNAHAN (MO-3)
HOUSE TRANSPORTATION & INFRASTRUCTURE COMMITTEE

Hearing On
Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory Partnership Programs
April 3, 2008

#####

Thank you Chairman Oberstar and Ranking Member Mica for holding this hearing to discuss the findings of the committee's oversight investigation of the Federal Aviation Administration's (FAA) failure to exercise the required oversight of the airline industry. Also, I want to thank both Mr. Boutris and Mr. Peters for assisting the committee in its investigation. With your assistance we have been able to bring attention to the FAA's ineffectiveness in performing their important responsibilities.

I believe all my colleagues share my concern that the committee's oversight investigation has found that the Southwest Airlines incident is not unique, rather to a pattern of regulatory abuse by the FAA. As I travel back and forth between St. Louis and Washington, DC I would like to believe the planes I fly are one-hundred percent safe and nothing less. However, the committee's investigation has made it clear each of us should think twice before we board our planes to fly home.

The committee's investigation has made clear that the need for the FAA to rethink its reliance on airlines to voluntarily disclose safety issues because of repeated examples of leniency in enforcing safety regulations. I am deeply concerned that when both Mr. Boutris and Mr. Peters brought concerns to their supervisors that Southwest Airlines was flying planes overdue for inspection that these planes were not grounded until needed inspections were completed. Instead, their supervisors assisted Southwest Airlines cover this up and went on to threaten both Mr. Boutris and Mr. Peters for doing their job.

In closing, I am hopeful both the FAA and the airline industry will take away from the evidence raised by the committee's investigation the importance of making significant improvements to the FAA's oversight responsibilities to guarantee the safety of the flying public. Again, I want to thank the Chairman and Ranking Member for holding this hearing.

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STATEMENT OF
THE HONORABLE JERRY F. COSTELLO
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
HEARING ON
CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY PARTNERSHIP PROGRAMS
APRIL 3, 2008

- I want to thank Chairman Oberstar for holding today's hearing on Critical Lapses in FAA Safety Oversight of Our Airlines: Abuses of Regulatory Partnership Programs.

- In recent weeks, some airline passengers have experienced canceled flights because of safety inspections, making many question the safety of our aviation system.

- Make no mistake – the United States has the safest air transportation system in the world; however, I have said time and again, we must not become complacent about our past success.

- Chairman Oberstar has given a very good description of the problems we are dealing with today – there was a failure on the

part of Southwest Airlines to comply with important safety directives and there was a failure on the part of FAA to do its job by allowing Southwest to fly planes that should have been grounded.

- Let me be clear -- what happened in this instance should never have happened and should never happen again.

- The American people expect our airlines to comply with all safety regulations and we expect that the FAA will not simply trust that the airlines are complying – the FAA needs to verify that information through on-site inspections and other safety approaches.

- The FAA and Southwest Airlines both acknowledge safety lapses regarding airworthiness directive compliance and that corrective

action had to be taken to address the problem, including a proposed $10.2 million fine against Southwest Airlines.

- However, the broader question is the FAA's ability to adequately oversee air carrier maintenance programs and the associate partnership programs. The incident demonstrates that it is not enough to establish maintenance programs – we must ensure vigorous oversight by the FAA to maintain the highest level of safety.

- While Southwest had a solid safety record until this incident, Southwest was in violation of a safety regulation in 2007. Southwest needs to explain how and why this happened and what procedures they have implemented to catch these and other problems from occurring in the future.

- In addition, the FAA needs to explain how this serious safety breach happened, why the system did not catch a safety inspector's inability to fulfill his duties; why it took the FAA so long to assess a penalty against Southwest; what actions they have taken against the employees and supervisors involved; and what they have done to implement a checks and balance system to prevent this in the future.

- Safety cannot be compromised in an effort to treat airlines like "customers." Rather, the FAA should be vigilant in ensuring air carrier compliance and be willing to take enforcement action when necessary.

- In my capacity as Chairman of the Aviation Subcommittee, I have noticed a pattern with the FAA – the FAA is a reactive agency – not a proactive agency.

- We have seen it in the area of runway safety; improving conditions at our air traffic control facilities; congestion and delays at our airports and in the sky; and now this serious matter.

- It is a continuous pattern – the FAA only acts when pushed into action by the Aviation Subcommittee or this full Committee.

- Congress, the FAA, and air carriers must make safety the top priority. We cannot have the agency responsible for aviation safety rely on the past or blindly trust the airlines to self-police without aggressive oversight and enforcement. The American traveling public deserves no less.

- Again, thank you Mr. Chairman for holding this hearing. I look forward to hearing from our witnesses.

Elijah E. Cummings

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE

Statement of Congressman Elijah E. Cummings

"Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory 'Partnership Programs'"

April 3, 2008 – 10:00 a.m.
2167 Rayburn House Office Building

Mr. Chairman:

When passengers board a plane, they are surrendering control of their fates. This is a dramatic statement – but there is no other way to describe it. They are getting on a flying piece of metal that is going to leave the surface of the earth, hurl them through the air at a speed of hundreds of miles an hour, and then return them to the earth.

This process is now so common that we take it for granted. Nonetheless I – and I suspect most of the flying public – still find this process to be both awesome and frightening.

We have confidence in the process – and yet many of us find thoughts of how this almost miraculous process can go wrong crossing our minds as we sit down in our increasingly tiny seats and strap on our seat belts.

And because many things can go wrong during a flight, Congress has created a substantial regulatory regime to make sure that everything that can be done to make commercial aviation safe is done.

It is the Federal Aviation Administration (FAA) that is responsible for enforcing these regulations. Our Committee, in turn, has the responsibility of overseeing the FAA's implementation of this regulatory regime. This is a responsibility we owe directly to those passengers who surrender their fates to our nation's airlines.

Committee investigators have found that at least one airline, Southwest, allowed aircraft to miss required maintenance inspections – in some cases by up to 30 months.

The airline voluntarily disclosed these instances of non-compliance to the FAA but, with the apparent knowledge of some FAA inspectors, non-compliant aircraft were allowed to continue to fly against regulations before getting their required inspections.

This is an unacceptable situation – and it is particularly troubling that this might not be the only such incident either at this airline or at other airlines now in operation.

Under the light of stricter scrutiny that has been shone on air operations since news of the Committee's investigation became public, several airlines have voluntarily grounded aircraft – apparently to conduct required inspections.

Certainly, Southwest has an excellent safety record, and the recent safety record of the aviation industry has been very strong, but the failure to perform a required inspection – particularly inspections that are mandated to examine individual plane models for problems known to have occurred on those models – is taking an unnecessary and unacceptable risk with safety.

Even more troubling, however, is the strong evidence that there was a cozy relationship between some Southwest personnel and FAA officials – and that that type of cozy relationship is not unique to that airline.

I support the voluntary disclosure system created in current regulations – and I believe that any airline acting in good faith to disclose and correct violations should not suffer a punishment.

However, the voluntary disclosure system can only be effective if non-compliant aircraft are brought into compliance as soon as the violation is identified.

Now, of course, the FAA is suddenly requiring extensive compliance reviews and airlines are grounding planes apparently to conduct inspections. These are appropriate steps – but the fact that we reached a point where these actions have become necessary indicates that safety systems have broken down. We need to understand how these breakdowns could have occurred and how they can be prevented from ever reoccurring.

At the same time, the airlines are also pledging their determination to resolve any compliance issues while continually trumpeting their deepest dedication to operational safety. Dedication to safety is demonstrated by actions. The fact that no accidents occurred does not mean that no risks were being taken.

I have a continuing fear that our nation has entered a time of regulatory permissiveness – marked in part by a preference for "partnership" over enforcement.

The current problems with the airline safety regime – coming on the heels of FEMA's inability to respond to the most basic needs of our fellow citizens in the Gulf Coast, or the problems plaguing the Coast Guard's Deepwater procurement program, or the collapse of a major bridge on the U.S. interstate system – cause me to fear that this permissiveness is feeding a culture of mediocrity that threatens our greatness as a nation.

We can and we must do better. Not one airplane passenger should ever feel the need to question whether every safety precaution was taken before they are taxiing down the runway. Cozy partnerships among friends should never be allowed to interfere with an effective safety system when millions of lives are at stake.

Mr. Chairman, I thank you for calling today's hearing, I look forward to the testimony of today's witnesses, and I yield back.

Statement of the Honorable Bob Filner Before the Transportation and Infrastructure Committee Regarding "Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory Partnership Programs." April 3, 2008

I would like to begin by thanking Chairman Costello and Chairman Oberstar for holding this important hearing regarding "Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory Partnership Programs."

I know that the Subcommittee held a separate hearing last month on Runway Safety. I was not able to attend that hearing due to some obligations in my own Committee. However, I think the subject of this hearing and the runway incursion issues addressed at last month's runway safety hearing are very much linked.

Since 1990, FAA has emphasized gaining safety compliance from the aviation industry through cooperative means by establishing industry partnership programs with the aviation community that allow participants, such as airlines, pilots, maintenance workers, and air traffic controllers to self-report violations of safety regulations and help identify safety deficiencies, and potentially mitigate or avoid fines or other legal action.

For example, the Aviation Safety Reporting Program (ASRP) is intended to improve aviation safety by offering limited immunity for individuals who voluntarily report safety incidents, including for air traffic controllers.

Earlier this year, we had a serious runway safety incident at San Diego International Airport's Lindbergh Field. On Wednesday, January 16th at 5:52 pm local time, a Southwest Airlines flight (SWA1626) was cleared for take off from Runway 27. However, a general aviation aircraft (flight number N990S) had not yet exited the runway.

The Airport Movement Area Safety System (AMASS) detected the problem, alerting the local air traffic controller, but it was too late for the Southwest Airlines flight to safely cancel take-off. Fortunately, the Southwest Airlines flight was able to avoid collision with the general aviation aircraft--lifting off just in times--but according to air traffic controllers familiar with the incident, there was a serious "loss of separation" on the runway.

Immediately following the incident, the local air traffic controllers at Lindbergh Field self-reported the near-miss to the Federal Aviation Administration regional safety office. However, FAA classified the incident improperly--as a "miscellaneous error" rather than as a controller-error.

The on-duty air traffic controllers were very concerned about the misclassification of the incident, contacting their local union representatives, my office and the media because they thought FAA was trying to cover-up a serious safety mistake. Even though it would negatively reflect on them, and could result in disciplinary action, these dedicated professionals were more concerned about safety than themselves and wanted to make sure the record on the incident was clear.

I have since met with the FAA to discuss the incident. FAA claims that it was a simple error in classification that was corrected promptly. However, it took an inquiry from my office, several media stories, and six days before FAA corrected the official record, classifying the incident as a controller error.

It is very important for the FAA use airline regulatory partnership programs, so that aviation workers will continue to self-report safety incidents; but it is also critically important that the FAA follow-up in an appropriate way to ensure that incidents are classified properly, the safety issues are promptly addressed and the problem does not happen again.

Self-reporting by air traffic controllers, pilots, mechanics, and other industry professionals will only work if the FAA follows through in a prompt and appropriate manner.

Again, thank you to Chairmen Oberstar and Costello for holding these important aviation safety hearings on runway safety and on regulatory partnership programs.



Congress of the United States
House of Representatives
Washington, DC 20515

Opening Statement for the Honorable Eddie Bernice Johnson
Full Committee Hearing: Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory "Partnership Programs
Thursday, April 3, 2008– 2167 RHOB

Thank you Mr. Chairman.

I want to thank you for holding this important and timely hearing on the issue of critical lapses in the Federal Aviation Administration's oversight of aircraft inspection and maintenance.

Mr. Chairman, as most of us know, FAA's stated mission is "to provide the safest, most efficient aerospace system in the world."

Regrettably, the events over the past weeks regarding whistleblower disclosure of outright negligence within the Agency's oversight and enforcement of essential Airworthiness Directives (ADs) calls into question whether or not the Agency charged with protecting the flying public is living up to its mission.

I think it goes without saying that over the years, the standing of our nation's aviation system as one of the safest in the world can be directly attributed to the diligent efforts of dedicated inspection and maintenance personnel.

However, these respective personnel are only as good as their managerial and operational framework, and according to the U.S. Office of Special Counsel and our own Oversight and Investigations staff, serious flaws exist within the management of FAA's safety inspection framework.

In a letter dated December 20, 2007 to Department of Transportation Secretary Mary Peters outlining allegations of two FAA inspectors, now known as the whistleblowers, the U.S. Office of Special Counsel states, "The whistleblowers allege that safety and adherence to regulatory compliance have taken a back seat to personal friendships and favors at the Southwest Certificate Management Office.

They have disclosed serious allegations of a compromise of the public safety mission at FAA.

Even in the face of investigations substantiating wrongdoing and safety breaches [with respect to the ADs] FAA does not appear to have held management and safety inspectors appropriately accountable for their actions and inaction. The information disclosed by [the whistleblowers] reveals a substantial likelihood that serious safety concerns persist in the management and operation of the inspection and maintenance programs at FAA."

Mr. Chairman, this type of behavior is simply unacceptable and warrants a complete overhaul of how the FAA goes about its business of safety inspections and over-reliance on Voluntary Disclosure Reporting Programs.

When it comes to the proper adherence of safety protocols, FAA should be in the business of zero tolerance.

If a plane is out of compliance for whatever reason, it should be grounded until it comes into compliance—period.

Southwest Airlines is based in my congressional district and I am proud of their safety record. I have no doubt that upon the conclusion of the necessary audits, Southwest, in addition to the host of other airline carriers that have addressed compliance issues over the past months, will incorporate all appropriate changes to existing processes to guarantee that their fleet is well-maintained and in accordance with government standards and their own high standards of safety.

Yes, the American economy is dependent on the movement of people and goods, but this movement should not and can not come at the expense of safety. Given the current, delicate nature of the airline industry, I can not imagine that there exists an airline executive in this country that would sanction the operation of a non-compliant or unsafe plane.

I feel confident in saying that this experience has served as a wake-up call to a number of entities—particularly the FAA.

If the FAA has taken away anything from this volatile experience, it is my hope the following are included: 1.) The potential for collusion between FAA inspectors and carrier personnel must be eliminated; 2.) The revolving door between FAA and airline carriers must end, and end post-haste; 3.) To ensure objectivity in compliance assessments, senior-level inspectors should be periodically rotated between CMOs; 4.) Protecting personnel from baseless reprisal for reporting adverse safety practices should be a top priority for the Agency; and lastly 5.) If any ambiguity exists regarding the interpretation of ADs between the FAA and airline carriers, FAA should move swiftly to ensure these ambiguities are eliminated immediately.

As I close I want to thank our witnesses that have come before us to testify this morning, particularly Mr. Peters and Mr. Boutris.

I look forward to their respective testimonies and learning how we can move forward together in strengthening FAA's Safety Inspection Oversight Programs.

Thank you Mr. Chairman and I yield back the balance of my time.

Statement of the Honorable Doris O. Matsui
House Transportation and Infrastructure Committee Hearing:
Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory Partnership Programs
Thursday, April 3, 2008

Mr. Chairman, thank you for calling this hearing today. I want to applaud your leadership in this area.

I am encouraged that the Committee is further examining this issue, for there are few things as important as public safety.

Since coming to Congress, I have made public safety one of my top priorities. I am glad that this Committee shares my focus.

This Congress, we have done much to examine safety ... on our highways ... in and around our rivers ... and in the air.

I was pleased to be on the Transportation Committee that worked hard to pass the FAA Reauthorization Act. That bill will go a long way toward improving how Americans fly.

Nevertheless, it is hard to find a silver lining when we look at recent news stories.

It is disturbing—and disappointing—that the agency charged with protecting my constituents in the air not only failed to do so, but actually took steps to put them at greater risk.

Doris O. Matsui

Most of my constituents fly out of Sacramento International Airport.

Sac International is expected to serve over 7.5 million passengers each year by 2020. While I am pleased about this statistic, I want to make sure that those people are safe when they fly.

The FAA has this responsibility, and that is why the recent news about safety lapses is so disturbing to me.

Southwest Airlines is one of the largest carriers at Sac International. One of its un-inspected planes probably flew into and out of our airport.

The culture at the FAA needs to change. Those of us up here on the dais ar aware of this. I hope that our witnesses today are as well.

Business as usual at the FAA is no longer acceptable.

Mr. Chairman, cooperation and collaboration are critical to any safety effort. This is especially true when it comes to moving millions of people high above the ground.

All aspects of our air transportation system must work together to identify ways forward ... and to create solutions. Regulators must collaborate with the airlines in order for our air transport system to function effectively.

However, we have gone too far. What started out as healthy collaboration has become dangerous complicity at the FAA.

Mr. Chairman, I appreciate your dedication to ensuring that our country's travelers are safe and secure. I look forward to hearing the testimony offered today.

I yield back the balance of my time.

Harry E Mitchell

1

Statement of Rep. Harry Mitchell
House Transportation and Infrastructure Committee
4/3/08

--Thank you Mr. Chairman.

--And thank you for conducting this investigation.

--The safety lapses this investigation has uncovered are shocking and unacceptable.

--Last month, we learned that 117 planes were knowingly flown in violation of mandatory safety checks, in some cases for as long as 30 months.

--This revelation was particularly alarming to those of us in the Phoenix metropolitan area because the airplanes involved were flown by Southwest Airlines.

--Southwest is the second largest carrier at Phoenix Sky Harbor Airport....the nation's 8th busiest airport.

-Southwest conducts so many flights at Sky Harbor, only two other airports play host more Southwest departures.

--As a result, huge numbers of Sky Harbor passengers were impacted by these safety lapses, albeit without their knowledge.

2

--According to one initial estimate, approximately 13,000 Sky Harbor passengers were flown on planes in violation of mandatory safety checks.

--13,000.

--Even more disturbing....according to the Inspector General, these safety lapses, and the FAA's delay in addressing them, "are symptomatic of much deeper problems with FAA's oversight."

--The problems are so bad, the Inspector General is recommending "immediate and comprehensive changes" in the way FAA ensures compliance with its safety requirements.

--I believe the flying public is entitled to some answers, and I hope we can get some here today.

--I yield back.

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
OVERSIGHT AND INVESTIGATIONS HEARING ON
"CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY 'PARTNERSHIP PROGRAMS'"
APRIL 3, 2008

Today's hearing continues the Oversight and Investigations heritage of this Committee, established by my predecessor, Congressman John Blatnik, when he was appointed by Speaker Sam Rayburn in 1959 to head the Select Subcommittee on Investigation of the Federal-Aid Highway Program.

I myself continued this legacy as Chairman of the Subcommittee on Investigations and Oversight from 1985 through 1989, and as Chairman of the Subcommittee on Aviation from 1989 through 1995.

Aviation issues have been a major focus of this Committee's oversight activities. Nearly one-half of the hearings I conducted as Chairman of the Investigations and Oversight Subcommittee dealt with aviation and aviation safety. One of the first hearings I chaired reviewed the case of the 1985 Galaxy Airlines crash, in which 93 people died. Other hearings looked at near mid-air collisions, and understaffing problems at air traffic control facilities. Our Subcommittee heard from whistleblowers— controllers, flight attendants, mechanics, pilots, and others— many of whom risked their jobs and livelihoods to tell their stories.

Those sources dried up during the next 12 years, as whistleblowers realized that little or nothing would come of their intervention, especially during the time of one-party rule in Washington.

When I won the Chairmanship of this Committee, I made it abundantly clear that vigorous and thorough oversight would once again be a primary activity of the Committee. And the whistleblowers have responded. Over the last 15 months, this Committee and its Subcommittees have engaged in several major investigations, including the Coast Guard's Deepwater program, rail safety, pilot medical records, and now, this aviation maintenance exposé.

Today's hearing continues this long history of in-depth investigations of the administration of the transportation and infrastructure programs we authorize. Many of these investigations have focused on whether the Executive Branch is adequately protecting the safety of those who work on transportation systems or use them.

We will again hear from whistleblowers, dedicated professionals who want to make air travel safer, and are willing to risk what is necessary to do so.
They will present testimony that Southwest Airlines, with FAA complicity, allowed at least 117 of its aircraft to fly with passengers in violation of Federal Aviation

Regulations. The documents they presented to our Committee triggered an investigation that turned up the most serious lapse in safety I have been aware of at the FAA in the past 23 years

I fear that complacency may have set in at the highest levels of FAA management, reflecting a pendulum swing away from vigorous enforcement of compliance, toward a carrier-favorable, cozy relationship.

Meanwhile, more and more airline maintenance is being outsourced with less FAA and airline involvement, much of it to foreign repair stations.

I fully agree that it is impossible for FAA to hire enough inspectors to oversee every single, minute aspect of regulatory compliance given the size of the US commercial air fleet. FAA has about 3000 inspectors overseeing airline compliance, and I doubt even 50,000 would be enough to inspect every plane flying— this is a complicated and highly technical business. Therefore I believe that "partnership programs" with the airlines are a good thing, IF they are conducted under strict guidelines.

The Committee's investigation uncovered a pattern of regulatory abuse and widespread regulatory lapses that allowed 117 aircraft to be operated in commercial

service despite being OUT OF COMPLIANCE with Airworthiness Directives and other mandatory inspections...so that Southwest could conveniently schedule them for inspection without disrupting their commercial schedule.

These overflight violations occurred after Southwest had self-disclosed to the FAA that it had discovered that these planes were not in compliance. The Southwest disclosure claimed that the violations ceased upon the date of disclosure, and by Federal law these aircraft should have been grounded until they were in compliance, but they continued to fly, with full knowledge of the FAA supervisor for maintenance at Southwest.

47 B-737 aircraft continued in service without a fuselage crack check required every 4,500 cycles after the aircraft reaches 35,000 cycles. The check is required because an Aloha Airlines jet lost an 18-foot section of its upper fuselage due to metal fatigue in 1988. One person died, seven more were injured.

The 47 aircraft conducted 1,451 flights, carrying an estimated 200,000 passengers.

These were just the flights that occurred after Southwest disclosed them, but they were actually out of compliance for nearly 30 months and according to FAA's

civil penalty letter sent to Southwest, they actually flew nearly 60,000 flights out of compliance.

The other 70 aircraft that did not receive rudder inspections were out of compliance for at least a year, and they also continued to fly past the Southwest disclosure— the number of flights is unknown, and they were not addressed in the FAA's civil penalty announced March 6. These rudder inspections were required following two fatal accidents involving rudder malfunctions on B-737 aircraft. 25 people died in a crash involving a United Airlines 737 in 1991 at Colorado Springs, and 132 died a USAir crash at Aliquippa, Pennsylvania, in 1994.

We have reason to believe there may have been more such violations, since there is strong evidence of systemic flaws in Southwest's Airworthiness Directive management systems. A required Airworthiness Directive Safety Attributes Inspection at Southwest, due in 2004, was not conducted until 2007, three years overdue.

This investigation, however, is not just about improper activities by one airline and one FAA supervisor in the office directly overseeing that airline. It raises serious questions about whether higher officials in FAA are carrying out their safety responsibilities for the entire industry.

Over at least a 3-year period prior to the overflights mentioned above, the Director of the Regional Flight Standards Division, which oversees the offices supervising Southwest, American, American Eagle, Continental and other operators located in that region, was sent 38 e-mails expressing concerns of inspectors that Southwest was not keeping adequate records of its compliance with airworthiness directives and required maintenance inspections. Nothing was done, and as a consequence neither Southwest nor FAA detected the airline's failure to conduct required fuselage inspections for 30 months. The inspectors raising these issues were never given the dignity of any kind of answer.

On May 3, 2007, a hotline complaint went to FAA headquarters about what had occurred at Southwest, and that the FAA supervisor of maintenance had allowed the fuselage inspection overflights. This was just a few weeks after the incidents were discovered by the whistleblowers. It remains unclear exactly when the Associate Administrator for Aviation Safety became aware of the issue, but it is likely that it was very shortly after.

There was an internal FAA headquarters investigation. It was marked "closed" on July 12 2007. However, this should have set off major alarms at the top of the agency, and led to a much broader investigation of: 1) why this had occurred at

Southwest; 2) the compliance problems going back more than 3 years; 3) whether Southwest had failed to take other required actions; and 4) whether there was a record keeping system in place to prevent these problems in the future. Most importantly, it should have alerted FAA management to the need for investigations of other FAA offices overseeing other carriers to be sure they did not show a similar pattern of abuse of regulatory partnership programs.

So far as we know, no compliance audits were undertaken by FAA at Southwest until October, 2007 when FAA learned that this committee was conducting an investigation. Most disturbing, it was not until March 13, 2008 an entire year later, that FAA finally did initiate compliance audits nationwide and did indeed learn of other problems at Southwest and at other airlines supervised by other regional offices.

There is also the question of when the FAA Administrator and Deputy Administrator were notified of these problems, and what they have done about them. We are told that when Aviation Subcommittee Chairman Jerry Costello and I sent a letter to Acting Administrator Bobby Sturgell on October 5, 2007 to request FAA records on these issues, the Acting Administrator was unaware of the matter. We also know that FAA inspectors implicated in these cases are continuing to serve as FAA inspectors.

FAA needs to rethink its relationship with the airlines and the other aviation entities which it regulates. I was shocked to learn that in its mission statement for aviation safety, FAA has a "vision" of "being responsive to our customers and accountable to the public." This suggests that FAA regards the airlines and other companies it regulates as its "customers." This approach is seriously misguided. The "customers" of FAA safety programs are the persons who fly on the airplanes FAA regulates. FAA's bedrock responsibility is to ensure that these "customers" travel safely.

FAA needs to clean house, from the top down, and take corrective action. It needs to hire more inspectors, and give them a safety mission.

Congress should enact legislation to establish a long "post-service" cooling off period for FAA inspectors before they are allowed to go to work for the airlines.

I also believe that FAA should take a serious look at routinely rotating inspectors between airline oversight offices as at least a partial countermeasure to a "cozy relationship" developing between the regulators and the regulated.

Above all, FAA senior management MUST also develop a better way to monitor local airline oversight offices, to avoid another major lapse in compliance such as those at Southwest.

Reports of the shocking lapse at Southwest have sent chills through the airline industry and the regulatory offices at FAA. The airlines and the agency all scrambled to review maintenance records and bring fleets into compliance. American, United, U.S. Airways, and Delta, as well as Southwest, have all grounded planes and cancelled flights in the past four weeks due to this special review. Just yesterday, United grounded its fleet of 52 Boeing 777 widebody airliners, due to an inspection lapse.

I believe it is no mere coincidence that this audit began just after news of our investigation became public, and just prior to us holding this hearing.

Thank goodness that this is all happening BEFORE a fatal accident, which is as it should be, NOT AFTER a tragedy.

Doubtless some will argue that these compliance violations offered no serious threat to the flying public. No crash happened, no one died. But that is an irresponsible argument. It would be consistent with the "tombstone mentality" that I have been fighting in FAA and other agencies my entire career.

The fundamental reason our air transportation industry is so safe today is that we have, historically, been OBSESSIVE about compliance with the Federal Aviation Regulations. We insist on wide margins of safety. Non-compliance with these regulations erodes these margins, and makes air travel less safe.

In this hearing we will look beyond the specific violations turned up by our investigation and the FAA's recently completed safety audit. We will examine the regulatory culture that allowed these violations to occur, and seek answers as to how compliance with Federal air safety regulations can be assured in the future.

In the past, many of our hearings have led to important reforms that have enhanced transportation policy. I hope that is the case with today's hearing as well.

I look forward to the testimony of our witnesses.

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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Chairman

David Heymsfeld, Chief of Staff
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April 7, 2008

Mr. Nicholas A. Sabatini
Associate Administrator for Aviation Safety
Federal Aviation Administration

Mr. James J. Ballough
Director, Flight Standards Service
Federal Aviation Administration

Mr. Thomas Stuckey
Federal Aviation Administration

Dear Mr. Sabatini, Mr. Ballough, and Mr. Stuckey:

We are deeply disturbed about statements that you made, under oath, to the Committee at our recent hearing on April 3, 2008, on "Critical Lapses in FAA Safety Oversight" on issues involving the so called Customer Service Initiative (CSI). We believe that your testimony conveyed inaccurate and misleading information about whether Aviation Safety Inspectors and Managers in the Flight Standards Service (which Mr. Ballough directs) were ordered to conduct special meetings with all airlines, repair stations and other regulated entities to deliver and discuss the CSI.

According to documents provided to the Committee[1], the CSI was announced by then Administrator Blakely in December 2002, affirmed by Mr. Sabatini in February 2003, and formally unveiled by Flight Standards in February 2004. The documents spelled out a series of new procedures for appeals by airlines and other regulated entities who were dissatisfied with the actions of FAA safety inspectors. At the hearing, a number of Members of the Committee and witnesses criticized the CSI on the grounds that treating regulated entities as "customers" undercuts the ability of FAA inspectors to enforce safety regulations, and conveys to the regulated entities that their satisfaction is a higher goal than enforcement. The Members and witnesses believe that the only "customer" of the FAA's safety offices are the persons who travel on aircraft.

In the panel which preceded yours at our hearing, Mr. Mills, who is the Assistant Manager of the Dallas Fort Worth Flight Standards District Office, testified that in 2004 he had been "mandated" to promptly visit "every single operator" to deliver a copy of the new procedures.

[1] CSI: Flight Standards, FAA/Industry Customer Service Meetings, Powerpoint Presentation for delivery to Certificate Holders, prepared by AFS-140, February 2004.

Following Mr. Mills testimony, you three officials, the officials to whom Mr. Mills reported [2] testified in the second panel. Congressman DeFazio asked you whether Mr. Mills was accurate in believing that he had been directed to hand-deliver the CSI. Mr. Sabatini replied, "I was surprised to hear Mr. Mills say he had been instructed to hand deliver that. That certainly is not in the guidelines." Mr. Ballough responded, "Mr. DeFazio, from what I know it was supposed to have been delivered by routine carrier visits and repair station visits." Mr. Ballough added that these visits would take place "at least once a year."

Mr. Sabatini added in response to further questions that he would not agree "that it was widespread" that people were sent to hand-deliver the CSI and Mr. Stuckey said that it would not have been "his expectation" that one individual would spend three months delivering the CSI.

In sum, these answers convey that managers and inspectors had up to one year to deliver the customer service initiative and that it could be done during routine visits.

This relaxed approach is radically different from that directed by the attached memorandum, dated February 12, 2004, which was sent to "All Flight Standards Managers, Supervisors and Employees," under the signature of Mr. Ballough. This memorandum states that after the CSI had been developed to carry out policies announced by Mr. Sabatini in 2003, all field offices had been directed to contact their operators, to provide them CSI literature and discuss CSI with them. Mr. Ballough's memorandum stated that "few of these meetings have occurred and the purpose of this memorandum is to rectify that." The memorandum directed that "within 60 days of the receipt of this memorandum FSDOs (Flight Standards District Offices) and CMOs (Certificate Management Offices) should conduct meetings with "at a minimum their Title 14 Code of Regulations (14 CFR) parts 121, 135, 141, 142, and 145 operators to discuss CSI."[3] The meetings were to be conducted with a representative of the operators' management, the FSDO or CMO management and the principal inspectors assigned to that operator. Further, it was a requirement that the record of these meetings was to be entered into the FAA's Performance Tracking Reporting System (PTRS), which underscored the mandatory nature of this requirement placed upon FAA Flight Standards Managers.

This is a very different picture from that created by your testimony. It was inaccurate for you to state that the CSI packages could be delivered during routine visits over the next year. Rather, they were required to be delivered and discussed within 60 days of the memorandum. Certainly, this program, which required meetings with almost 8,000 regulated entities would require a "widespread effort" by inspectors and managers.

Following your testimony, we received testimony supporting Mr. Mills, from Mr. McNease a retired Inspector in the Southern Region:

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[2] Mr. Stuckey headed Flight Standards for FAA's Southwest Region, Mr. Ballough directed Flight Standards for the entire country, and Flight Standards reported to Mr. Sabatini, the Associate Administrator for Safety.

[3] Part 121 regulates certificated commercial airlines (97 certificates nationwide); part 135 regulates commuters and on demand operators (2264 operators certified nationwide); part 141 regulates pilot schools (564 certificates nationwide), part 142 regulates training centers (162 certificates nationwide); and part 145 regulates repair stations (4884 operators nationwide).

"One other thing to Mr. DeFazio -- I waited to hold this -- you questioned a number of times about Mr. Mills' hand-delivering everything. The answers you got from Mr. Sabatini, Mr. Ballough, and Mr. Stuckey seemed to think that -- they seemed to tell you that that wasn't the way things happened. That's incorrect. It was the way things happened."

"I was in the Southern Region, not the Southwest Region. In the Southern Region, my manager had to go out and deliver every one of those to everybody. It took him really probably -- probably a month and a half or at least that long. He had other duties. But it happened throughout the FAA, and it's not localized."

"I hope you see that the testimony from all of us is that this is, I believe, a systemic problem with the FAA. It's happening in other parts of the country, not just in the Southwest Region."

In conclusion, you should understand that these are very serious issues to our Committee. We cannot condone misleading testimony in our hearings, and in last week's hearing you were sworn under oath to tell the truth. The hearings are the basis for carrying out our legislative and oversight responsibilities. We cannot decide whether reforms or different policies are needed unless we have an accurate picture of all relevant agency actions.

Sincerely,

James L. Oberstar, M.C.
Chairman

Peter A. DeFazio, M.C.
Chairman
Subcommittee on Highways
and Transit

Jerry F. Costello, M.C.
Chairman
Subcommittee on Aviation

Attachment: Memorandum from Director, Flight Standards Service, February 12, 2004

cc: The Honorable Mary Peters, Secretary of Transportation
The Honorable Robert Sturgell, Acting Administrator, Federal Aviation Administration

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: **ACTION:** Customer Service Initiative Meetings with Industry

Date: FEB 12 2004

From: Director, Flight Standards Service, AFS-1

Reply to Attn. of:

To: All Flight Standards Managers, Supervisors, and Employees

In 2003, Mr. Nicholas Sabatini, Associate Administrator for Regulation and Certification, AVR-1, announced AVR's commitment to the Administrator's call for improved customer service in the Federal Aviation Administration (FAA). AVR developed and issued a set of customer service principles, along with the promise that AVR employees would respond to customers' needs with "service, integrity, competence, accountability, and partnership." You may obtain more information on AVR's Customer Service Initiative (CSI) at this Intranet site: <http://intranet.faa.gov/avr/index.cfm?nav=CS>.

The AVR CSI emphasizes the use of specific marketing tools—posters, stickers, wallet cards, and pocket cards—which identify for our customers points of contact within the offices they may deal with. Instructions for ordering these materials are included on the Web site at the URL above.

AVR-1 required all organizations within AVR to develop their own, unique process for their customers to address issues that could arise during interaction. We in Flight Standards have developed *CSI: Flight Standards*, a process for our customers to raise issues through our "chain of command" with the goal of resolving those issues at the lowest possible level. As of February 13, 2004, our customers can find *CSI: Flight Standards* through AVR's Customer Service Internet site, <http://www.faa.gov/avr/afs/csi/opguide.doc>, and Flight Standards personnel will find it either on the AVR CSI Intranet site, <http://intranet.faa.gov/avr/afs/csi/opguide.doc>, or on Flight Standards Communications Central: <http://intranet.faa.gov/avr/afs/>.

When AVR-1 announced CSI last year, I indicated at that time that field offices should contact their operators, provide them with the marketing tools, and discuss CSI with them. I have since learned that few of these meetings have occurred, and the purpose of this memorandum is to rectify that.

First, all Flight Standards District Offices (FSDO) and Certificate Management Offices (CMO) shall order a sufficient amount of the AVR CSI marketing tools by contacting the TASC Publications Helpline during the hours of 7:30 a.m. to 5:00 p.m., Monday through Friday, except for Federal holidays, at 301-322-4961. You may also fax an order to TASC at 301-386-5394. Use the following descriptions for the CSI marketing tools when ordering:

- AVR Customer Service Principles Round Stickers
- AVR Customer Service Principles Wallet Cards (2 x 3 1/2 inches folded)
- AVR Customer Service Principles Pocket Brochures (3 1/2 x 6 inches folded)
- AVR Customer Service Principles Small Posters (8 1/2 x 11 inches)

Next, within 60 days of the receipt of this memorandum, FSDOs and CMOs shall conduct meetings with, at a minimum, their Title 14 Code of Federal Regulations (14 CFR) parts 121, 135, 141, 142, and 145 operators to discuss CSI. The attendees at these meetings shall be an appropriate representative of the operator's management, the FSDO or CMO management, and the principal inspectors assigned to that operator. The objectives of this meeting will be to:

1. Decide how the office and the operator will work in an interdependent manner to resolve issues.
2. Provide the operator with a copy of *CSI: Flight Standards*, either a printed copy or URL information.
3. Provide the operator with copies of the AVR CSI marketing tools, filled out with the appropriate contact information.
4. Commit to following the process outlined in *CSI: Flight Standards* and make every attempt to resolve issues at the lowest possible level.

After offices have conducted these meetings, they shall record in the Program Tracking and Reporting Subsystem (PTRS) the following information for each meeting held with each operator:

- Date of the meeting
- Who attended from the operator
- FAA participants

In the National Use block, enter the letters CSI and use the following PTRS codes:

- Operations : 1380 Tech/Admin/Special Emph Prog
- Airworthiness: 3390 Tech/Admin/Special Emph Prog
- Avionics: 5390 Tech/Admin/Special Emph Prog

Document these meetings in Labor Distribution Reporting, using the following codes:

12XXFACORPSV
CP1000

Offices should also make every effort to extend CSI to all its customers. For example, other general aviation operators (14 CFR parts 61, 91, 133, 137, etc.) and individual airmen could receive their CSI materials and briefings at Aviation Safety Program seminars within the 60 days prescribed in this memorandum.

If you have any questions on the AVR CSI or *CSI: Flight Standards*, please contact Ms. Phyllis A. Duncan, of my staff, at (202) 267-8017.

James J. Ballough

Statement for the Record for Congressman Walz
Oversight and Investigations Hearing on "Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory 'Partnership Programs'"

I want to thank Chairman Oberstar and Ranking Member Mica for calling today's hearing on "Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory 'Partnership Programs'"

We are here today to look into serious lapses in oversight that occurred with the FAA's inspection of some Southwest Airlines planes. Those lapses are certainly troubling. But even more troubling is what it took for this information to come to light. We are only holding this hearing today because two FAA safety inspectors came forward to blow the whistle on wrongdoing. Without their brave action to come forward, it's possible that these lapses would have gone unnoticed.

The mistakes that were made by employees at Southwest Airlines when they missed certain structural inspections on 46 older aircraft, and the failure of Southwest to ground those aircraft until the checks were completed pose an unacceptable risk to the safety of flying public. They reflects systemic shortcomings in our safety oversight program as a whole.

I understand that FAA officials had good intentions and sound reasoning for beginning a voluntary disclosure program that allows the airlines to report violations without fear of fines and sanctions. But we all must agree that the objective of voluntary disclosure is not to let the airlines off the hook.

A "culture of coziness" between the government regulatory agencies and the businesses they regulate is not what the American people expect from their government, and it certainly is not what they deserve. The flying public wants to be confident that their take-offs and landings will be as safe as possible. They deserve to know that the FAA will not let its cozy relations with the airlines blind them to glaring problems with aircraft maintenance.

I hope that today's hearing and the courageous testimonies of these two whistleblowers will help us to find new approaches and new way to improve the FAA's oversight system and to ensure that the American people can fly safely.



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STATEMENT OF RICHARD ANDREWS
RETIRED FEDERAL AVIATION ADMINISTRATION AVIATION SAFETY INSPECTOR
AMERICAN EAGLE CERTIFICATE MANAGEMENT OFFICE
OPERATIONS UNIT
PROFESSIONAL AVIATION SAFETY SPECIALISTS, AFL-CIO

BEFORE THE HOUSE COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

ON
CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES:
ABUSES OF REGULATORY "PARTNERSHIP PROGRAMS"

APRIL 3, 2008

My name is Richard Andrews. I was employed as an aviation safety inspector by the Federal Aviation Administration (FAA) at the American Eagle Certificate Management Office (AMR CMO) in the Southwest Region assigned as the SF-340 aircrew program manager until March 31, 2008. I am a member of the Professional Aviation Safety Specialists, AFL-CIO (PASS) and served as the PASS representative for the American Eagle Airlines, Inc. (AE) Operations Unit in the AMR CMO.

I worked for the FAA for over 31 years. During that time, I have witnessed dramatic changes in the aviation industry. When I first started my career with the FAA, safety of the system was the priority. With the financial hardships facing many of the airlines and pay for performance mentality of managers, safety has become a second thought. My work at the AMR CMO has proven to me that management's primary goal is to fulfill quotas for the office. In other words, getting the job done quickly is the focus rather than getting the job done right.

As with many facilities across the country, the AMR CMO is understaffed and the unit is forced to answer to managers with limited experience. Individuals have been placed in management positions with inadequate experience to address specific issues related to inspectors and the equipment and services they are charged with overseeing. In fact, my unit is managed by an airworthiness inspector with no operations background and a dispatcher with no real flight, certification or cabin safety experience beyond his dispatcher's certificate and student pilot license.

The staffing situation at the AMR CMO made it nearly impossible to complete all of the work, but that did not stop management from insisting that the work be done no matter the consequences. Eighteen months ago, the operations unit was staffed with 13 FAA employees and the number dwindled down to five inspectors. However, in February 2008, when the FAA learned of this hearing, the operations unit was completely re-staffed with new hires and crossovers from General Aviation. While the additional staffing is an improvement, the new hires are not fully trained and require over a year of training, which will create even more work for the remaining inspectors at the facility.

As FAA inspectors, we are a workforce trained to focus only on the safety of the system. It is beyond frustrating when we discover a problem with an air carrier and are prevented from doing anything about it. We are usually stopped in our tracks by several layers of management and the FAA's focus on pleasing the airlines. In addition, inspectors are now assigned so much administrative work that is chaining us to our desks when we should be out in the field as the eyes and ears of the FAA. Thirty-one years ago, I was out in the field with my hands on the airplanes looking for safety problems and I had the power to make a difference. Now, in the age of self disclosure and the tight relationship between FAA management and the airlines, inspectors are sitting at their desks entering information into a computer. Unfortunately, what suffers most from all of this is the safety of the system.

I am thankful that this committee is paying attention to the FAA's dedication to satisfying the customer. However, the "customer" in this case is not the flying public, as one would expect. The customer is the airline and this focus is placing the entire aviation system at risk. I have experienced the repercussions of this relationship many times over the past several years, but a

recent incident shows the dangers involved. In October 2007, I met with the AMR CMO assistant manager and principal operations inspector (POI) to discuss the status of American Eagle's flight operations and training. The assistant manager agreed that American Eagle should be under stress surveillance and asked that I start doing some in-depth evaluations of its manuals and programs. It is important to note that American Eagle flight operations has presented indicators that would justify enhanced surveillance for some time now. Included among these indicators is the lack of qualifications and experience of key personnel. In addition, American Eagle is going through the same problem as other carriers in the industry with regard to hiring minimally qualified pilots. American Eagle is hiring pilots with so little flying time that they can barely meet pilot in command time for the Airline Transport Pilot (ATP) rating, a requirement for a pilot flying with an airline, when they upgrade. When considering all of these circumstances, it would seem obvious that American Eagle flight operations demands heightened FAA surveillance.

After two to three months of working on this project in addition to my other full-time assignments, I came up with several issues that placed regulatory compliance in question. Among other things, a review of the American Eagle Airlines SF-340 Aircraft Operating Manuals (AOM) revealed that

- Problems existed that already resulted in misinformation and confusion in the training of pilot crewmembers and could eventually result in operation failures
- Many parts of the AOM were not FAA approved in accordance with the national guidance
- American Eagle Airlines had stopped providing the FAA with certain information required under FAA Order 8900.1, the safety handbook for all FAA inspectors
- Some instructors, check airmen and examiners in the SF-340 program were teaching techniques for which there were no corresponding approved procedures in the AOM
- Training manuals were not formatted, accepted and approved in accordance with FAA orders

After completing my research, I drafted 11 letters detailing handbook compliance issues, procedural problems and training issues. The drafts were forwarded to the POI so he could put them in FAA letter format. The POI then forwarded the letters to the operations unit supervisor. In November 2007 and again in January 2008, I asked the unit supervisor about the status of the letters in the presence of the POI and assistant unit manager. On both occasions, the unit supervisor, who I have been told used to work for American Eagle Airline, responded that we cannot send all the letters to American Eagle as it "will overwhelm them." However, after details regarding this hearing were released, I was notified last week by the POI that the unit supervisor had told him to "get the letters out of the office."

Through the American Eagle Operations Unit, the FAA has oversight responsibility for an air carrier that by all rights should be under heightened surveillance. Due to the extended delay in sending out the letters, several of the compliance issues I discovered remain unaddressed or undocumented. Unit management has actually addressed one of the issues directly with the air carrier management in the face of an upcoming audit. I was forced to attempt to try to work around many of the issues, which not only damaged my credibility with the air carrier but also is not the best way to address situations so important to public safety.

As I previously stated, I worked for the FAA for over 31 years, but I retired at the end of last month. I would have worked longer but I could not do so under the conditions that currently prevail at the FAA. Inspectors in large air carrier offices are confined by all of these "get out of jail free" partnership programs and FAA management's refusal to hold the airlines accountable. The most disturbing part of this situation is that aviation safety is being placed at such extreme risk. When we finally have another major accident, what will the FAA be able to say? The FAA's mission of safety has been lost in the pursuit of making nice with the air carriers and satisfying quotas. In other words, the show has become more important than the mission. As an experienced FAA safety inspector, I believe nothing should ever be more important than the agency's mission of safety.

03/21/2008

Testimony of John Bassler
Assistant Principal Avionics Inspector, SWA-CMO

This is the testimony of John Bassler, Aviation Safety Inspector assigned to the SWA-CMO from 06/2005 to 12/2007, serving in the capacity of Assistant Principal Avionics Inspector.

When I arrived at the SWA-CMO in 2005, one of the first things I noticed was how fractured the Airworthiness group was. I came from the CALA-CMO in Houston, were that airworthiness unit had scheduled meetings including both specialties (Avionics and Maintenance) on a regular basis. The SWA-CMO did not and as a matter of fact, it didn't start having meetings of this nature until the latter part of 2007. I found the airworthiness unit in my opinion to be dysfunctional. I had not been in the office for very long when I witnessed my immediate supervisor, Mr. Michael P. Colin, Principal Avionics Inspector; giving the middle finger to another supervisor, Mr. Doug Gawadzinski, Principal Maintenance Inspector, when he had his back turned. I thought that very unprofessional and I voice my objections to my supervisor. I told him that I did not appreciate that in my presence.

Things progressively got worse in the office. Most of the friction was within the management ranks. During this time it must be noted that most of the inspectors continued to operate at an exceptional level without managements support. Around early March, 2007, rumors began to fly that Inspector Bobby Boutris had a couple of hotline complaints filed on him from outside the agency. This is when things really started to become hostile. Boutris began to spend a lot of time conversing directly to Robert Naccache, assistant manager and Michael Mills, the office manager behind closed doors, several times a day. Mr. Boutris also began spending a lot of time with the DEPM (Data Evaluation Program Manager) Mr. Doug Peters. I started to recognize what appeared to me, the obvious dislike Mr. Peters, Mr. Boutris, Mr. Mills, and Mr. Naccache had towards the SPMI, Mr. Gawadzinski. This dislike in my opinion seemed to be of a very personal nature towards the man. One day Mr. Peters was overheard by several inspectors including myself making the comment from Boutris's cubical, "The gloves are coming off".

Mr. Boutris was removed from his duties and work program pending the outcome of the investigations into the complaints made against him. He was to have no contact in any capacity with the air carrier or its programs. This is evidently right around the timeframe when Southwest Airlines contacted the SPMI disclosing the possible over fly of an Airworthiness Directive on some of their aircraft. Being avionics, I was not privy to this information and therefore had no knowledge of the details or specifics of the disclosure. Around mid April 2007 timeframe, Mr. Gawadzinski was looking for volunteers to help complete the job assignments that were issued to Mr. Boutris. Mr. Gawadzinski was having difficulty getting anyone to volunteer. He approached me and asked if I would be willing to work the Safety Attributes Inspection (SAI) 1.3.6, Airworthiness Directives. I

told him I would be willing to do the work assignment. Had I known at the time Mr. Boutris's intensions, I would have never volunteered myself for this assignment. It wasn't a couple of days later; I witnessed Mr. Boutris entering my cubical and removing data from the SAI folder I had just acquired from him. Mr. Boutris never started the SAI. He had a couple of notes on a paper Decision Collection Tool (DCT) but that was it. I had to start the inspection completely from scratch.

I began to become aware of the militant attitudes that were developing in the office from the individuals I have identified in the aforementioned paragraph. I became concerned that I was going to be targeted by these inspectors due to my agreeing to perform the SAI. I sent an e-mail (see attachment 1) to my supervisor, Mr. Colin requesting that I be removed from the SAI because of the hostile environment developing in the office. Mr. Colin refused to remove me from the SAI. I then requested to at least add some inspectors to the inspection so that it would be a team event and I would not be individually targeted. Mr. Colin agreed and added one inspector, Mr. Larry Collamore (see attachment 2). During this inspection, Mr. Boutris felt it important enough to approach Mr. Collamore and notify him that the "SAI was being watched very closely". Mr. Collamore stated to me that he felt very threatened by Mr. Boutris's comment. I also learned of events that had transpired between Mr. Boutris and certain SWA employees. The manager of Airworthiness Directives for SWA, Mr. Bill Kervanik, divulged to me in a scheduled SAI meeting that Mr. Boutris had almost started a fistfight with him during a meeting at the air carrier and that Mr. Boutris was very unprofessional in his behavior. Because of these types of events in which Mr. Boutris was directly involved, it took the SAI team members a tremendous amount of time to re-establish communication with the air carrier. This was due to the deterioration of trust that had developed between the air carrier and the FAA (Mr. Boutris). Communication is critical when performing ATOS (Air Transportation Oversight System) surveillance functions. In order for the ATOS surveillance program to function properly, requires communication between the Air carrier and the regulatory agency. This must be accomplished in order to meet the agencies goal of establishing policy and procedures at the highest level of safety.

Mr. Collamore and I finished the inspection during the month of June, 2007. There was a lengthy delay in completing the SAI due to Mr. Kervanik being on leave due to a medical situation within his immediate family. The final product was sent to the DEPM (Mr. Peters) for review. It was returned with numerous (2 full pages) of comments (see attachment 3). This upset me because in my 10 years experience with ATOS, I had never seen so many comments from a DEPM. I had performed inspections in the past and never had anything like this returned from the DEPM in this fashion before these events. This upset me deeply and I brought my concerns to my supervisor, Mr. Colin. I explained that I felt I was being targeted and that the DEPM was using his position to personally attack my credibility. Nothing was done about my concerns. I made a couple of spelling corrections to the verbiage and again forwarded it to the DEPM for review. This time the SAI was saved concurred by the DEPM to the Master Record (ATOS database). Several days later, Mr. Colin wanted changes made again to the SAI "No" comments and had me request it back from the repository. This is a very unusual act. Once an inspection has been saved to the database, it normally never gets returned. I have never witnessed it in

my 10 years working in ATOS. Phone calls are made and the SAI is returned. At this particular time, management personnel are attending a seminar out of state so the only permanent management official still in the office was the assistant manager, Robert Naccache. The SAI sits in the DEPM's possession for approximately 15 days, when management finally returns to the office. I send an e-mail to the office manager, who now is Mr. Bobby Hedlund, and ask the status of the SAI (see attachment 4). He responds to let me know the DEPM is waiting for PMI feedback (This particular PMI is the 3rd person to temporarily hold the position in less then a year). I thought this peculiar since this individual had no information and was not present during the time the SAI was being performed. A meeting is held at the request of the DEPM to discuss his concerns with the SAI with the PMI and the PAI. I was not invited to the meeting nor was Larry Collamore. This upset me because I was the Team Coordinator for this SAI. I felt my knowledge was instrumental in the conversation. I voiced this concern to my Supervisor. Nothing was done about my concerns. After the meeting the PAI sent an e-mail to SAI team member Larry Collamore, requesting "Yes comments" in the "Controls" section of the SAI. At this time, ATOS 1.1 was National Policy and did not require "Yes" comments. Mr. Collamore responded to the e-mail by respectfully refusing to add the "Yes" comments. His response also identified the inappropriate behavior being displayed by certain inspectors in the office (See attachment 5). Management meets in the manager's office to discuss the SAI. The next morning, the SAI work instructions are changed to require "Yes" comments (See Attachment 6). This action was contrary to ATOS and AFS-900 policy. A meeting is held to discuss the SAI. The meeting included Mr. Colin - PAI, Mr. Hoover - Temporary PMI, Mr. Jay Nelson - Temporary POI, Mr. Bobby Hedlund - Office Manager, Mr. Peters - DEPM, John Bassler - Team Coordinator SAI 1.3.6, Mr. Larry Collamore - SAI Team Member. Larry and I voice our frustration with the entire process and the way this inspection is being handled. Both Larry and I felt we were being targeted and that we were not getting fair and equitable treatment. Our concerns went unaddressed again. By the time the SAI was saved to the ATOS repository, it sat in the DEPM's review for 20 days. This is contrary to ATOS data quality guidelines and required disciplinary action on the DEPM. None was taken.

At this point, I was fed up with the office environment and how I was being unfairly treated by management and inspectors Bobby Boutris and Doug Peters. I requested to be transferred to another office in the local area. I finally was told by the Manager, Mr. Hedlund, that I received a transfer to the DFW FSDO. This meeting took place in my cubical. During the conversation Mr. Colin, my supervisor walked by and made some comments, then flipped me off with both middle fingers in the manager's presence. I sent a grievance to region (see attachment 7) and requested immediate removal from the office. The SAI letter (see attachment 8) addressing the findings during SAI 1.3.6 still had not left the office. I do not know what the final letter looked like since I was no longer employed in the office. I also cannot take ownership of the final SAI, since I believe the data has been manipulated since my departure.

I made every attempt to complete this assignment in the most professional manner humanly possible. I followed National Policies and Guidance through the entire process. I pride myself as a public servant to make every attempt at establishing the safest

transportation system in the world; I swore an oath to do just that. In my 11 years with this agency, I have never witnessed events of this magnitude before. I hope and pray that the truth surrounding these events is identified and the individuals who in my opinion sought out through their selfish desires to destroy fellow employee's careers, be brought to justice.

This is my testimony,
Regards,

John Bassler
Aviation Safety Inspector
DFW-FSDO

Attachments:

1. E-mail dated 04/20/2007 requesting to be removed from SAI 1.3.6
2. E-mail dated 04/23/2007 adding Mr. Larry Collamore to SAI 1.3.6
3. Copy of DEPM comments returning SAI 1.3.6 dated 07/26/2007
4. E-mail dated 08/28/2007 requesting status of final SAI 1.3.6 with a copy of e-mail dated 08/10/2007 showing SAI 1.3.6 originally met Principals satisfaction.
5. E-mail dated 08/30/2007 reflecting the SAI team member's position on adding comments outside National Policy ATOS 1.1 requirements.
6. E-mail dated 08/30/2007 showing the SAI instructions changed by management after it originally met National Policy requirements.
7. E-mail dated 10/15/2007 requesting immediate transfer out of office due to hostile attitude displayed towards me by management officials including formal statement.
8. Original Letter of findings to the Air Carrier generated by me, dated 09/10/2007 addressing the "NO" answers to SAI 1.3.6 questions.

Mitigating and/or Aggravating Attachments:

9. E-mail dated 05/29/2007 showing the difficulties with the DEPM
10. Record of Meeting, dated 06/05/2007
11. Record of Telephone Conversation dated 07/11/2007
12. EEOC package dated 07/20/2007.
13. Memorandum dated 07/27/2007 complaining of the DEPM's hostile attitude.
14. E-mail dated 07/30/2007 recommending to management an Enforcement Action.
15. Record of Conversation dated 08/30/2007 documenting the hostile attitude of management concerning official e-mail traffic.
16. E-mail dated 08/06/2007 showing the request to have the SAI returned from the ATOS repository. Also shows on 08/10/2007, the SAI met management's satisfaction and saved to final. SAI sits waiting for DEPM approval.
17. E-mail dated 08/28/2007 revealing my frustration with the DEPM.

18. E-mail dated 08/30/2007 concerning the status of SAI 1.3.6 still in the DEPM's possession.
19. Copy of grievance around October/2007 timeframe concerning inequitable workload assignments by supervisor.
20. Fax Transmittal, dated 11/17/2007 to Southwest Region HR of the Memorandum dated 09/25/2007 requesting a transfer from the SWA-CMO.
21. Business card with religious overtones given to me via mailbox by my supervisor, Mr. Michael P. Colin around July/2007 timeframe.

John E Bassler-Jr/ASW/FAA
ASW-HOU-COA-CMO-27,
Houston, TX

04/20/2007 07:49 AM

To Mike Colin/ASW/FAA@FAA
cc Douglas T Gawadzinski/ASW/FAA@FAA, Michael C Mills/ASW/FAA@FAA
bcc
Subject Official request to be removed from SAI 1.3.6

Mike,

As I briefed you earlier this week concerning my placement on SAI 1.3.6 as team coordinator and my concerns with this inspection including but not limited to fear of retribution from other inspector(s) in this office. Due to the recent atmosphere in the office, I am officially requesting to be removed from this inspection. I do not believe that I can effectively perform my duties while assigned to this job function in the current hostile environment.

Regards,

John Bassler
APAI SWA-CMO

John E Bassler-Jr/ASW/FAA
ASW-HOU-COA-CMO-27,
Houston, TX

04/23/2007 02:33 PM

To Matthew W Crabtree/ASW/FAA@FAA
cc
bcc
Subject Fw: Official request to be removed from SAI 1.3.6

---- Forwarded by John E Bassler-Jr/ASW/FAA on 04/23/2007 02:33 PM ----



Mike Colin/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

04/23/2007 01:16 PM

To John E Bassler-Jr/ASW/FAA@FAA
cc Douglas T Gawadzinski/ASW/FAA@FAA, Michael C Mills/ASW/FAA@FAA
Subject Re: Official request to be removed from SAI 1.3.6

John:
As discussed on Friday, 4/20/07, @ 0830 & in consultation with Doug G. this morning, we have added Mr Collamore to the SAI FY'07 AD Management team as promised.

Please conduct this "process" audit professionally, objectively, courteously and without fear.

After our discussion on Friday, I believed that your perceptions and reservations had been put to rest.
However, please speak with me personally, again, if you wish to discuss any pertinent matters.

Please advise of your acknowledgement,
Thanks,
Mike Colin
Supervisory Principal Avionics Inspector
Southwest Airlines Certificate Management Office (SWA CMO)
Phone 214-277-0233 Fax 214-277-0290
"Systems Safety-Hazard Identification-Risk Mitigation"

John E Bassler-Jr/ASW/FAA

John E Bassler-Jr/ASW/FAA
ASW-HOU-COA-CMO-27,
Houston, TX

04/20/2007 07:49 AM

To Mike Colin/ASW/FAA@FAA
cc Douglas T Gawadzinski/ASW/FAA@FAA, Michael C Mills/ASW/FAA@FAA
Subject Official request to be removed from SAI 1.3.6

7/26/2007 3:30:46 PM

ATOS v1.1 Activity Comments
John Bassler- SWAA (PI-PAI)
Activity: 1306-0001-02

Print | Close

Created By	Last Changed	Comments
Douglas Peters	Douglas Peters 07/26/2007 15:10:01	07/26/2007 This SAI activity is being returned to you due to it not meeting Data Quality Guidelines and Data Dimensions Table outlines in N8000.350. Section 1, Procedures Question 1.2.1: DEPM Comments: The "No" response is not relative to the question being asked. The question refers to the certificate holder's manual including instructions and information necessary for personnel to ONLY use the certificate holder's alternate method of compliance when that proposed alternative has been approved by the manager of the office identified in the airworthiness directive. The "No" response does not meet Data Quality Guidelines in regards to following: N 8000.350 Appendix 2, Page 100, states: "SAI: A "No" response on the specific question being asked, for the particular SAI activity being observed, may indicate that the operator either does not comply with observed specific regulatory requirements (SRR) and/or applicable FAA guidance for that element or that the operator's procedures do not incorporate the applicable safety attribute." N8000.350 Appendix 2, Page 101, states: "An explanation of the who, what, where, when, how, and why that caused the "No" response must be entered. The explanation should be plain and comprehensible." This question references a Specific Regulatory Requirement (SRR) that the operator does not comply with according the "No" response. The inspector's explanation of the "No" response does not identify if the SRR was met in the certificate holders manual. This response does not meet the requirements of the Data Dimensions Table in regards to: N 8000.350 Appendix 2, Page 111, Relevancy. Additionally, please include an Inspector Action Taken comment for the "No" response to the SRR. Question 1.2.4: DEPM Comments: The "No" response is not relative to the question being asked. Question 1.2.4 specifically asks does the certificate holder's manual include instructions and information necessary for personnel to include in a proposed alternative method of compliance or change in compliance time the specific actions that the certificate holder proposes to address the unsafe condition. The verbiage in the "No" response discusses the issue of "AMOC intent" and does not address the question of how the certificate holder addresses the unsafe condition, therefore is not relevant to the question being asked. The "No" response does not meet Data Quality Guidelines in regards to following: N 8000.350 Appendix 2, Page 100, states: "SAI: A "No" response on the specific question being asked, for the particular SAI activity being observed, may indicate that the operator either does not comply with observed specific regulatory requirements (SRR) and/or applicable FAA guidance for that element or that the operator's procedures do not incorporate the applicable safety attribute." N8000.350 Appendix 2, Page 101, states: "An explanation of the who, what, where, when, how, and why that caused the "No" response must be entered. The explanation should be plain and comprehensible." This question references a Specific Regulatory Requirement (SRR) that the operator does not comply with according the "No" response. The inspector's explanation of the "No" response does not identify if the SRR was met in the certificate holders manual. This response does not meet the requirements of the Data Dimensions Table in regards to: N 8000.350 Appendix 2, Page 111, Relevancy. Additionally, please include an Inspector Action Taken comment for the "No" response to the SRR. Question 1.4.1: DEPM Comments: The "Yes" comment is not relative to the question being asked. The question refers to the certificate holder's manual including instructions and information that the confirmation receipt for an Emergency Airworthiness Directive must include the name of the operator. The "Yes" comment refers to th "cover letter of the emergency AD notification letter" and not the confirmation receipt which is required by the intent of the question. Therefore, this comment is not relevant to the question being asked. This response does not meet the requirements of the Data Dimensions Table in regards to: N 8000.350 Appendix 2, Page 111, Relevancy. Question 1.4.2 DEPM Comments: The "Yes" comment is not relative to the question being asked. The question refers to the certificate holder's manual including instructions and information that the confirmation receipt for an Emergency Airworthiness Directive must include the name of the person sending the reply. The "Yes" comment refers to the same "cover letter of the emergency AD notification letter" as identified in the above question 1.4.1 and not the confirmation receipt which is required by the intent of the question. Therefore, this comment is not relevant to the question being asked. This response does not meet the requirements of the Data Dimensions Table in regards to: N 8000.350 Appendix 2, Page 111, Relevancy. Question 1.4.3: Please include an Inspector Action Taken comment for the "No" response to the SRR. Question 1.4.5: Please include an Inspector Action Taken comment for the "No" response to the SRR. Question 1.5: Please include an Inspector Action Taken comment for the "No" response to the SRR. Question 1.7: Please include an Inspector Action Taken comment for the "No" response to the SRR. Question 1.8: DEPM Comments: The "No" response refers to "both methods of Operation Specifications A-447." This response is incomplete and does not discuss if the air carrier has a method for keeping all persons engaged in its operations informed of the provisions of operations specifications, paragraph A-447 as stated in the question. The "No" response simply states that the air carrier's manual does not have "instructions on how to accomplish both methods of Operations Specifications A-447. " This is an incomplete answer considering that question 1.8 is asking, does the certificate holder's manual contain a "METHOD FOR KEEPING ALL PERSONS ENGAGED.....?" The no

response should be expanded upon on to discuss whether or not the specific criteria in the question being asked are included in the air carrier's manual. This response does not meet the requirements of the Data Dimensions Table in regards to: N 8000.350 Appendix 2, Page 111, Relevancy and Ease of Understanding. Additionally, please include an Inspector Action Taken comment for the "No" response to the SRR. Question 3: Please include an Inspector Action Taken comment for the "No" response to the SRR. Section 3, Process Measurement Attribute Question 1.4: DEPM Comments: This response is not easily understood in regards to the question about whether or not the certificate holder's manual having a process measurement that would reveal if the AMOC were granted without the PI's knowledge. The verbiage in the explanation of the "No" comment states "that it could not be identified in SWA's manual system a measurement to verify the Principal Inspector was/was not notified of the AMOC." The question does not refer to notification of the AMOC but rather that the AMOC was granted without the PI's knowledge. Please consider clarifying your "No" response to reflect the intent of the question. This response does not meet the requirements of the Data Dimensions Table in regards to: N 8000.350 Appendix 2, Page 111, Relevancy and Ease of Understanding Additionally, please include an Inspector Action Taken comment for the "No" response to the SRR. Section 4, Interfaces Attribute Questions 1 & 2: Please correct the spelling of guidelines.



John E Bassler-Jr/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/28/2007 10:31 AM

To Mike Colin/ASW/FAA@FAA
cc
bcc
Subject SAI 1.3.6 update please

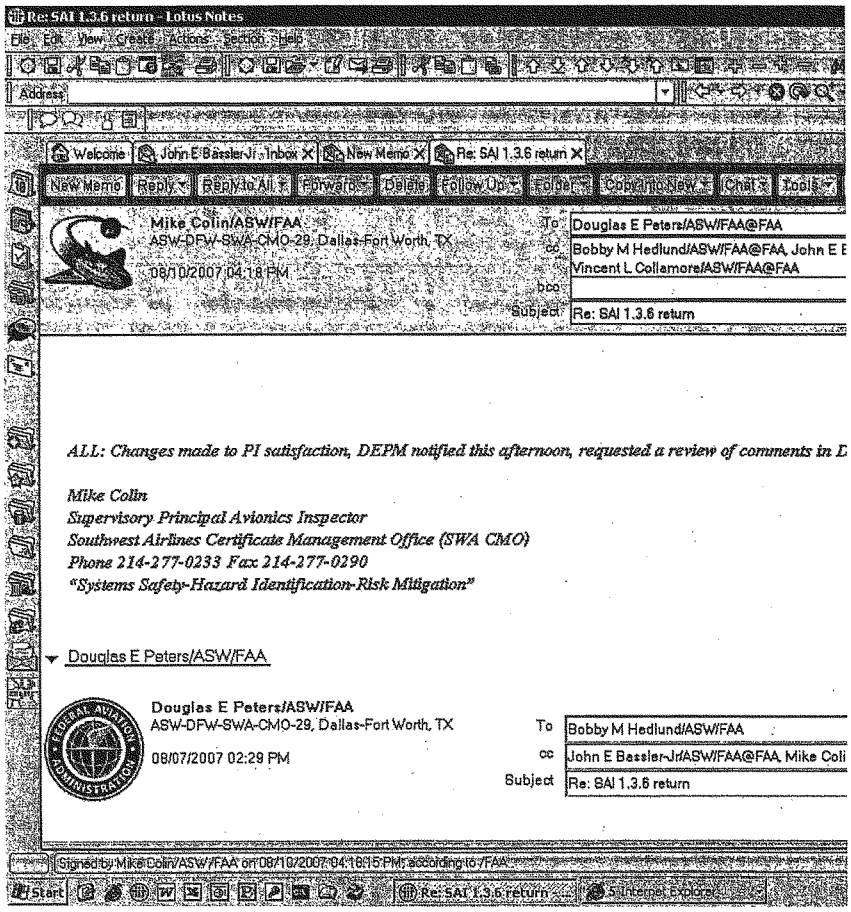
Mike,

I just had a conversation with Mr. Hedlund concerning the status of SAI 1.3.6. Mr. Hedlund explained that a conversation was held between him and the DEPM concerning the saved status of SAI to repository. Evidently the reason according to Mr. Hedlund is because the DEPM is awaiting PMI input. My understanding is when you sent the DEPM the e-mail a week and a half ago reflecting that the SAI corrections were completed, Mr. Carroll(Acting PMI) was in agreement with said changes. I am a little confused as to why the DEPM would wait for PMI input at this time since the new acting PMI was not part of this process. My concern with this issue is the reflection this inaction may or may not have on my performance ratings under future PMS review(s) and the dashboard tracking tool.

Please at your earliest convenience, can you bring me up to speed on the status of the SAI,

Thank you,

John


Re: SAI 1.3.6 return - Lotus Notes
File Edit View Create Actions Section Help
Address
Welcome
John E Bassler Jr - Inbox
New Memo
Re: SAI 1.3.6 return
New Memo
Reply
Reply to All
Forward
Delete
Follow Up
Folder
Copy into New
Chat
Tools
Mike Colin/ASW/FAA
ASW-DFW-SWA-CMO-29, Dallas-Fort Worth, TX
08/10/2007 04:18 PM
To
Douglas E Peters/ASW/FAA@FAA
cc
Bobby M Hedlund/ASW/FAA@FAA, John E
Vincent L Collamore/ASW/FAA@FAA
bcc
Subject
Re: SAI 1.3.6 return
ALL: Changes made to PI satisfaction, DEPM notified this afternoon, requested a review of comments in
Mike Colin
Supervisory Principal Avionics Inspector
Southwest Airlines Certificate Management Office (SWA CMO)
Phone 214-277-0233 Fax 214-277-0290
"Systems Safety-Hazard Identification-Risk Mitigation"
Douglas E Peters/ASW/FAA
Douglas E Peters/ASW/FAA
ASW-DFW-SWA-CMO-29, Dallas-Fort Worth, TX
08/07/2007 02:29 PM
To
Bobby M Hedlund/ASW/FAA
cc
John E Bassler Jr/ASW/FAA@FAA, Mike Coli
Subject
Re: SAI 1.3.6 return
Signed by Mike Colin/ASW/FAA on 08/10/2007 04:18:15 PM according to FAA
Start
Re: SAI 1.3.6 return
Internet Explorer



John E Bassler-Jr/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 01:48 PM

To Mike Colin/ASW/FAA@FAA
cc Bobby M Hedlund/ASW/FAA@FAA, Tom Hoover/ASW/FAA@FAA, Vincent L Collamore/ASW/FAA@FAA
bcc
Subject Re: Fw: SAI 1.3.6 AD Management

Mike:

I can appreciate your position in this matter, however, in my defense, as the TC on this SAI, this inspection complied with "current" National Policy and Guideline requirements (Reference DEPM concurrence). I am aware of the additional requirements ATOS 1.2 will incorporate when it officially becomes the National Policy on October 1st, 2007.

Please, let me assure you that if in the future I am selected as the TC on any future ATOS SAI's, I will adhere to the current National Policy whatever that may be.

Regards,

John Bassler
APAI SWA-CMO

Mike Colin/ASW/FAA



Mike Colin/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 01:26 PM

To John E Bassler-Jr/ASW/FAA@FAA
cc Tom Hoover/ASW/FAA@FAA, Vincent L Collamore/ASW/FAA@FAA, Bobby M Hedlund/ASW/FAA@FAA
Subject Re: Fw: SAI 1.3.6 AD Management

John:
ATOS 1.2 will require "Yes"answers to include operator manual substantiating references, this SAI would have greatly benefited from the same, don't you agree. Customarily, some ATOS 1.1 SAI's have already included them.

As TC on this and any future SAI's, please ensure that revised "National Policy" is adhered to in the above manner.

Thanks
Mike Colin
Supervisory Principal Avionics Inspector
Southwest Airlines Certificate Management Office (SWA CMO)
Phone 214-277-0233 Fax 214-277-0290
"Systems Safety-Hazard Identification-Risk Mitigation"

John E Bassler-Jr/ASW/FAA



John E Bassler-Jr/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 12:28 PM

To Tom Hoover/ASW/FAA@FAA, Bobby M Hedlund/ASW/FAA@FAA, Mike Colin/ASW/FAA@FAA
cc Vincent L Collamore/ASW/FAA@FAA
Subject Fw: SAI 1.3.6 AD Management

Dear Sirs,

I have reviewed Mr. Collamore's e-mail on SAI 1.3.6 and concur with his position. As the TC on this SAI, I respectfully request the management staff recommend the DEPM save the SAI to the repository.

Respectfully,

John Bassler
Assistant Avionics Principal Inspector

---- Forwarded by John E Bassler-Jr/ASW/FAA on 08/30/2007 12:20 PM ----

Vincent L Collamore/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 10:11 AM

To John E Bassler-Jr/ASW/FAA@FAA
cc
Subject Fw: SAI 1.3.6 AD Management

John,

FYI

Larry
---- Forwarded by Vincent L Collamore/ASW/FAA on 08/30/2007 10:11 AM ----

Vincent L Collamore/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 10:08 AM

To Tom Hoover/ASW/FAA, Bobby M Hedlund/ASW/FAA
cc
Subject SAI 1.3.6 AD Management

Mr, Hoover,

I must respectfully decline your request to have Mr Peters return SAI 1.3.6 to add yes comments to Section 2- Controls Attribute question 1.7. As you may or may not know this SAI was previously concurred with by the DEPM with comments and sent to the Repository, it was returned to Mr Bassler at the request of the SPAI, Mr, Colin to address the DEPM comments to the "NO" responses. Since that time none of the responses either "Yes or No" have been changed, only the explanations have been revised to meet the Data Quality Guidelines. If the responses were acceptable when the SAI was originally submitted and met

the Data Quality Guidelines and concurred with by the DEPM, why are they now unacceptable and "Yes" responses now require a comment?

"Yes" comments are not mandatory, 8400.10, CHG 40, Appendix 6, page 14, "Specific Data Requirements Table", if Mr, Peters feels that the response is now incorrect or somehow does not meet Data Quality Guidelines he may return it to me with DEPM comments or non concur with the SAI.

Since compliance with "National Policy" is going to be one of subjects that Mr, Stuckey and Mr, McGarry are going to discuss with the CMO in their visit next week, I feel we should do exactly that "follow National Policy" and "The Data Quality Guidelines". Since there seems to be general perception that the SWA CMO is "in bed" with the carrier and we conduct business with a "wink and a nod". I followed National Guidelines in the completion of this SAI and take exception to my responses being questioned, especially by two renegade inspectors who have set out to assassinate peoples careers by any means possible.

Respectfully

Vincent I Collamore
PPM B737-300/500/700



Mike Colin/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 03:54 PM

To John E Bassler-Jr/ASW/FAA@FAA, Vincent L Collamore/ASW/FAA@FAA
cc Bobby M Hedlund/ASW/FAA@FAA, Tom Hoover/ASW/FAA@FAA
bcc
Subject Re:SAI 1.3.6 AD Management

John/Larry:
After due consideration with the newly assigned PMI, we have revised your SAI accomplishment instructions and due date as follows:

1.3.6 AD Management (1.X)

Inspection S1306-0001 (1.X) Team: AD Management FY07	In order to make a comprehensive determination that the SWA Airworthiness Directive (AD) Management process meets all applicable requirements of 14 CFR, FAA policy, and incorporates the safety attributes, please include the applicable SWA Manual reference to all "YES" answers. This SAI must be completed and saved to the ATOS database repository by September 20, 2007. Please convey any concerns or questions regarding this SAI or any significant negative findings to the SPAI/SPMI immediately.

The SAI has been returned to this date.

Mike Colin
Supervisory Principal Avionics Inspector
Southwest Airlines Certificate Management Office (SWA CMO)
Phone 214-277-0233 Fax 214-277-0290
"Systems Safety-Hazard Identification-Risk Mitigation"

John E Bassler-Jr/ASW/FAA



John E Bassler-Jr/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 01:48 PM

To Mike Colin/ASW/FAA@FAA
cc Bobby M Hedlund/ASW/FAA@FAA, Tom Hoover/ASW/FAA@FAA, Vincent L Collamore/ASW/FAA@FAA
Subject Re: Fw: SAI 1.3.6 AD Management

Mike:

I can appreciate your position in this matter, however, in my defense, as the TC on this SAI, this inspection complied with "current" National Policy and Guideline requirements (Reference DEPM concurrence). I am aware of the additional requirements ATOS 1.2 will incorporate when it officially



Becky Lindley/ASW/FAA
ASW-210, Planning & Program Management

10/16/2007 04:08 PM

To John E Bassler-Jr/ASW/FAA@FAA
cc Peter J Kerwin/ASW/FAA@FAA
bcc
Subject Re: Expedite Please

History: This message has been replied to.

Hi John,

I was out of the office yesterday. On my return to the office, I discovered that the situation below is being handled. We are also processing your ERR request with HR now and are in hopes that your reassignment will be effective next pay period, on 10/28/07. We will let Bobby and O.D. know as soon as possible.

Thanks,
Becky
John E Bassler-Jr/ASW/FAA



John E Bassler-Jr/ASW/FAA
ASW-DFW-SWA-CMO-29, Dallas-Fort Worth, TX

10/15/2007 01:13 PM

To Becky Lindley/ASW/FAA@FAA
cc
Subject Expedite Please

Ms. Lindley,

I hope this e-mail finds you well. I had a conversation with Mr. Hedlund on Friday afternoon 10/12/07. He explained to me that I was getting a transfer to the DFW-FSDO. During this meeting, Mr. Colin interrupted Mr. Hedlund and made the statement that I was not only getting the transfer but a Principal position. He then gave me the middle finger from both hands with Mr. Hedlund present. Mr. Hedlund said and I quote "Now, now, Mr. Colin". If it possible I would greatly appreciate getting moved out of here as soon as possible. I just don't appreciate this kind of behavior especially from my supervisor. I don't think Mr. Hedlund is going to do anything about it or at least I am not aware of any action pending against Mr. Colin's inappropriate gesturing.

Thank you for your time Becky,

John Bassler
APA! SWA-CMO

STATEMENT OF JOHN ERIC BASSLER

I, John Eric Bassler, make this statement to Rachel Nolen on October 20, 2007. Ms. Nolen has identified herself to me as a Program Management Specialist, Flight Standards Division, Southwest Region. No promises or threats have been made to me by Ms. Nolen, nor has she used any pressure or coercion against me.

I am an Assistant Avionics Inspector, FG-1825-14. I have been with FAA eleven years next March. I have been at the Southwest Airlines Certificate Management Office (SWA CMO) for approximately two and half years.

On Friday afternoon, October 15, 2007, Bobby Hedlund, Manager, SWA CMO, came to my cubicle. He sat down and told me my reassignment had been approved. He told me that I would be the principal on the ATI certificate, but explained that the certificate was still in Little Rock and not to hang my hat on that. He said that the reassignment would happen in any case. Mr. Hedlund and I had been talking for 5-10 minutes.

Michael Colin, Principal Avionics Inspector and my supervisor, walked past the entrance to my cubicle. I think he was getting something off the printer. He stopped at my cubicle and cut Mr. Hedlund off from what he was saying. Mr. Colin said, "You mean to tell me that you not only got a transfer, but you are going to be a principal?" That is when Mr. Colin flipped both of his middle fingers at me. It was probably meant to be a joke. Mr. Hedlund witnessed it, chuckled and said, "Now, now, Colin." I said, "Man, I'm number one twice." Mr. Colin left and went to his office. Mr. Hedlund left also. I do not remember at the time any joking that a certain inspector from another region could take my place.

I would say Mr. Colin and I have the kind of relationship where we can banter back and forth. However, Mr. Colin has a manner of saying something in a joking or sarcastic manner, but there is a serious meaning behind it. I can tell when he is upset with me by his demeanor and tone. He told me once that if I wanted to continue my relationship with him, I needed to come and talk to him instead of sending e-mails. What prompted his saying that was because another inspector made his position known in an e-mail about ATOS policy. The inspector sent the e-mail to me and I added my position that I agreed with the inspector. I sent the e-mail on to Mr. Colin. Our relationship has been deteriorating for about the last six months.

When Mr. Colin made the gesture to me with his fingers, my initial reaction was shock that he would do this in front of Mr. Hedlund. When I was fairly new at SWA CMO, I saw Mr. Colin make the same gesture to Douglas Gawadzinski, Principal Maintenance Inspector at SWA CMO. I told Mr. Colin at that time I did not like it. However, when Mr. Colin made the gesture to me, I did not really take offense. I just chuckled and shook my head. I feel Mr. Colin's behavior toward me has changed since he found out I wanted to leave. He is more abrupt and aggressive with me. I feel that his attitude is, "why invest any time in you since you are going?" I know Mr. Colin has things going on in his personal life, so I am not really sure if the change in his attitude is actually about me.

I do not remember Mike Colin mimicking an East Indian accent at the October 10, 2007 all hands meeting.

The above information is true to the best of my knowledge and recollection.

John Eric Bassler 11/07/2007

Signature Date

U.S. Department
of Transportation
Federal Aviation
Administration

Southwest Airlines Certificate Management Office
Freeport Office Center III
8700 Freeport Parkway
Suite 250
Irving, Texas 75063
Telephone:214-277-0200
Fax: 214-277-0290
Reference:

September 10, 2007

Mr. James P. Sokol
Vice President Maintenance and Engineering
Southwest Airlines Company
2382 Shorecrest Drive
Dallas, Texas 75235 -1611

Dear Mr. Sokol:

On April 23, 2007, the Southwest Airlines Certificate Management Office (SWA CMO) conducted a Safety Attributes Inspection (SAI) 1.3.6, titled, Airworthiness Directive Management. The following is a comprehensive list of concerns that where identified upon completion of the SAI DCT review:

Procedures

1. 1.2.1 – SWA does not have procedures to address AMOC's originated by OEMs (Original Equipment Manufacturers) i.e.; Global AMOC.

2. 1.2.4 – SWA's manual system does not have a written procedure to address a request in compliance time that incorporates interim action(s).

3. 1.4.3 – SWA's manual system does not have a written procedure which requires the four letter air carrier identifier on the response letter of an emergency A.D. notification.

4. 1.4.5 – SWA does not have a written procedure to include the verbiage "This message is to confirm receipt of the Emergency Airworthiness Directive" when responding to Emergency A.D. notification.

5. 1.5 – SWA's manual system does not contain the required references to Operation Specifications section A-447.

6. 1.7 – SWA does not incorporate a written procedure mandating the requirements of Operation Specifications A-447.

7. 1.8 – SWA does not have a written procedure to ensure all personnel are informed of the provisions of Operation Specifications section A-447.

8. 3 – SWA's manual system does not specifically identify the required SRR's listed in this SAI. **Reference EIR #2007SW290136**

Performance Measures

1. 1.4 – SWA's manual system does not incorporate a method to verify that the Principal Inspector is notified of all granted AMOC's.

The purpose of this letter is to formally provide Southwest Airlines with the results of our insp ction, and to request that Southwest Airlines furth r evaluate and address these matters. We expect Southwest Airlines Company to provide this office with a written report with the results of that evaluation, the actions taken and the items of proof within 30 days of the receipt of this letter. Your attention to this matter is appreciated.

Sincerely,

Michael P. Colin
Supervisor, Principal Avionics Inspector

Sincerely,

Tom Hoover
Supervisory Principal Maintenance Inspector

cc:



Mike Colin/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

05/29/2007 02:16 PM

To John E Bassler-Jr/ASW/FAA@FAA, Douglas E Peters/ASW/FAA@FAA
cc Bobby M Hedlund/ASW/FAA@FAA
bcc
Subject Re: Returned EPI 5.1.9 RVSM

History: This message has been forwarded.

Doug/John:

I believe that John's explanations have merit and are worthy of consideration as certain industry abbreviations & acronyms are acceptable.
Can we also add to our SWAA ATOS dictionary?

As with all data quality issues, can we pledge to resolve them thru early dialog @ the lowest level and in the future address them verbally and avoid these type of emails, also please refrain from bcc's on official email traffic.

Thanks for your cooperation,

Mike Colin
Supervisory Principal Avionics Inspector
Southwest Airlines Certificate Management Office (SWA CMO)
Phone 214-277-0233 Fax 214-277-0290
"Systems Safety-Hazard Identification-Risk Mitigation"

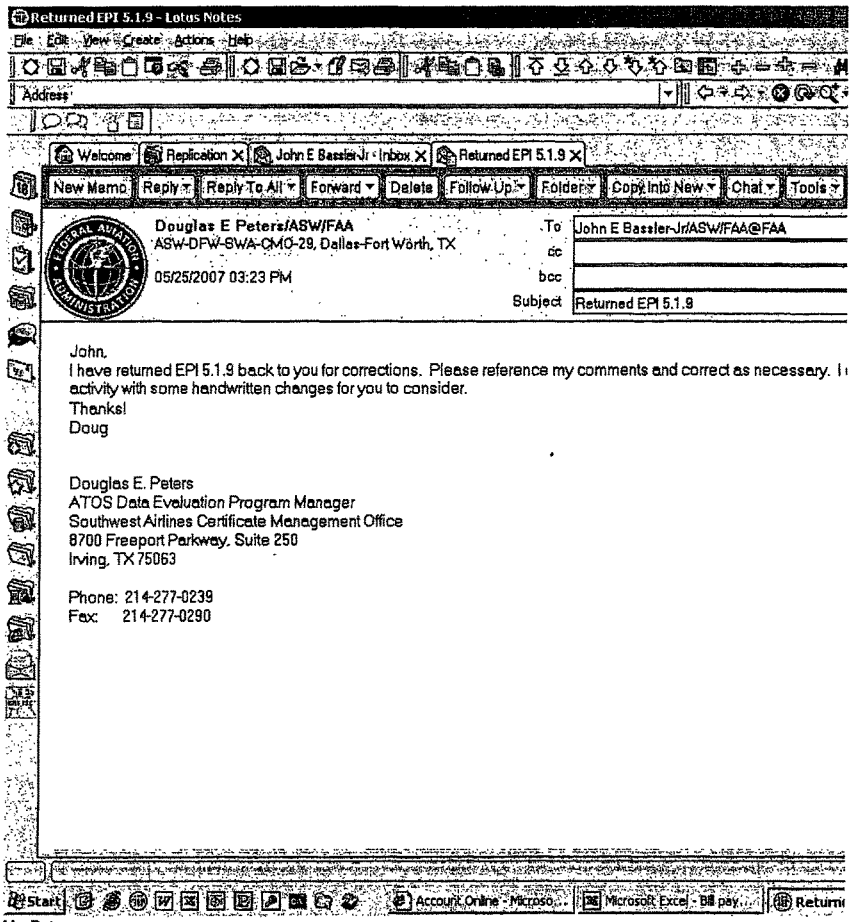
John E Bassler-Jr/ASW/FAA



John E Bassler-Jr/ASW/FAA
ASW-HOU-COA-CMO-27,
Houston, TX

05/29/2007 08:34 AM

To Douglas E Peters/ASW/FAA@FAA
cc Mike Colin/ASW/FAA@FAA
Subject Returned EPI 5.1.9 RVSM



Mr. Peters,

I agree with some of your requested changes you identified and appropriately returned to me on Friday May 25th, 2007 at 1500 hours and I have implemented them. However, I disagree with the following DEPM recommended changes and have re-submitted EPI for closure:
1. activity #5109-0005-04

Question 1.10 -

Change a. - You requested in the comment section to add maintenance behind the B/C check. It is industry common knowledge what this check stands for and therefore I do not see the importance of adding this verbiage.

Change b. - You made a comment concerning my usage of the word "appeared" in the text when describing my finding. Relying on my 16 years of industry experience in this field I was able to question what "appeared" to me that the probe was out of limits due to the critical area and the very tight tolerance allowed by the AMM for this particular component. I did not have the AMM on hand to verify this to be the case, so I brought it to the attention of the Mx supervisor on shift. The supervisor assigned the work and the Mx personnel confirmed my suspicion and verified that the probe was in fact out of limits. The probe was removed and replaced. I am being as accurate with my input as possible and therefore believe that the word "appeared" best describes my finding.

Change c. - You requested that in my action taken portion of question 1.10 that I expand on the abbreviated term "Mx". I believe this has been discussed by office management and agreed that "Mx" is a commonly used abbreviation in industry and therefore not required to be expanded.

Thank you for your expedient review of this activity and upon your return to the office on June 4th, 2007 at 0700 hours, you will be able to concur and finalize this activity to master record.

Regards,

John Bassler
APAI SWA-CMO

06/05/2007 Record of Meeting By: John Bassler

At approximately 0830 hrs. Mr. Naccache acting as office manager, called for the standard morning supervisor meeting. After all specialties where done discussing any issues dealing with the air carrier and regulatory matters, Mr. Naccache asked the group if we could talk candidly. He then proceeded to shut the conference office door. Mr. Naccache began to discuss/explain the events which transpired the previous day.

The specific event was when an individual who is assigned at the region to investigate some internal complaints about the current PMI Mr. Doug Gawazinski. The individual had called Mr. Doug Peters the DEPM for the office to discuss some of the data that he was reviewing. Mr. Peters went to get the information from Mr. Sanford Stennis, acting PMI. Mr. Stennis on 3 separate accounts told Mr. Peters that Mr Crabtree had all the information and to go speak with him. Mr. Peters instead of speaking with Mr. Crabtree, went to Mr. Naccache with the information. Questions began to arise within the office as to why Mr. Peters was contacted and the regional individual said that he was the individual Mr. Bob Carroll had identified as the contact point. Mr. Carroll was called by Mr. Crabtree to discuss this and Mr. Carroll explained that that was not true and Mr. Peters was done with any special request information long ago and there would have been no reason for Mr. Peters to have been contacted.

Mr. Naccache in my opinion began to back track in his explanation of the aforementioned events concerning Mr. Peters. I point blank asked Mr. Naccache why Mr. Peters was involved at all since he was the DEPM and that was outside his job requirements. Mr. Naccache tried to explain that he knew nothing of Mr. Peters involvement. I then explained that evidence exists to show Mr Peters signed into the Imagio record system for SWA on numerous days. Mr. Naccache then asked me what Imagio was. This puzzled me since Mr. Naccache has been on the certificate for a long time as the Assistant Manager of the office. I then explained that I was frustrated that the dates which reflect heavy activity by Mr. Peters in the Imagio system which was during the end of the second quarter when a significant amount of ATOS data was coming due. Mr. Naccache then asked me who I would want to be the DEPM? This question also puzzled me. I explained to him that it didn't matter who was the DEPM as long as he/she was performing within their scope and area of responsibilities. Mr. Stennis then explained to Mr. Naccache that it was very unfair to the inspector workforce when an individual (DEPM) who is responsible for a timely review of ATOS activities and to save to repository, is holding the data up for extra curricular activities outside of his/her responsibilities. Mr. Naccache then explained that he knew nothing of Mr. Peters involvement in this complaint and I responded that I did not believe that. I felt that he knew exactly what Mr. Peters was doing referencing the numerous close door meetings Mr. Peters had with Mr. Naccache in Mr. Naccache's office over the last 2 months. Mr. Naccache explained that Mr. Peters was only discussing job positions with him (If that be the case, then why the closed door meeting?). Mr. Naccache then went on to use a simulation of how it was the duty and obligation of inspectors to report any wrong doing witnessed by him/her. I explained that I agreed and that public trust and public safety is

job task 1 but that I would have brought it to the attention of the individual first and followed certain protocols well established within the agency. I would not automatically bypass those individuals and go directly to the office manager. Mr. Naccache remained silent with no rebuttal.

The next question asked of Mr. Naccache was why Mr. Boutris who has numerous outside agency complaints against him was still functioning in the office? That Mr. Boutris was removed from all certificate oversight duties until the investigation was complete. Mr. Naccache explained that it appears the investigation is concluding and that Mr. Boutris will be exonerated from all complaints. I told Mr. Naccache that that was irrelevant and that in my 10+ years in the agency it has been my experience that the individuals who have complaints issued against them are removed almost immediately due to possible reprisals, etc and for the office's well-being. They are placed in a temporary position outside the office until the investigation is completed. Mr. Naccache explained that it was the regions position that Mr. Boutris was to remain in the office with no responsibilities and no access to the air carrier until the investigation is over. This is contrary to what I have witnessed and I have been in this Region for all of my 10+ years. I explained that it has caused severe damage to relationships both in and out of the office. Mr. Naccache would not continue to discuss the issue. He maintained that it was Mr. Stuckies decision to keep Boutris in the office. Mr. Naccache then asked me if he could use my name when presenting Mr. Peters with the accusations made against him and I told him of course. I had said nothing that I could not back up with physical evidence. Mr. Naccache then explained the possibility of letters being sent out against me due to certain individual personalities in the office (I took this as a threat against me). That people are people and it was a Greek thing and that some people are stronger than others when handling certain situations. That some people personalize issues more than others. I told him I was not concerned and that I had access to evidence that would prove what I had explained.

Attendees:

Mr. Robert Naccache – acting manager
Mr. Sanford Stennis – Acting PMI
Mr. Gordon Taylor – Acting POI
Mr. John Bassler – Acting PAI

RECORD OF PHONE CONVERSATION
07/11/2007
By: John Bassler

When I came into the office for my normal work day, I was presented with a yellow sticky from Mr. Robert Carroll (PMI), to contact Mr. Lambert. I called Mr. Lambert around 0830 hrs. Mr. Lambert explained his disappointment with me over a request he had personally made to me during an interview which included himself and an FAA security officer. The request was to covertly acquire a copy of an Imagio sign in and out log from the Air Carrier over certain dates. I was to fax the report to Mr. Lambert per his instructions. I felt uncomfortable with this request and when headed to the air carrier, was approached by my supervisor, Mr. Mike Colin. Mr. Colin asked where I was going and why. Due to my feeling of this matter, I explained what I was requested to do by Mr. Lambert. Mr. Colin agreed that it was an inappropriate request and recommended I report this to the office manager which I did. Mr. Bobby Hedlund, SWA-CMO Manager, told me not to worry about it and that it would be taken care of. I felt that the investigative team, if they wanted this report, could go through proper channels. The conversation then proceeded into Mr. Lambert explaining why he requested it in that fashion. Mr. Lambert explained that since "I had a friendly relationship with the carrier" it would be easy for me to obtain the report. I told Mr. Lambert that I was uncomfortable with that terminology and how I was perceiving what he was saying. I told him that I had a professional relationship with individuals at the air carrier. He changed his wording. Mr. Lambert then proceeded to tell me that he was tasked by region, to resolve the ongoing personnel issues within the CMO. He asked me if I had seen anymore inappropriate behavior since the interview. I explained that that I have witnessed on almost a daily basis Mr. Doug Peters (DEPM) and Mr. Bobby Boutris, in quite conversation either in Mr. Boutris's cubical or Mr. Peter's office. Also witnessed both individuals seen entering and leaving the assistant manager's office constantly. The individuals have been shredding massive amounts of paperwork and printing large paperwork files. Mr. Boutris was removed from certificate responsibilities approx 2 months ago pending an investigation/complaints on him. The question in my mind is why an individual who has no certificate responsibilities and has been ordered not to be in contact with the air carrier or any of the air carrier's data, is spending so much time with the DEPM who has access to all the ATOS data both achieved and current. I also explained to Mr. Lambert that I was given one of Mr. Boutris's work program items, the SAI on AD compliance 1.3.6. I was assigned the Team Lead duties. Mr. Larry Colamore another inspector in the SWA-CMO was assigned at my request for more assistance to complete the SAI, last week was in conversation with Mr. Boutris. Mr. Boutris told Mr. Colamore that the AD SAI was being watch very closely. I perceived this to be of a very threatening nature. Mr. Lambert then made a request as to how many "Nos" I had on the SAI and made a request to be sent a copy of the SAI data before it was saved to the master repository. I feel this to be another inappropriate request by Mr. Lambert. I know from other sources that Mr. Lambert has a personal relationship with Mr. Boutris. I feel uncomfortable dealing with Mr. Lambert since I believe Mr. Lambert to be bias in his position on these matters under investigation.

Courtney Hosang/AWA/FAA
ACR-005, Complaints Service

07/20/2007 02:28 PM

To John E Bassler-Jr/ASW/FAA@FAA
cc
bcc
Subject Re: Fw: EEOC complaint submittal issues

Mr. Bassler,

I have entered your case into our pre-complaint process. For clarification, the date of the incident is June 11, 2007? If this in not correct please contact me so that I may update your case.

Thanks,

Courtney HoSang
Office: (202) 267-7902

This e-mail message is intended solely for the recipient(s) named above.
The information may be privileged and confidential.
If you are not the intended recipient of this message, notify the sender immediately and delete the original message.
Thank you!

Janet Long/AWA/FAA

Janet Long/AWA/FAA
ACR-005, Complaints Service

07/20/2007 11:31 AM

To Courtney Hosang/AWA/FAA@FAA
cc
Subject Fw: EEOC complaint submittal issues

Courtney,

Please reply to Mr. Bassler.

Thanks,
Janet W. Long
202-267-8436

This e-mail message is intended solely for the recipient(s) named above.
The information may be privileged and confidential.
If you are not the intended recipient of this message, notify the sender immediately and delete the original message.
Thank you!

----- Forwarded by Janet Long/AWA/FAA on 07/20/2007 11:31 AM -----

John E Bassler-Jr/ASW/FAA
ASW-HOU-COA-CMO-27,
Houston, TX

07/18/2007 02:08 PM

To Janet Long/AWA/FAA@FAA
cc John E Bassler-Jr/ASW/FAA@FAA
Subject EEOC complaint submittal issues



acr@faa.gov
07/20/2007 02:11 PM

To John E Bassler-Jr/ASW/FAA@FAA
cc
bcc
Subject Online Complaint Submitted

This e-mail is to inform you that your online EEOC complaint has been accepted.
It has been assigned Case Number 2007-21492-FAA.
Click the following link to log in and view the complaint:
https://faaefile.icomplaints.com/efile/status/showExisting.do?id=2007-21492-FAA

7/12/2007 1:01:00 PM

Complaint Status

Your complaint has been submitted for review.

Remedies Requested:

1. Mr. Lambert be removed from the investigation due to personnal relationships he has with certain individuals under investigation. 2. Mr. Lambert cease to contact me directly. Follow established agency protocals and contact my supervisor. 3. An EEO/outside unbias agency investigation be made of the SWA-CMO office enviroment.

Office:

FAA - ASW - Southwest

Claim(s):

Claim Type	Incident Date	Basis/Bases	Comments
Harassment - Non-Sexual/Hostile Work Environment	07/01/2007	Will Identify Later: Will Identify Later	On two recent occassions, Mr. Terry Lambert, Manager, ASW-290 has made inappropriate requests of me and on one occassion 07/11/2007, contacted me via telephone to verbally chastise me for not going through with the inappropriate request he made of me during an investigation interview (06/14/2007) in which he was the interviewer. During that same phone conversation, Mr. Lambert again inappropriatly requested a copy of an ATOS work assignment I was assigned to perform before it was officially completed. I believe this violates certain established protocals.

RMO:

Name	State	Facility	LOB
Bassler, John	Texas	SWA-CMO	AVS

Status:

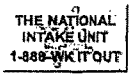
This complaint was recently filed and has not yet been evaluated for submission. Please allow 2 work days before checking your status to see if your case was accepted into the pre-complaint process.

Please make a printout of this page for future reference.

FAA EEO eFile Portal







FAA Office of Civil Rights

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject:	INFORMATION: Legal Opinion Regarding Hostile Work Environment & Transforming the FAA into a Model Work Environment	Date:	JAN 30 1997
From:	Assistant Chief Counsel,General Legal Services Division, AGC- 1		
		Reply to:	
To:	Management Board Regional Administrators and Center Directors Regional Civil Rights Officers Employee Associations	Attn. of:	

Over the past months, there has been much discussion around the concept of "hostile wo environment" and whether it has legal applicability outside the context of sexual harassment. In order to get a definitive opinion on the subject, the Office of CivilRights consulted the Office of Chief Counsel. In our continuing effortto clarify terms and increase understanding of what is and is not supportiveof a model work environment, we provide th attached legal opinion.

The FAA is committed to zero tolerance of discrimination. Even one instance of inappropriate behavior would be contrary to our policy. While a hostile work environment claim of discrimination encompasses a legal showing that "the workplace is permeated wi discriminatory intimidation, ridicule, and insult that are sufficiently severe or pervasive to a the conditions of the victim's employment andcreate an abusive working environment," we emphasize the FAA policy of zerotolerance for acts that could create such an environmen

Also attached is apreviouslydistributed memorandum on transforming the FAA into a mod workenvironment. This memorandum provides guidance to assist our communicationsregarding personnel selections, equal employment opportunity, affirmativeaction, and diversity.

We hope you will find both documents helpful. If you have any questions, please contact [the Office of Civil Rights].

Fanny Rivera

Attachments:
ACR Memorandum on Model Work Environment

to the

U.S. Department
of Transportation
Federal Aviation
Administration

Southwest Airlines Certificate Management Office
Freeport Office Center III
8700 Freeport Parkway
Suite 250
Irving, Texas 75063
Telephone:214-277-0200
Fax: 214-277-0290

MEMORANDUM

July 27, 2007

Dear Mr. Colin,

I am writing this memo to make a matter of record in regards to the actions taken on 07/26/2007 by the DEPM, Mr. Doug Peters as well as addressing my concerns regarding the conversation we had about the issue. After I received the comments via electronic e-mail from the DEPM, I immediately approached you in your office about my concerns. During this conversation, you explained to me that a meeting was held about the SAI that I recently saved to master record back on the 25th of July. Evidently, a meeting was called by the DEPM to include the PAI and the PMI to discuss the concerns the DEPM had (copy of SAI return from DEPM) with the SAI's final product and its content. I fail to understand why the meeting was held without me since I am the team coordinator of this SAI and my input would have been critical to the subject matter discussed. It is my opinion that due to the hostile attitude the DEPM continues to display towards me both personally and professionally, the meeting was purposely called by the DEPM without my knowledge or invite. As you are aware through earlier discussions and conversations and documentation, I have made every attempt to bring to your attention the abrasive and unethical behavior displayed by the DEPM towards me both personally and professionally. There has been no professional dialog between myself and the DEPM since investigations started in this office over a year ago. I have made several attempts to discuss issues with the DEPM to no avail. Please correct me if I am wrong but I believe our guidance calls for clear and direct communication between the DEPM and the inspector in the interest of providing the best and most accurate data saved to the ATOS repository.

Another example to support my position; you had an inspector, Mr. John Clark, close an SAI he was recently assigned. He had difficulties in answering some of the questions. His one "no" comment generated an EIR. No where in the action taken block did this information get recorded. When Mr. Clark requested to the DEPM to non-concur and send the SAI back to him for correction, the DEPM said that it had already been sent to repository and not to worry about it. The DEPM never once kicked back this SAI with notes or for corrections. This is just one of many examples that I think helps establish my case of the unfair and inequality treatment the DEPM continues to display towards me.

In closing this letter, I would like to voice my frustration by saying; I am disappointed by management's apparent disregard for my numerous verbal/written concerns on this matter (April 20th e-mail, records of conversations) and the lack of resolve by management to address my concerns. I believe the way in which this SAI was reviewed and returned to me by the DEPM was with bias. It was performed in an unprofessional manner; outside of establish policy and current guidance. I would appreciate at your earliest convenience, management take the necessary steps in addressing this hostile work environment.

Sincerely,

John Bassler
Assistant Principal Inspector SWA-CMO

John E Bassler-Jr/ASW/FAA
ASW-HOU-COA-CMO-27,
Houston, TX

07/30/2007 09:30 AM

To Mike Colin/ASW/FAA@FAA, Robert J Carroll/ASW/FAA@FAA
cc
bcc
Subject SAI 1.3.6 recommendation

FYI,

Good morning gentlemen,

Please see attached document for my recommendation.

Regards,

JEB

SAI 1.3.6.doc

SAI 1.3.6 07/30/2007

Under "Procedures" section of the Safety Attribute Inspection 1.3.6, question 3 - Does the certificate holder's manual reference the appropriate Federal Aviation Regulations listed in the Supplemental Information section of this safety attribute inspection (SAI)?

Answer – No - SWA's manual system does not specifically identify any of the SRRs listed in this SAI.

FAR 121.135(b)(3) Reference the appropriate Federal Aviation Regulations.

Following the guidance in the SWA-CMO QPM manual, section 5.5, EDT toll completed.

Recommend EIR.

John Bassler
SAI Team Coordinator

RECORD OF ☐ VISIT ☒ CONFERENCE OR ☐ TELEPHONE CALL	TIME 2:45 PM	DATE 08/30/2007

NAME (S) OF PERSON (S) CONTACTED OR IN CONFERENCE AND LOCATION	ROUTING SYMBOL	ROUTING INITIALS
Mike Colin - Supervisor		
John Bassler		
SUBJECT Meeting at the request of Mike Colin		

DIGEST

Mr. Colin came to my cubical and requested my presence in his office. I followed him to his office were Mr. Colin began to admonish me for official e-mail traffic that has transpired today concerning the closure of SAI 1.3.6. Mr. Colin made the comment "I don't know what kind of games are being played over e-mail but that he didn't want to affect the relationship that him and I have." I told him I did not know of any games and that I was only responding to his e-mails to me. I also explained to Mike that the issue is not with me, it is with Mr. Collamore who was not invited to the meeting Mr. Colin and the PMI along with my requested attendance had on the returned SAI. Mr. Colin ended the meeting by saying from now on just speak to him verbally concerning issues and not to send them electronically.

CONCLUSION, ACTION TAKEN, OR REQUIRED

DATE	TITLE	SIGNATURE
08/30/2007	APAI	John Bassler

FAA Form 1360-33 (4-75) Formerly FAA Form 1522 AFS Electronic Forms System - v2.2

Mike Colin/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/10/2007 04:18 PM

To Douglas E Peters/ASW/FAA@FAA
cc Bobby M Hedlund/ASW/FAA@FAA, John E Bassler-Jr/ASW/FAA@FAA, Vincent L Collamore/ASW/FAA@FAA
bcc
Subject Re: SAI 1.3.6 return

ALL: Changes made to PI satisfaction, DEPM notified this afternoon, requested a review of comments in DRAFT. Saved to final around 330pm

Mike Colin
Supervisory Principal Avionics Inspector
Southwest Airlines Certificate Management Office (SWA CMO)
Phone 214-277-0233 Fax 214-277-0290
"Systems Safety-Hazard Identification-Risk Mitigation"

Douglas E Peters/ASW/FAA

Douglas E Peters/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/07/2007 02:29 PM

To Bobby M Hedlund/ASW/FAA
cc John E Bassler-Jr/ASW/FAA@FAA, Mike Colin/ASW/FAA@FAA, Vincent L Collamore/ASW/FAA@FAA
Subject Re: SAI 1.3.6 return

Bobby,
SAI "AD Management - SWAA record 1306-0001-02" has been returned to Draft and should be available for changes.

Doug

Douglas E. Peters
ATOS Data Evaluation Program Manager
Southwest Airlines Certificate Management Office
8700 Freeport Parkway, Suite 250
Irving, TX 75063

Phone: 214-277-0239
Fax: 214-277-0290
Bobby M Hedlund/ASW/FAA

Bobby M Hedlund/ASW/FAA

ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/06/2007 10:37 AM

To John E Bassler-Jr/ASW/FAA@FAA
cc Douglas E Peters/ASW/FAA@FAA, Mike Colin/ASW/FAA@FAA, Vincent L Collamore/ASW/FAA@FAA
Subject Re: SAI 1.3.6 return

Doug,

Please make the appropriate request of AFS-900 to retrieve the subject line SAI back from the repository for further review and correction.

Thanks,

Bobby

Any comments you may have on services provided are appreciated. To leave feedback, please visit the following website and click on Texas - Southwest Airlines CMO
John E Bassler-Jr/ASW/FAA

John E Bassler-Jr/ASW/FAA
ASW-HOU-COA-CMO-27,
Houston, TX

08/06/2007 10:14 AM

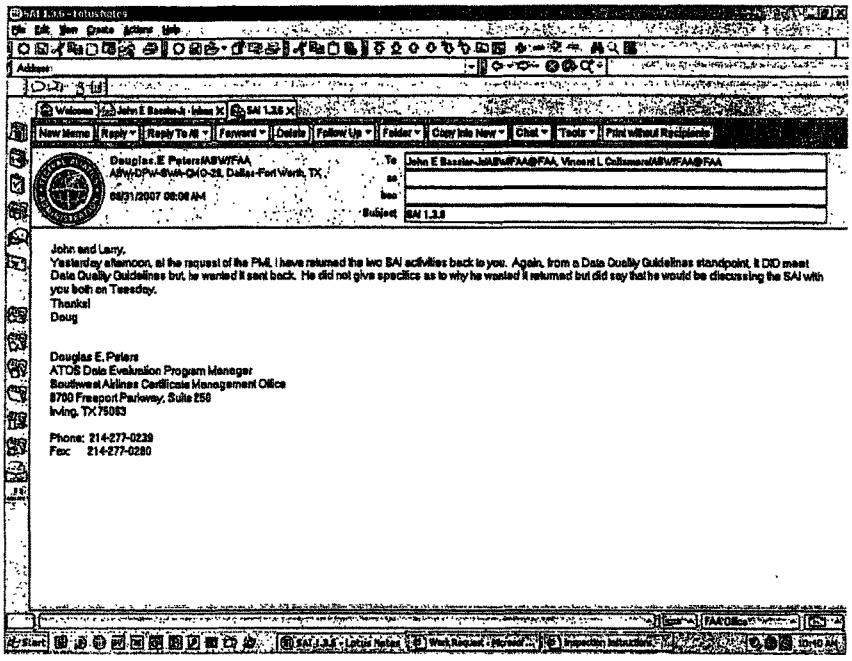
To Bobby M Hedlund/ASW/FAA@FAA
cc
Subject SAI 1.3.6 return

Mr. Hedlund,

Due to Mr. Colin's absence, I respectfully request the return of SAI 1.3.6 for further refinement and correction(s).

Thank you,

John Bassler
Acting PAI SWA-CMO



Douglas.E Peters/ABW/FAA
ABW-DFW-SWA-CMO-28, Dallas-Fort Worth, TX
08/31/2007 08:08 AM

To: John E Bassler-Jr/ABW/FAA@FAA, Vincent L Colimore/ABW/FAA@FAA
cc:
bcc:
Subject: SAI 1.3.6

John and Larry,
Yesterday afternoon, at the request of the PMI, I have returned the two SAI activities back to you. Again, from a Data Quality Guidelines standpoint, it DID meet Data Quality Guidelines but, he wanted it sent back. He did not give specifics as to why he wanted it returned but did say that he would be discussing the SAI with you both on Tuesday.
Thanks!
Doug

Douglas E. Peters
ATOS Data Evaluation Program Manager
Southwest Airlines Certificate Management Office
8750 Freeport Parkway, Suite 250
Irving, TX 75063

Phone: 214-277-0239
Fax: 214-277-0280



John E Bassler-Jr/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/28/2007 10:13 AM

To Benjamin Ramsey/AEA/FAA@FAA
cc
bcc
Subject Re: SAI

Ben,

I must apologize. I have not spent a whole lot of time on this SAI due to my continued problems with the DEPM getting my AD SAI saved to repository. I will make every effort to be prepared before the due date.

Regards,

John

PS - You did assign me procedures correct? That is what I have been working.

Benjamin Ramsey/AEA/FAA

Benjamin Ramsey/AEA/FAA
AEA-BAL-FSDO-07, Glen Burnie, MD

08/28/2007 09:33 AM

To Leighton E Wright/ASO/FAA@FAA, Francisco J Cuadrado/AWP/FAA@FAA, John E Bassler-Jr/ASW/FAA@FAA, John F McKinney/ASW/FAA@FAA
cc Mike Colin/ASW/FAA@FAA, Tom Hoover/ASW/FAA@FAA, Sanford Stennis/ASW/FAA@FAA
Subject

Good morning everyone,

I want to thank you for your time and effort on the Safety Attribute Inspection (SAI) 1.1.1 Aircraft Airworthiness. The PI instructions on this SAI indicated the due date as September 20, 2007. Normally we hold an internal meeting to review everyone's notes prior to putting the comments in the system however, I would like to plan for all team members if possible to attend the formal out-brief at the carrier. I will put together the out-brief PowerPoint presentation. If possible please have everything complete and ready to be saved to master record by September 17, 2007. As a reminder, the following are the areas everyone has.

Mr. Leighton Wright; Management Responsibility
Mr. Ben Ramsey; Controls
Mr. John Bassler; Procedures
Mr. Frank Cuadrado; Interfaces & Process Measure
Mr. John Mckinney; Procedures

Thank you in advance for your hard work, dedication and support. If you have any questions please don't hesitate to call.



Mike Colin/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/30/2007 02:40 PM

To John E Bassler-Jr/ASW/FAA@FAA
cc
bcc
Subject Re: SAI 1.3.6 update please

John:
A productive meeting was held with you the TC, & Tom Hoover, PMI and myself @ approximately 1430-1530 to discuss any potential conflicting data/comments recorded in the Procedures, Process Measures & Interfaces sections completed by you
as compared to the Controls,Responsibility& Authority sections completed by your team member.

Some of your "NO" answers appeared to have a direct correlation to other referenced sections and a follow up discussion was held on 8/29 regarding the issues.

As TC, please ensure that SAI "Yes" answers have an accompanying manual reference in the future.

Mike Colin
Supervisory Principal Avionics Inspector
Southwest Airlines Certificate Management Office (SWA CMO)
Phone 214-277-0233 Fax 214-277-0290
"Systems Safety-Hazard Identification-Risk Mitigation"

John E Bassler-Jr/ASW/FAA



John E Bassler-Jr/ASW/FAA
ASW-DFW-SWA-CMO-29,
Dallas-Fort Worth, TX

08/28/2007 10:31 AM

To Mike Colin/ASW/FAA@FAA
cc
Subject SAI 1.3.6 update please

Mike,

I just had a conversation with Mr. Hedlund concerning the status of SAI 1.3.6. Mr. Hedlund explained that a conversation was held between him and the DEPM concerning the saved status of SAI to repository. Evidently the reason according to Mr. Hedlund is because the DEPM is awaiting PMI input. My understanding is when you sent the DEPM the e-mail a week and a half ago reflecting that the SAI corrections were completed, Mr. Carroll(Acting PMI) was in agreement with said changes. I am a litti confused as to why the DEPM would wait for PMI input at this time since the new acting PMI was not part of this process. My concern with this issue is the reflection this inaction may or may not have on my performance ratings under future PMS review(s) and the dashboard tracking tool.

Please at your earliest convenience, can you bring me up to speed on the status of the SAI,

I would like to file a formal grievance against Mr. Mike P. Colin, Principal Avionics Inspector/Supervisor. I have been treated unfairly with the assigned workload in ATOS 1.2 surveillance 1st quarter assignments. I brought this discrepancy to Mr. Colin verbally and he has refused to reassign the work. In the conversation he claimed that the assignments were in draft but this is not the case. The following is a list of all airworthiness inspectors and there current work assignment:

Benjamin Ramsey	EPI – 0	SAI - 2
Sanford Stennis	EPI – 1	SAI – 0
Mark Williams	EPI - 1	SAI – 1
Leighton Wright	EPI – 0	SAI – 3
Vincent Collamore	EPI – 2	SAI – 0
Matthew Crabtree	EPI – 1	SAI – 1
Francisco Cuadrado	EPI – 0	SAI – 2
Herbert Hollis	EPI – 1	SAI – 1
John McKinney	EPI – 2	SAI – 0
Michael Blasco	EPI – 1	SAI – 1
Charalambe Boutris	EPI – 1	SAI – 1
John Clark	EPI – 2	SAI – 0
Myself	EPI – 1	SAI – 3
PMI Tom Hoover	EPI – 0	SAI – 0
PAI Mike P. Colin	EPI – 0	SAI – 0

As you can see in the above assignments, there is a disparity in distributed workload(s). The first quarter in a fiscal year is always the most difficult because of training schedules and holiday leave. I am scheduled for 3 courses to be completed in the first quarter, I also have pre-FY – 2008 approved leave for the holidays of a total of 40 hrs. With this schedule, minus weekends and holidays, I have a total of approximately 30 days to complete the assigned workload. This is not enough time to complete these assignments and provide a quality inspection. I perceive that Mr. Colin is setting me up for failure knowing full well that I cannot complete these assignments and therefore will utilize the failure to document it in my performance review (PMS). I also believe that Mr. Colin has personal issues with me due to an Employee Requested Reassignment (ERR) I submitted approximately a week before these assignments were distributed. I do not believe I am being treated with fairness or equality.

P.01/01

TRANSACTION REPORT

NOV/17/2007/SAT 04:08 AM

FAX(TX)

#	DATE	START T.	RECEIVER	CON.TIME	PAGE	TYPE/NOTE	FILE
001	NOV/17	04:08AM	98172225292	0:00:28	2	OK SG3	1203

Federal Aviation Administration

Memorandum

Date: September 25, 2007

To: Bobby Hedlund Manager SWA-CMO

From: John Bassler

Prepared by: John Bassler

Subject: Employee Request for Reassignment - ERR

I wish to be considered for [X] ingrade [ ] downgrade (check one) reassignment to the following position.

Title	Grade	Location
Aviation Safety Inspector	FG-1825-14	DFW-FSDO

Attached are two copies of my latest performance rating, resume and reasons for desiring relocation. A duplicate copy is attached for each relocation requested. This transfer request is primarily for my own personal convenience and I understand permanent change of station (PCS), per diem and related PCS costs for relocation will be at my expense.

_____

Employee's Signature

(Complete by Field/Branch Manager)

Managerial Remarks/Recommendations:

Earliest possible release date: _____

Hardship request [ ] is [ ] is not recommended (check one)


With God all things are possible
I will not
Condemn
Criticize
Complain

FOR OFFICIAL USE ONLY
UNTIL RELEASED BY
THE HOUSE COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

STATEMENT OF
THE HONORABLE SCOTT J. BLOCH
SPECIAL COUNSEL
U.S. OFFICE OF SPECIAL COUNSEL

Before The:

UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Hearing On:

CRITICAL LAPSES IN FAA OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY PARTNERSHIP PROGRAMS

Thursday, April 3, 2008
Washington, DC

Chairman Oberstar, Ranking Member Mica, and members of the Committee. Thank you for this opportunity to appear before you to discuss the work of the U.S. Office of Special Counsel as it relates to the subject of today's important hearing.

The U.S. Office of Special Counsel (OSC) is an independent investigative and prosecutorial agency with jurisdiction over statutes which protect federal employees and the Merit System, encompassing whistleblower disclosures and protection, prohibited personnel practices, the Hatch Act and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

The French have a saying that I like: *La plus ça change, la plus c'est la même chose.* Roughly translated that is: the more things change, the more they stay the same. While this is useful bucket philosophy for everyday living, if we use it as a mission statement for our air safety system in the United States, we compromise safety and expose our citizens to the risk of unsafe incidents and even death.

Based on my experiences with the Federal Aviation Administration (FAA) in my over four years as the U.S. Special Counsel, things have changed in air travel with the number of flights way up, but too much has stayed the same in the way of lax safety compliance and oversight. While aviation safety demands have changed significantly, the FAA has remained far too static. Instead, I believe a culture of convenience and of complacence has evolved. Management has helped to foster this.

Through the efforts of my office, this committee, and the Inspector General of the Department of Transportation, it is my hope that things will not remain the same, but will change for the better – with better compliance, greater transparency, and a new system of oversight reporting within FAA.

In the past few years, several whistleblowers have come forward to disclose that officials and employees of the U.S. Department of Transportation (USDOT), and FAA have engaged in conduct which constitutes a violation of law, rule or regulation, gross mismanagement, abuse of authority, and substantial and specific danger to public safety. Among those making the disclosures are individuals who will appear before you today.

When a federal whistleblower makes a disclosure to OSC, it is my first responsibility to determine whether I can make a finding that there is a substantial likelihood that the information discloses wrongdoing. Upon making such a finding, I am required to advise the appropriate agency head, who is then mandated under the law to conduct an investigation of the allegations and prepare a report.

I made such findings in July 2007 following disclosures from Anne Whiteman, an air traffic controller at Dallas/Fort Worth. She and other FAA whistleblowers presented credible information that FAA managers at Dallas/Ft. Worth were systematically covering-up operational errors made by air traffic controllers. These operational errors include loss of separation between aircraft, incorrect flight instructions to pilots, and other dangerous situations. Instead of taking action to address these errors, the incidents are marked as pilot errors, allowing the air traffic controllers, and their managers, to escape accountability. The USDOT Inspector General has been conducting a thorough investigation and we expect his final report within the next two months.

As a means of avoiding culpability, FAA has developed a pattern of simply renaming many clear losses of aircraft separation as non-events or designated them as "proximity events," a new category created by the FAA in 2007 to track minor losses of separation. If you commit an operational error, just by a flip of the tongue, calling it something else, like pilot error or "proximity event," or just a "non-event," you become like the King of Hearts in Alice in Wonderland – words mean precisely what I say they mean. Except in our current context, safety regulations mean precisely what I say they mean – and that compromises safety.

Moreover, many of these problems were disclosed by whistleblower Ms. Whiteman, in 2004. They were then investigated by the USDOT Inspector General, whose report noted that her disclosures exposed a 7-year management practice of underreporting operational errors.

For her efforts to disclose this serious danger to the flying public, she has been the object of continuous harassment and retaliation by management and by the union. She has been subjected to disparate unfavorable treatment, and her work environment has been made hostile in the extreme due to her continuing whistleblowing. At great personal and professional cost, she has held FAA's feet to the fire at Dallas/Fort Worth.OSC recognized this courageous woman as our "Public Servant Award for 2005."

It is my hope that because of these hearings, and the greater public attention to these serious safety concerns, the USDOT will take decisive action to prevent a similar relapse and investigation upon investigation with no real change. This is of great concern at present because of the number of new disclosures I have received from FAA employees in the last year, a few of whom are again filing disclosures with OSC because the situation at FAA has not changed.

OSC has received new disclosures from a former manager of a Flight District Standards office, Gabriel Bruno, alleging that unqualified mechanics remain employed by the aviation industry because a program to reexamine them is inadequate. Mr. Bruno, and another whistleblower, came forward in 2003 with closely-related allegations. OSC referred these allegations to the USDOT and they were investigated by the Inspector General, who in 2005,

recommended that the FAA re-examine the St. George Aviation-certified mechanics, and reported that the FAA was taking steps to conduct re-examinations.

Mr. Bruno now alleges that, despite the earlier USDOT IG investigation and FAA assurances, the risk to the public remains. I have referred this matter to the USDOT for investigation.

In December, I found that there is a substantial likelihood that information provided to OSC by FAA Aviation Safety Inspectors Charalambe "Bobby" Boutris and Douglas E. Peters disclosed a violation of law, rule or regulation, gross mismanagement, abuse of authority, and a substantial and specific danger to public safety, involving FAA's inspection of Southwest Airlines.

As you know, Mr. Boutris and Mr. Peters disclosed that the FAA Principal Maintenance Inspector for Southwest Airlines knowingly allowed the airline to operate aircraft in passenger service in an unsafe or unairworthy condition.

Among numerous details provided by these FAA employees in their disclosures was a report by Southwest Airlines that some of their aircraft had not been inspected according to the mandatory requirements of an FAA Airworthiness Directive. This directive required fuselage inspections to, "...find and fix fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane."

Despite their report of non-compliance with the Airworthiness Directive, Southwest Airlines, with the knowledge and approval of FAA officials, continued to fly these aircraft in passenger service until they could be routed to a maintenance base to complete the overdue inspections. The inspections revealed fuselage skin cracks. Recently, under public pressure, Southwest Airlines grounded about 38 airplanes to inspect for fuselage cracks.

Even after it came to light that the charges of Mssrs. Boutris and Peters had been referred for investigation, even after you called for this hearing, Mr. Chairman, and announced your intention to really hold FAA's feet to the fire, FAA was ... I believe... covering up its wrongdoing and trying to get out ahead of the story by leading the public to believe a deception – that Southwest, and Southwest alone, was to blame for flying unsuspecting passengers in planes with cracks in the same area covered by the Airworthiness Directive, the vulnerable fuselage area behind the cockpit. It levied a record $10.2 million fine and caused a large hoopla to ensue – all to shift the blame from the FAA to the Airlines. Sound familiar? *La plus ça change*.... Nothing changed there now did it? It is just as easy to shift the blame to an entire airline as it is to that airline's pilot.

Where was the FAA when its own trained aviation safety inspectors were trying to take action against Southwest to prevent these safety problems? They were standing in their way. When Mr. Boutris tried to bring enforcement actions against Southwest, he was prevented by his supervisor, the Principal Maintenance Inspector (PMI) of the facility. He was not permitted to write "Letters of Investigation" as required by FAA policy and procedures. Instead, he was told to write "Letters of Concern" to Southwest. This is not part of FAA regulations or policy and procedures. Mr. Boutris eventually went to his supervisor's boss, the Office Manager and got relief to send the proper notices to the airline. Management at the Regional level did not support the Office Manager however, and Mr. Boutris was again directed to work through the PMI and send "Letters of Concern." Does covering up, inventing a new category of non-investigation such as "Letter of Concern" sound like the cover-up of the Air Traffic Control error? The more things change, Mr. Chairman.

The attitude was and is: let's not upset our "customer," the airlines. That is what FAA has taken to calling the airlines they are charged to oversee and force into compliance when safety issues are ignored. The managers want to get letters from their customers saying how well the FAA has done for them in helping them make millions of dollars, and not grounding them, and not making their lives harder, but easier. With all due respect to these widely used terms for the oversight functions, it is not the FAA's job to please those over whom they exercise oversight. If your goal is to please the airlines, it is easy to see why management has insisted on fewer inspections and investigations, and why it has suppressed compliance with airworthiness directives.

The problem is, the FAA is charged with assuring the public that air carriers and air traffic controllers are acting in the interests of public safety, and that the rules and regulations governing safety, including the airworthiness of airplanes, must be observed. When cover ups take place, and planes are allowed to fly that are in violation of those safety directives – the public is at risk. While it may be hard to quantify that risk in the absence of a disaster, it is no less a real safety problem.

The allegations in this case are among the most serious received by OSC, and bring to mind horrible images of an Aloha Airlines 737 making an emergency landing on Maui in April 1988 with a section of the fuselage ripped off between the cockpit and the wings, exposing about six rows of passengers. The aircraft, with 90 passengers and five crew members, had taken off from Hilo en route to Honolulu and just reached its flight altitude of 24,000 feet when a small section of the roof ruptured, leading to decompression that ripped off the large section of roof. The decompression pulled the chief flight attendant through a hole in the fuselage. Through the heroic actions of the flight crew, and passengers, what could have been a disaster, resulted in a single death and seven serious injuries. The National Transportation Safety Board found discrepancies in the inspection procedures of the airline.

In the Southwest case, at least six, and perhaps more aircraft were allowed to fly in revenue service with fuselage cracks in the very area covered by the directives written in response to the Aloha Airlines incident. Once the Airworthiness Directive was ignored, and the FAA allowed Southwest to fly those planes for at least two weeks beyond the time they knew of the fuselage cracks – you may as well have thrown safety directives in the trash can for how much they were worth. Every one of those violations and the permission to commit them were given by FAA, and each of the perpetrators who approved this behavior over them should be disciplined appropriately.

We know about the 38 Southwest Airlines 737s that were grounded recently, as well as the 80 American Airlines MD-80s, grounded last week for other inspections. How many others from other airlines were also flying in violation of airworthiness directives, and for how long? How many of those planes had these dangerous cracks?

Mr. Boutris and Mr. Peters disclosed that Southwest's non-compliance continued even after fuselage cracks were found in aircraft, and that a supervisory principal maintenance inspector was not only aware of the non-compliance, but he permitted it.

While disclosures made to us by FAA personnel address conditions that they witness in the course of performing their duties, often suggesting problems in specific locations, our concern is that some of these may be broader in scope.

For example, some of the elements of the investigation into air traffic control matters at Dallas/Ft. Worth suggest the possibility that we are seeing only the tip of an iceberg of problems, and that what the whistleblowers report is happening at Dallas/Ft. Worth reflects a national problem.

It is apparent to me, based on information provided by Mr. Bruno, Mr. Boutris, Mr. Peters, and Ms. Whiteman that FAA management may be encouraging cover-ups and lax enforcement of critical safety standards, even when they have unequivocal knowledge that a problem exists.

The culture of complacence and cover up goes very high in management circles, and was even echoed by the now former Administrator who, when asked last summer about the near-misses of airplanes at airports in the New York area, told a news reporter, "Sometimes it could be the air traffic controller. Frequently it is the pilot, what we call a pilot deviation, a pilot error." Thus, echoing what has been occurring on a wide scale at Dallas Fort-Worth International Airport. The Administrator of FAA downplayed near misses of aircraft that had been directed to their positions by FAA's controllers. Those should not be just words. We need to reflect on the message that sends. The more things change, Mr. Chairman.

The airlines charged with complying with the directives, certainly deserve to be fined – we do not exonerate them of their duty. But we also believe the fine is based in deception because FAA failed to use regulatory authority and its findings of non-compliance, to keep the airlines in check.

I welcome the scrutiny of this Committee; it is essential to determine whether there are system-wide problems at the FAA in order to find concrete solutions to ensure that the flying public is not at risk. We have to take oversight and compliance more seriously. There needs to be a serious discipline and shakeup of the FAA in order to send the proper message inside what seems to be a very insular organization, that these frauds and deceptions on the public will not be tolerated; that we will not wait for death of passengers and people on the ground to happen before we are willing to stop the violations of serious safety regulations and compliance requirements; and that we will no longer allow safety inspectors and controllers to act as bureaucrats, but to step up to the plate and join the many within the FAA who are solid employees who do take these matters seriously.

We also will not tolerate the culture of retaliation against those who have a conscience to report – as the law requires them to do – any serious violations like we have seen here. The courageous whistleblowers in this case with Mssrs. Boutris and Peters, as with Ms. Whiteman, and several others who have come forward recently following the wide publicity of last year's operational error cover-up, as with others OSC has championed many times in the last decade against the FAA, have been mistreated and retaliated against by managers and rank and file in the FAA.

A whistleblower in this case, Mr. Boutris, was the object of reprisal for whistleblowing. After he blew the whistle on management's suppression of airworthiness directive non-compliance, he was slapped with a bogus investigation that caused him to have to sit out of work for seven months wondering what would happen to him. More recently, he has been threatened. Others are waiting in the wings, afraid to blow the whistle on similar cover ups, but they want to see that OSC and this committee, and the Inspector General will stand behind them all the way.

Whistleblowers are those who go outside of an organization to report wrongdoing, often because their warnings are not heeded by their supervisors. As an advocate for whistleblowers, I believe managers and supervisors should recognize whistleblowers are really early warning systems for organizational problems and even dangers to public safety. They are not unlike canaries in the coal mines. They should not be ignored nor their concerns pushed aside. Employees are an organization's sensory system; they are the eyes and ears, and their concerns over what they see or hear should be regarded as early warnings and treated accordingly.

In the past few weeks, there has been a sudden focus on aircraft maintenance by the airlines and the FAA. This attention on the sudden need for aircraft to be inspected for fuselage,

instrumentation, fuel and electrical systems seems to lead back to the disclosures made by Messrs Boutris and Peters through the attention they brought to the failure of the FAA to enforce its own regulations to ensure Southwest Airlines was properly inspecting aircraft. Of course, the visibility you provided to this matter, Mr. Chairman, is likely also a factor in this sudden surge in maintenance.

The public is watching to see whether Congress and the FAA will take safety seriously. The employees of the FAA are watching to see if we will protect whistleblowers. Will they just lose their jobs or possibilities of promotion like so many before and get the short end of the stick because they took their oaths seriously, keeping the faith with the American public? OSC is doing everything in its power to keep FAA and DOT's feet to the fire, but even we are encountering serious resistance to the notion that the whistleblower should be protected, that those who retaliate should be disciplined.

FAA lied to OSC and the Inspector General in the 2004-05 investigation, and during this new one, they disregard the seriousness of the charges that operational error numbers were lowered by covering them up and blaming the pilots instead. The more things change, the more they stay the same in FAA.

I am recommending that this committee establish an expert commission to examine how the FAA from, a systemic standpoint, from a management standpoint, and from an organizational standpoint, could allow these cover ups and frauds to occur on the flying public. Such a commission should also investigate the complicity of the airline industry, in combination with the FAA, or separately, and to make concrete recommendations for comprehensive reform of oversight and airline safety for the next decade. Finally, I am recommending that this committee work with the Department of Transportation and FAA to restructure funds and the agencies themselves, to allow for greater audits and no-notice inspections by a better financed and staffed air transportation unit at the Office of Inspector General (OIG) of the Department of Transportation. The OIG has the independence and knowledge necessary to ensure better oversight and compliance, but currently lacks sufficient resources to do so. These proposals are far-reaching; but I believe they are justified and safety demands them.

The U.S. Office of Special Counsel is deeply engaged in our role to ensure information from whistleblower disclosures is completely investigated and that whistleblowers are protected. When we receive the reports of the Secretary of Transportation, we will transmit to the President and to the appropriate committees of the Congress, our findings and recommendations.

I thank you for conducting this hearing, and am prepared to take your questions.

TO: The Honorable Chairman and Members of the Committee on Transportation and Infrastructure

FROM: Charalambe Bobby Boutris

SUBJECT: Air safety Concerns March 30, 2008

Testimony

Good morning, my name is Charalambe Bobby Boutris. For twenty years I worked in the Aviation Industry performing aircraft maintenance and inspections for several US Major airlines, US Major Cargo carriers, and foreign airlines. During that time I held the following positions: Airframe and Powerplant Mechanic, aircraft maintenance Inspector, aircraft maintenance Supervisor, aircraft maintenance Manager, and Director of aircraft Maintenance.

In February 1998, I was hired by the Federal Aviation Administration (FAA) as an Aviation Safety Inspector. In the ten years I have been with the FAA I have held the following positions: Aviation Safety Inspector, Assistant Principal Maintenance Inspector, Principal Maintenance Inspector and I am currently assigned to the Southwest Airlines Certificate Management Office (SWA CMO) as the maintenance Partial Program Manager (PPM) for the Boeing 737-700 aircraft.

For me, safety comes first and my job second. When I was an inspector in the airline industry; I elevated safety concerns to Washington, in person, knowing very well that my job was on the line. I never had a negative job performance issue. As a matter of record I have three Star Quality Awards for my commitment to safety and my job performance rating always exceeded the expectations. I am not a disgruntled employee; I am a person with integrity. I do believe that we should cooperate and collaborate with the airlines but not to the point that we go outside our guidance and break the law. I have followed the chain of command but I got no results. I am here today because I am concerned for the safety of the flying public which has been jeopardized by the abuse of authority and violations of the Federal Regulations (CFRs).

Since 2003, I have been raising safety concerns via e-mails, memos, and meetings regarding my Supervisor/Principal Maintenance Inspector (S/PMI) Mr. Douglas Gawadzinski suppressing my inspection findings and his refusal to follow FAA Guidance/National Policy, regarding Chronic, Systemic, and Repetitive non-compliance maintenance issues that I brought to his attention and affect Air Safety.

All my findings were direct violations of the Federal Regulations and the SWA procedures, but under the direction of my supervisor Mr. Gawadzinski I was sending SWA letters of concern in lieu of letters of investigation. In doing so; I was finding out

through follow-up inspections that the original findings were not getting corrected. In addition, routine surveillance inspections at different locations; were revealing the same findings which was a characteristic of a systemic problem that was not been properly addressed. On September 16, 2005, I listed all the chronic non compliance issues and via a Memo I complained to the office Manager Mr. Mills that my supervisor was overlooking the systemic non-compliance issues that were the result of my surveillance inspections and informed him that my supervisor was suppressing my authority and responsibility to report them in accordance with mandated FAA Guidance. Additionally, via e-mail I informed my supervisor that I did not feel that it is ethical as an Aviation Safety Inspector to continue writing letters of concern which are not part of our mandatory guidance to document and correct non-compliance issues with SWA.

The Federal Aviation Administration (FAA) issues **Airworthiness Directives (ADs)** to address the existence of an unsafe condition on products such as aircraft, aircraft engines, propellers, and appliances. The AD requirements vary from AD to AD, and they are usually the result of aircraft accidents, a catastrophic failure of a component, or safety recommendations from the National Transportation Safety Board (NTSB). Since ADs address **unsafe conditions**, their requirements are mandatory and non-compliance is contrary to Title 14 Code of Federal Regulations (14CFR), and legally enforceable per 14 CFR, Part 39.

In December 2003, after reviewing the Southwest airlines AD compliance records for several aircraft engines, I discovered that the required AD compliance information was inconsistent and the format used was different from engine to engine, making it difficult to follow and track the AD compliance information, which was contrary to Title 14 CFR Part 121.380 (vi). After long talks with my supervisor Mr. Gawadzinski, on January 23, 2004, he allowed me to send SWA a Letter of Concern, not a Letter of Investigation as I wanted to and was required in accordance with our guidance. SWA agreed with my findings and took one year to complete the project and bring the engine AD information into compliance. At that time, I was the Partial Program Manager (PPM) for aircraft engines. At the end of the project, the SWA AD compliance team leader, Mr. Bill Krivanek, stated that he hoped I never get airframes.

In addition to the AD issues in reviewing the SWA Continuous Airworthiness Maintenance Program (CAMP) I was also finding non-compliance issues. The CAMP contains the Maintenance and Inspection requirements that an airline must follow to maintain their aircraft. The CAMP is regulatory and it is listed in the FAA approved section of the airline's Operation Specifications (OPS SPECS D72) and consists of maintenance and inspection Task Cards. In reviewing the SWA CAMP I was finding maintenance Task Cards that were revised without going through the revision process and through our office for review. I went to my supervisor Mr. Gawadzinski and informed him of my findings stating that SWA was not keeping us informed and they had stopped submitting the changes/revisions to their CAMP to our office. Mr. Gawadzinski told me that we were out of the approval business because with approval came liability and that the FAA was getting away from that. I sent e-mail to Mr. Gawadzinski stating my findings and copied all the maintenance inspectors. Even though they had experienced the same problems, no one came forward or replied to my e-mail. As time went on I kept finding more changes to the SWA Maintenance Program and revisions to the Maintenance task

Cards that our office was not aware of. In some cases I was finding out that some of the Task Cards were deleted and all together missing from the SWA CAMP. After going to my counterparts at SWA, I was finding out that they were not aware of the changes either. In reviewing the SWA Maintenance Procedures Manual (MPM) I discovered that the reason that SWA had stopped submitting the CAMP revisions to our office was because they had gotten authorization from Mr. Gawadzinski that allowed SWA to revise and delete Maintenance Task cards from their CAMP without coming to our office for review. I went to Mr. Gawadzinski again and informed him that based on my findings we had lost sight of the SWA Maintenance Program and I was concerned because SWA had lost control. I wanted to send SWA a letter of Investigation documenting my findings but Mr. Gawadzinski refused to and directed me to send a letter of concern. I went to the office manager Mr. Mills and informed him of my findings and concerns. Mr. Mills put a team together which consisted of Mr. Mills, Geographic Supervisor Paul Cotti, Supervisor/Principal Maintenance Inspector Mr. Gawadzinski, Inspector Doug Peters and I. After I presented my findings everybody agreed that the SWA CAMP needed attention. After several meetings and over a year later in 2006 at our request, SWA revised their MPM and made it a requirement that any future changes to their CAMP had to be submitted to our office for review. However, as I will state later on, you will see that the in-house changes/revisions that SWA had made to their CAMP had a serious impact on safety.

In January 2006, I became the PPM for the Boeing 737-700 airframes and systems. At this point, among other things, I started to review several aircraft maintenance records with special emphasis on Life Limited parts and AD compliance requirements for the Boeing 737-700 fleet. I found similar discrepancies to the ones I had found with the engines two years earlier; the reported AD information did not meet the requirements of 14 CFR, Part 121.380 (vi). I immediately, informed my supervisor Mr. Gawadzinski of my findings and told him we needed to send SWA a Letter of Investigation similar to the one I wanted to send for the engines in 2003. But Mr. Gawadzinski refused to. I periodically met with Mr. Gawadzinski and voiced my concerns about the SWA AD compliance issues because I wanted to be proactive not reactive. Mr. Gawadzinski told me again and again that he did not share my views and that he was the Principal and my Supervisor. After going to him several times, he told me that we were not going to send a letter of investigation to SWA and he further advised me that he was going to assign somebody to do the AD Management Safety Attribute Inspection (SAI) 1.3.6 (this Inspection collects data and evaluates the content of an Airline's manual system and procedures in meeting the specific regulatory and FAA policy requirements for the AD Management process). I requested to be part of this SAI, Mr. Gawadzinski agreed to, but could not tell me when. By this time, I had informed the SWA AD compliance team leader Mr. Bill Krivanek of the AD discrepancies.

In January 2007, Mr. Gawadzinski assigned the AD Management SAI 1.3.6, placing me as the team leader. When SWA found out that I was the assigned inspector for the AD Management SAI, the SWA Director of Quality Assurance, Mr. Mats Sabel and the AD compliance team leader, Mr. Bill Krivanek, had a meeting with my supervisor (Gawadzinski) and requested my removal from doing the Inspection. Mr. Gawadzinski called me into his office and told me of this meeting and instructed me not to start the AD Management SAI until he gave me the green light, but he would not give me a reason as to why I could not do the inspection. At this point, I went to the office manager, Mr. Mike

Mills, and informed him of the situation. I told Mr. Mills that it was obvious that SWA wanted to cherry pick the inspector for this inspection and stated that I was just doing my job and I had not done anything wrong. I also informed Mr. Mills that the last inspection for the AD Management SAI 1.3.6, regarding the content of the SWA manuals in meeting the specific regulatory and FAA policy requirements for the AD Management process was accomplished in 1999, and according to the Air Transportation Oversight System (ATOS) Database as the result of that inspection there were numerous (25%) negative findings documented regarding the SWA inadequate procedures for AD compliance. I told Mr. Mills that this was also evident and was validated with my findings and brought to his attention that in accordance with our guidance, this SAI inspection was to be accomplished at least every five years and therefore this inspection was overdue by three years and that my supervisor Mr. Gawadzinski was aware of that. Mr. Mills told me he was going to talk to my supervisor. Later on, Mr. Gawadzinski informed me that I would be the one doing the inspection for the AD Management SAI.

On February 26, 2007, in the presence of Mr. Gawadzinski, I gave SWA a presentation regarding the requirements of the AD Management SAI 1.3.6. After the presentation, I had a discussion with the SWA AD compliance team leader Mr. Bill Krivanek and informed him that due to the fact that both of us already knew that SWA did not have all the required procedures in place for the AD Management, I was also going to review some aircraft records to ensure AD compliance. Mr. Krivanek stated that Mr. Gawadzinski and he had discussed what my assignment was and that the inspection for the SAI only covered required procedures for AD compliance, and for that, I only had to review their manuals, therefore he did not see the need for me to review the aircraft records for AD compliance because it was not part of the SAI. I told Mr. Krivanek he was correct, however, due to my knowledge of the previous history with the AD issues, I felt that reviewing some of the SWA AD aircraft records for compliance was appropriate. Mr. Krivanek was not happy about that, but we agreed to meet again on March 15 and start the inspection of the AD Management SAI. On March 15, 2007, I arrived at SWA at 09:00. When I arrived, I was told by Mr. Chris Roth (SWA Regulatory Compliance team leader) that the AD compliance team leader Mr. Bill Krivanek could not participate at the meeting because he was working on a project. During my conversation with Mr. Roth, Mr. Krivanek came into the room and apologized for not being able to participate in the meeting, and stated that he and his team were working on an important project, and wer going to be busy for the rest of the day. I had the meeting with Mr. Roth, and finished at 11:00. I went back to my office, and informed my supervisor Mr. Gawadzinski that Mr. Krivanek could not participate at our AD Management SAI meeting because he was working on an important project that had come up. Before I had the chance to say anything else, Mr. Gawadzinski stated: "Yeah, they had some airplanes over-fly an AD, and they are going through the records to find out how many". At this point it was obvious to me that since I had told Mr. Krivanek that along with the AD Management SAI, I was going to review some aircraft records for AD compliance, Mr. Krivanek had decided to have the aircraft records reviewed prior to my inspection, and that's how they had discovered the AD over-fly discrepancies.

On March 22, 2007, while I was performing night Surveillance inspections at the SWA Chicago Midway maintenance facility, I witnessed a SWA aircraft N300SW being repaired due to a crack that was found on the fuselage. After reviewing the aircraft

records I discovered that this aircraft had been used to fly passengers even though it had a crack on its fuselage. This aircraft was not part of my fleet, however, when I went back to my office, I gave this information to Inspector Collamore who is the Partial Program Manager (PPM) for that fleet. During our discussion, I asked Inspector Collamore if the area (regarding the fuselage crack and its location) was covered by the inspection requirements of an Airworthiness Directive. Inspector Collamore said yes, and stated that SWA had self disclosed to our Supervisor/Principal Maintenance Inspector Mr. Gawadzinski that during a records review they had discovered that some of their aircraft had over-flown the inspection requirements of an AD, and that the aircraft at Midway was part of that self disclosure (this AD addresses identified safety issues and requires repetitive inspections of the aircraft fuselage for crack detection). Once I realized that this aircraft had overdue AD inspections and it was still flying passengers, I asked Inspector Collamore if he was allowing SWA to fly unsafe aircraft. Inspector Collamore stated: "No, I am not, he is", and pointed towards Mr. Gawadzinski's office. I informed inspector Collamore that it was also his responsibility to address the unsafe condition. Even though this aircraft was not part of my fleet, I was concerned because this was affecting the safety of the flying public, and since it was not handled in accordance with our guidance, I immediately reported this serious safety issue to the office manager Mr. Mills.

Due to my on going safety concerns with the SWA inadequate procedures for tracking and complying with the AD requirements, I performed an in-depth review of the aircraft maintenance records and I discovered the following: On March 15, 2007, Southwest Airlines (SWA) informed my Supervisor/Principal Maintenance Inspector Mr. Douglas T. Gawadzinski, that they had discovered that some of their aircraft had over-flown the Inspection Requirements of Airworthiness Directive (AD) 2004-18-06. At the time, SWA were not sure of how many aircraft were affected and estimated that the number could have been up to 100 aircraft.

The AD (2004-18-06) requirements that SWA reported as not being accomplished on their aircraft requires inspections of the fuselage on their Boeing 737-300, and -500 aircraft. On the first page under SUMMARY the AD states: **"This action is necessary to find and fix fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane. This action is intended to address the identified unsafe condition".**

FAA records show that besides the March 15 verbal notification, on March 19, 2007, SWA also used the Voluntary Disclosure Reporting Program (VDRP), to report the AD non-compliance again but this time they informed Mr. Gawadzinski that their investigation had determined that there were 47 aircraft affected , not 100 as originally was reported to him. Even though he was aware of this **unsafe** condition on March 15, 2007, Mr. Gawadzinski did not document anything until March 19, 2007.

In reading the Disclosure Details for the VDRP report, specifically under the Initial Notification question, **"Did Non-Compliance Cease after Detection",** the VDRP report states **"Yes"**. However, this is not the truth. The records show that SWA continued to operate the affected aircraft in a **known unsafe condition** and fly paying passengers until March 23, 2007.

From March 15, 2007, the date Mr. Gawadzinski was initially informed of this non-compliance, to March 23, 2007, while SWA was performing the overdue AD inspections on these aircraft, and while these aircraft were still operating in passenger revenue service, records show that 6 aircraft had cracks on their fuselage. Maintenance records show that on one of these aircraft had multiple cracks, ranging from 1.0 to 3.5 inches long. This is enough evidence of a serious safety issue, when it comes to ADs our guidance is crystal clear and had Mr. Gawadzinski followed the mandated FAA Guidance he should have notified SWA that the affected aircraft could not be used in air transportation past the date that this non-compliance was discovered and initially reported to him on March 15, 2007. What is also aggravating, and brings this **unsafe** condition to the highest level of concern, is the fact that at the time of discovery these aircraft had been flying for 30 months out of compliance with the overdue AD inspections.

Advisory Circular (AC) 00-58 A, provides guidance for the Voluntary Disclosure Reporting Program (VDRP). This AC allows Certificate holders and other entities that operate under 14CFR to voluntarily disclose to the FAA violations and receive a letter of correction in lieu of civil penalty. However, the reported noncompliance in order to qualify has to meet the requirements and follow the procedures set forth in this AC. Page four, Chapter seven, paragraph **b**. of AC 00-58 A, under Notification by the Certificate holder of an apparent violation, lists six items that the Certificate holder (in this case SWA) should address to the FAA Principal Inspector (in this case Gawadzinski) at the time of the initial notification. One of those six items, item number **(2)** states: **"Verification that noncompliance ceased after it was identified".** In this case, even though the VDRP report which was prepared by SWA falsely states **YES** and Mr. Gawadzinski falsely accepted **YES,** the fact remains that the noncompliance did not ceased after it was identified. Records show that the 47 aircraft affected by this AD continued to operate in revenue service from March 15, 2007 (when the noncompliance was identified by SWA and reported to Gawadzinski) to March 23, 2007. It is obvious that the AC requirement was circumvented and not met; therefore, this noncompliance/violation does not meet the criteria to qualify as a Voluntary Disclosure.

In addition, in reading the VDRP report under THE REASON WHY THIS VIOLATION WAS INADVERTANT, SWA in part states: "Unfortunately, due to the extended time span, we can not definitively determine the exact reason the initial error occurred, and was overlooked during the creation of the document, its revisions, and reviews". As I stated earlier this was also one of my findings and concerns back in 2005 when I told my supervisor that we had lost sight of the SWA Maintenance Program and I was concerned because SWA had lost control.

What is interesting here is that in reading this VDRP report, under the "INFORMATION OF THE PERSON PREPARING the COMPREHANSIVE FIX" for SWA, is the name Paul Comeau. Mr. Comeau is an ex FAA Safety Inspector who was performing oversight inspections for regulatory compliance issues regarding the SWA Certificate at the SWA CMO with Mr. Gawadzinski. While working for the FAA, Mr. Comeau accepted a job offer from SWA as the Manager of Regulatory Compliance. I believe that SWA knowingly hired Mr. Comeau for his FAA connections with inspectors in our office, and to their advantage placed him in the position that directly interfaces with our office on a daily bases in regards to Regulatory Compliance issues in dealing with aircraft maintenance.

I questioned Mr. Comeau's hiring by SWA, and I was told by Mr. Gawadzinski that his hiring was cleared through our Regional Office, but there is an ethics issue here, and as proven a conflict of interest. The Regional Office should have considered the importance of the position that SWA hired Mr. Comeau for, and the impact on safety that might have had.

In the past, prior to SWA hiring Mr. Comeau, records show that any time SWA had discovered noncompliance issues with AD requirements they always took immediate action by taking the affected aircraft out of service and bringing them into compliance with the applicable AD requirements. However, this time due to the number of aircraft involved, I believe that the cozy relationship between Mr. Gawadzinski and Mr. Comeau played a contributing factor and allowed the 47 aircraft to remain in revenue service and operate in a matter that would provide relief to schedule the AD overdue inspections at the SWA's convenience while flying paying passengers and without disrupting SWA's flight schedule. I also believe this cozy relationship was the reason that SWA hired Mr. Comeau for this position. Mr. Comeau, being an ex-FAA Inspector should have known that AD inspection requirements are mandatory and address **unsafe** conditions, they teach that to FAA Inspectors at the Academy.

SWA is reporting that they are the ones that blew the whistle on themselves. That is correct. However, what they are not saying is that at the time of discovery of the non-compliance (March 15, 2007), SWA was required by federal law to immediately remove the affected aircraft from service and comply with the AD requirements. But SWA did not take immediate corrective action and kept the affected aircraft flying with paying passengers in a **known unsafe condition** until March 23, 2007.

At the time of discovery, by not taking the 47 aircraft out of service and by not complying with the inspection requirements of Airworthiness Directive 2004-18-06, SWA failed to resolve an **unsafe** condition, and therefore violated the requirements of Title 14 Code Of Federal Regulations (14CFR), Part 39.11, which clearly states: "Airworthiness Directives specify inspections you must carry out, conditions and limitations you must comply with, and any actions you must take to resolve an **unsafe** condition".

In addition, **once SWA was aware of the overdue AD inspections**, by continuing to operate these aircraft and failing to meet the requirements of Airworthiness Directive 2004-18-06. SWA violated the requirements of Title 14 Code Of Federal Regulations (14CFR), Part 39.7.

As it is stated in the AD, due to past events pertaining to the Boeing 737, **the skin fatigue and cracks could have resulted in a sudden fracture and failure of the skin panels of the fuselage, and consequently cause a rapid decompression which would have had a catastrophic impact during flight**. These inspection requirements are the result of the Aloha airlines accident in which a Boeing 737 aircraft during flight lost the top of its fuselage due to undetected cracks.

The requirements of the AD are stated on its first page as follows: **"Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, exc pt in accordance with the requirements of the Airworthiness Directive"**

There is no excuse for the actions of SWA and FAA personnel, Mr. Gawadzinski did not have the authority to allow these aircraft to operate with a known unsafe condition past the date at which time the AD noncompliance was discovered and reported to him (March 15, 2007). In addition, it was his responsibility to ensure that SWA had taken immediate corrective action in taking these aircraft out of service.

FAA Order 8300.10 (Inspector's Handbook) under **INSPECTOR RESPONSIBILITY** states: **"An inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act under the provisions of Section 605(b) FA Act of 1958, as amended, is in dereliction of duty. This duty is placed specifically by Congress upon the inspector rather than on the Administrator. If the inspector, after due consideration, still has any doubts regarding whether or not to ground the aircraft, the grounding notice should be issued".**

Also: TITLE 49, SUBTITLE VII, PART A, Subpart iii, Chapter 447, Sec. 44713, subsection (c) under Unsafe Aircraft, Engines, Propellers, and Appliances, states: **"When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not in condition for safe operation, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in the air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is in a condition for safe operation".**

FAA Inspectors are hired by the taxpayers to ensure Airlines conduct their business with **safety** as the utmost consideration at all times. Allowing an airline to fly passengers on aircraft with a **known unsafe condition** puts the lives of the flying public at jeopardy and in my opinion it is dereliction of duty and should be criminal.

The 47 aircraft with the overdue AD inspections were not the only ones that kept flying in revenue service and out of compliance with maintenance/inspection requirements. In reviewing aircraft records I found out that on March 20, 2007, via the VDRP, SWA reported to Mr. Gawadzinski that 70 of their aircraft had over-flown the requirements of their Maintenance program for the functional check of the rudder standby hydraulic system. This required maintenance task is a very detailed and in-depth functional check, which ensures the integrity of the hydraulic system for the standby rudder and its components. The hydraulic standby system provides hydraulic fluid under pressure to operate the rudder among other components in the event of a main hydraulic system failure. In the past, several catastrophic accidents have occurred with other airlines due to malfunction of the rudder control system. Therefore, due to the impact that this system has in safety, maintaining it in accordance with the maintenance program requirements should have been the number one priority.

Records show that this non-compliance went undetected for over a year, and even though these 70 aircraft had been flying out of compliance of this maintenance requirement for over a year, at the time of discovery of the non-compliance again SWA

and Mr. Gawadzinski took no action and according to the VDRP the 70 aircraft remained in revenue service and operated in a matter that would provide relief to schedule the overdue maintenance/inspections at the SWA's convenience while flying paying passengers. In the VDRP report SWA in part states: "Due to availability of the equipment and man hours needed per aircraft, it will take approximately 14 days to complete this task on all affected aircraft".

However, In reading the Disclosure Details for the VDRP report, specifically under the Initial Notification question, **"Did Non-Compliance Cease after Detection",** the VDRP report that was prepared by SWA and accepted by Mr. Gawadzinski states **"Yes"**. However, this is not the truth. As stated above, the records show that the noncompliance did not cease after detection, and the affected aircraft were allowed to fly in revenue service and out of compliance for an additional 10 days past the date of detection.

It is obvious that the VDRP requirement was circumvented and not met; therefore, this noncompliance/violation as in the AD case does not meet the criteria to qualify as a Voluntary Disclosure.

These 70 aircraft were part of my fleet but my supervisor Mr. Gawadzinski kept me in the dark and worked the VDRP directly with Mr. Comeau. In addition, in reading the VDRP report under THE REASON WHY THIS VIOLATION WAS INADVERTANT, SWA in part states: "Southwest Airlines previous document approval was not as thorough and comprehensive as the one currently in place. Subsequently, previous task card interval requirements weren't reviewed and matched". As I stated earlier this was also one of my findings and concerns back in 2005 when I told my supervisor that we had lost sight of the SWA Maintenance Program and I was concerned because SWA had lost control.

On March 28, 2007, I went back to SWA and we had the second meeting for the AD Management SAI. I met with Mr. Roth and Mr. Krivanek and continued the AD SAI inspection. At the end of this meeting, I had completed only two out of the seven pages of the AD Management SAI requirements, and I had documented twenty one (21) negative findings. When I got back to our office and brought this to Mr. Gawadzinski's attention, he instructed me not to put the negative findings in the FAA ATOS Database yet. A week later, I was instructed to turn all my assignments over to my supervisor Mr. Gawadzinski due to an investigation for an anonymous complaint against me. Mr. Gawadzinski assigned this AD Management SAI inspection to be performed by inspectors Collamore and Bassler who completed this inspection and had fifty (50) favorable findings, and eight (8) negative findings) for the entire inspection. Knowing that SWA had not changed their procedures since the last time I had done this inspection, and since this was one of my safety concerns, I went to the acting office manager Mr. Bobby Hedlund and questioned the favorable findings of the inspection. Mr. Hedlund did not seem to be interested. I called the Safety and Analysis Branch manager Mr. Terry Lambert, at the Regional Office (RO) and explained my concern. Mr. Lambert asked the RO Specialist to analyze inspector Collamore's and Bassler's inspection report. According to Mr. Lambert the Specialist found that the AD Management SAI inspection report contained conflicting information and could not support the fifty (50) favorable findings that were reported by inspectors Collamore and Bassler. This was presented to the acting office manager Mr. Hedlund, who instructed that the completed AD Management SAI inspection report be removed from the FAA ATOS repository final status and re-issued again to be accomplished by the same inspectors. I raised

concerns again to Mr. Hedlund and stated that the reason that SWA aircraft were over-flying AD requirements was due to the fact that SWA did not have adequate procedures, controls, or process measurements in place to manage the AD requirements. I informed Mr. Hedlund that this was a chronic and well-documented problem, and that due to the fact that this inspection directly affects safety, and based on my findings, I suggested that a different team of inspectors accomplish the AD Management SAI. Mr. Hedlund was not interested and told me that my concerns were noted. For the record, later on, when the Air carrier Evaluation Team of inspectors accomplished the same AD Management SAI inspection they reported 17 favorable findings and 41 negative findings.

On March, 29, 2007, during an FAA security investigation, I gave special agent David Friant a statement regarding my concerns with the relationship of my supervisor Mr. Gawadzinski and Mr. Comeau. I stated that since Mr. Comeau was hired with SWA, my supervisor was working directly with him and I was being bypassed and kept out of the loop on reported safety concerns regarding my fleet. I complained that since November 2006, when the Voluntary Disclosure Reporting Program (VDRP) had become web based for electronic submissions, I was the only PPM in the office that did not have access because Mr. Gawadzinski had refused to give me a password. Any Voluntary Disclosure that affected my fleet was worked out between Mr. Comeau and Mr. Gawadzinski.

In one of the statements that were made by the FAA regarding the operation of the SWA aircraft in revenue service with the overdue AD inspections, it was stated that one FAA inspector looked the other way. I am here to report that more than one FAA inspector along with FAA management have been looking the other way for years. No supervisor can do what my supervisor was doing without the support from fellow inspectors, the support of the Division Management Team (who were fully aware of what was going on) and I believe with the support from some people in Washington. This should be obvious, I was the only maintenance inspector that kept finding and raising these safety concerns since 2003, and when they were elevated to the Division Management Team nothing was done about it. Every time I pointed out to Mr. Gawadzinski that he was not following our mandated guidance regarding safety violations in the presence of the office manager Mr. Mills, Mr. Gawadzinski would respond that our guidance was outdated and that he was talking with Jim Ballough (Director, of Flight Standards), who always informed him of the ups and comings, because according to Mr. Gawadzinski he had spent a lot of time with Jim at the Eastern Region during his Executive leadership Program. Mr. Mills always looked into my safety concerns and supported my findings; however, every time he elevated them to the Division Management Team at the Regional Office he received no support. Under the circumstances that I just described, no matter how good of a manager a person is, without upper management support the system makes him ineffective.

During the FAA investigation regarding my concerns that SWA was flying passengers on aircraft with overdue AD inspections, one of the FAA management personnel that was contacting the investigation was the assistant manager for the American Airlines CMO Mr. Kermit Teppin. From the beginning of the investigation Mr. Teppin down played the serious safety issue and I was told by Mr. Mills that Mr. Kermit made the statement: "In

the Air carrier world you have to make deals". I do not know of any guidance that gives us the authority to make deals at the expense of the safety of the flying public. This is just an example of the people that hold FAA management positions and it is upsetting because their daily decisions have a direct impact in public safety.

The FAA is a great organization with many good inspectors and managers, and I am proud to be part of it. However, there is no accountability throughout the ranks; as FAA Safety inspectors we have taken an oath to uphold the rules and regulation outlined in our mandated guidance and we are told that safety is our job. If that is the case, then how come the FAA does not hold **accountable** the management and inspectors who look the other way instead of ensuring that the Airlines conduct their business with **safety** as the utmost consideration? After all, we owe this to the taxpayers who pay our salaries. Other than moving personnel around, the FAA has taken no action and every body involved is still collecting a pay check from the taxpayers.

The SWA aircraft that I reported flying with the overdue AD inspections were not part of my fleet. The Inspector (Mr. Collamore) who is the Partial Program Manager for those aircraft, had full knowledge of this serious safety issue seven days before I did, he also had an obligation and responsibility to follow our guidance and the Federal Regulations and ensure that this unsafe condition was immediately addressed. But Inspector Collamore chose to take no action and went along with Mr. Gawadzinski's decision.

As for management accountability, after the removal of Mr. Gawadzinski from our office the current office manager Mr. Bobby Hedlund promoted inspector Collamore and gave him more authority by letting him act in Gawadzinski's position as Supervisor/Principal Maintenance inspector. I had a meeting with Mr. Hedlund and expressed my concerns but he was not interested. I wrote several e-mails to the Division Manager Mr. Stuckey raising my concerns and stated that instead of holding inspectors accountable for their inactions in the performance of their duties the management was rewarding them and giving them additional authority. I requested a meeting and his immediate attention, Mr. Stuckey never responded. However, I received an e-mail from the assistant Division Manager Mr. McGarry who informed me that management has the right to assign acting personnel to temporary supervisory positions.

In another incident, the current office manager Mr. Bobby Hedlund, allowed another inspector to circumvent the regulation and close one of my findings, which was a repetitive violation, with a letter of correction by making it appear that the SWA current procedures were not working and allowed SWA to change their procedures. These were the very same procedures that were put in place by SWA as a fix for one of their previous violations, when in fact, there was nothing wrong with the procedures they just were not followed by SWA and their personnel. I believe Mr. Hedlund feels obligated to SWA because prior to becoming the office manager for the SWA CMO, Mr. Hedland was the Principal Operations Inspector for SWA and during that time he received his training and his pilot's Boeing 737 type rating (which costs thousands of dollars) free of charge from SWA. However, since Mr. Hedlund was promoted to the office manager's position and he has the final authority in managing the SWA Certificate, under the circumstances and by his actions, it gives the perception that there is a conflict of interest.

We all hear statements that we have the safest air transportation system in the world. I believe that the safety we are enjoying today is the fruit of the aftermath of the Value Jet accident in the mid 90's which forced us to refocus and put in place new procedures. But unfortunately that was done after the accident. I do not think that we should be taking credit for being reactive to accidents. What is alarming is the fact that even today we are still being reactive, this is proven by the Notice that the FAA issued two weeks ago ordering FAA inspections of the Airlines in order to validate AD compliance because of this hearing. Despite the fact that our data bases are full with positive findings, the current events are proving to us that we have hundreds of aircraft taken out of service with AD compliance issues. Where are the ATOS Risk indicators?

SWA is reporting that according to Boeing there was no safety issue regarding the 47 aircraft that were flying passengers with the overdue AD inspections in which six of them had cracks on the fuselage. **It is nice of Boeing to offer an opinion for their largest customer;** however, if aircraft manufacturers could predict accidents we would not have the safety requirements of this AD today.

In addition, consultants have been reporting that after reviewing the data and due to the fact that the area of the fuselage that is affected by the AD includes tear straps and bonded doublers in their opinion safety was not jeopardized. I am reporting to you that the only factual data that we have is that the 47 aircraft were flying out of compliance for 30 months and six of them had cracks on their fuselage and were allowed to fly in revenue service with a known unsafe condition for an additional 8 days after the date of discovery. I could not imagine what type of data the consultants reviewed because there is no data that shows how long an aircraft can fly out of compliance with multiple cracks on its fuselage before it splits open. The documented proof we have is the Aloha airlines aircraft that lost the top of its fuselage in flight due to undetected cracks, and for the record that aircraft also had the tear straps and bonded doublers that the consultants are referring to. In addition, for the record, the existence of the tear straps and bonded doublers was taking in consideration when the mandatory requirements of this AD were established.

These mandatory requirements and the actions to address the unsafe condition are clearly written on the AD, which states: **"Special flight permits may be issued to operate the airplane to a location where the requirements of this AD can be accomplished".**

I am reporting to you that contacting Boeing for an opinion or hiring a consultant is not an option because neither one has any authority over the mandatory requirements of an AD, and that is the law.

The majority of the ADs are the result of catastrophic accidents, and as the industry saying goes "**ADs are written in blood**". I am very concerned because these safety issues affect the lives of the flying public and instead of being advocates for safety some people are still trying to mud the water by downplaying this serious safety issue. The taxpayers and the flying public deserve better and I hope the truth along with some overdue changes come out of this hearing.

It is very sad that an FAA Safety inspector has to become a whistleblower in order to address safety issues. I would like to set the record straight because for some reason the FAA Biweekly news in the Aviation Safety Highlights stated the following: " In the Southwest case of non-compliance, an inspector repeatedly raised issues with his supervisor, but felt he needed to use an anonymous FAA hotline in order to be heard". That is not the truth! I did not use an anonymous FAA hot line; these are serious safety issues and I wanted the people that received my concerns to be able to get in touch with me this way I could answer any questions they might have. For the record, I have been raising the same safety concerns and AD compliance and maintenance issues since 2003 **on record and openly**, and had the FAA management listened we would not be in this situation today. I have followed the chain of command from my manager all the way to the Regional Office and the Division Management Team. Every safety concern, every inspection finding, has my name on it.

What you will find interesting is that in late March of 2007, after I discovered that SWA along with the FAA had allowed the operation of the aircraft with the overdue AD inspections in revenue service and once everybody knew that I elevated this serious safety issue I was removed from my position and was placed under investigation due to an anonymous complaint with allegations against me that was forwarded to our office through Mr. Gawadzinski from SWA. Along with the anonymous complaint my office manager Mr. Mills received an e-mail from the Director of Quality Assurance Mr. Mats Sabel (the same person that previously had requested my removal from doing the AD SAI inspections) requesting my restriction from SWA property until the investigation and any other official investigation had been contacted. That day Mr. Gawadzinski came to my cube and told me with that type of allegations against me; he did not see a reason for me to stay in the office. I questioned the timing of the anonymous complaint but I received no response. From March 2007, to the end of August of 2007, I was hoping that the Division Management Team would do the right thing and look into my findings and safety concerns. However, they did not address anything, in July 2007 they closed the investigation regarding my documented safety concerns and they concentrated their efforts in silencing the messenger. By the end of August I realized that the Division Management Team's interest was damage control and covering up the serious safety concerns I had brought to their attention. In the end of August I put a package together, the same package that I had given to the Division Management Team 6 months earlier and I sent it to the Office of Special Council and again I went **on record and openly** identified my self. By the end of September of 2007, after the Division Management Team found out that I had elevated the safety issues to Washington they reinstated me back to my position and they re-opened the investigation regarding my reported safety concerns. I am here to report to you that all my findings and safety concerns have been validated 100%.

The Division Management Team (DMT) is stating that they did not know anything about the operation of the aircraft until it was over when in reality they had lost sight of the safety mission. Back in March of 2007 when SWA had reported to the FAA that 47 of their aircraft were affected by the overdue AD inspections, and 70 aircraft had over-flown the requirements of their Maintenance program for the functional check of the rudder standby hydraulic system, SWA never identified which aircraft were involved. The aircraft identification is required in order for the FAA to accomplish follow up inspections to ensure that the affected aircraft were inspected. By the time I was reinstated (end of

September of 2007), 6 months had gone by and the FAA still did not have anything official from SWA to identify the affected aircraft, but in the AD case they had inspection reports from 3 FAA inspectors stating that they had done follow up inspections. However, when one of these inspectors found out that I had elevated this issue to Washington that inspector informed the office manager (Hedlund) that his report was not for the follow up inspection of the affected aircraft but it was for putting the binders together for the investigation. It was not until October 31, 2007, (7 months later) and after my persistence that our office finally requested and received an official letter from SWA identifying the 47 and 70 aircraft that were involved in the non-compliance of the AD and the rudder standby hydraulic system. The DMT also was not proactive in taking action to ensure that SWA did not have other aircraft with AD issues. After I elevated the issue to Washington, the DMT realized that they would have to answer questions and this is when they started to look into the AD compliance requirements. And as it turns out, SWA had additional aircraft with other AD issues.

During the town hall meeting in March 2008, Mr. Sabatini stated that the FAA is working on a solution to prevent this from happening again and it is my understanding that the FAA is going to put in place a Hot line process for inspectors to elevate safety concerns. But with all do respect I have a question here, if FAA management did not respond when I **openly and on record** raised the serious safety concerns, how is a hot line process going to work? What we need is accountability throughout the ranks, and that will fix the problem. There is no need to burden the taxpayers with another hot line process. Additionally, I like to inform you that for years we have a similar hot line system in place that inspectors do not trust because Hot line complaints and safety issues, end up on the FAA Administrators desk, and then are passed down to the local FAA Regional Office to be investigated. The Regional Office assigns the local FAA Security (which reports to them), to conduct these investigations, FAA security does not have the technical background, and that is where the Regional Office controls the outcome by assigning the technical portion of the investigation to Regional FAA personnel that report to them also. From my experience, I believe the priority of the Regional Office is damage control and I see no interest in accountability, or doing the right thing. At the end of the investigation, no matter what the evidence shows, it's disregarded by the Division Management Team who **cherry pick** the information from the investigation reports and without looking at the big picture, they apply Band-Aids instead of fixing the root of the problem.

I will also like to inform you that since the FAA put in place the customer service initiative, the partnership programs such as the Voluntary Disclosure Reporting Program (VDRP) and the Aviation Safety Action Program (ASAP) have become ineffective. We are told that the airlines are our customers and if they do well we do well (more jobs for our office). However, some of us forget that we have another more important customer, the taxpayers, who put their trust in us to ensure that the airlines provide safe transportation for the flying public. .

The airlines take advantage of the customer service initiative and they constantly remind us they are the customer. The best way to put it is like you are going down the highway committing traffic violations and jeopardizing the safety of others and when the police officer stops you and informs you that you are breaking the law by endangering people's lives you tell him that he can not document the violation because you are his customer. I know it sounds funny but this is as close to an example as I can come up with. We also

have the customer service feed back line for the airlines which gives them the opportunity and the tool to cherry pick the FAA inspector force that manages their certificate by praising the inspectors that go along with their wishes, however, there is nothing in place to support the inspectors that are intimidated by FAA management and by the airline because they do their job by the book. In the performance of my duties I have been asked by SWA management to make a violation go away. In addition, I have been threatened by SWA management that they could have me removed from their certificate.

The airlines use the VDRP as a tool to circumvent the regulations and provide relief for themselves from maintenance and inspection requirements in order to keep their aircraft flying. A good example of this is the SWA VDRP of the 70 aircraft that were flying in revenue service with the functional check of the rudder standby hydraulic system checks overdue for over a year and used the VDRP to continue flying the aircraft in revenue service and out of compliance for an additional 10 days past the date of discovery due to the shortage of manpower and equipment.

The ASAP program is also abused by maintenance personnel who are no longer held accountable. They are using the program for reasons other than its intent and I will give you couple examples. In the past SWA mechanics were installing the wrong tire and wheel assemblies (B-737-300) on the Boeing 737-700 aircraft. The first time this discrepancy was reported and accepted into the ASAP the mechanic that was involved received human factors training and the tire and wheel assembly paperwork was revised for future installations by adding a paragraph as a note right above where the mechanic signs for changing the wheel and tire cautioning him/her to check that the proper wheel and tire assembly were installed. The second time another mechanic installed the wrong tire and wheel assembly on an aircraft again. The ASAP accepted the report and this mechanic also got human factors training. In addition, a new safety net was put in place by painting all the tires with big letters on the sidewall indicating to what type of aircraft they belong to. The third time another mechanic installed the wrong tire and wheel assembly on an aircraft again. The FAA again accepted the third mechanic's report into the ASAP. I can see accepting the first mechanic's report. But how can we say that by accepting the other two mechanics reports into the ASAP we contributed to safety. I can stand here and give you all kinds of similar examples but the bottom line is that some mechanics are not as vigilant as they should be and they do not worry about it because they know that they can always ASAP the performance of improper maintenance even after an FAA inspector finds it. We need to refocus and ensure that these programs meet their intent instead of being a "get out of jail free card".

I hope the information I have provided today will help bring some overdue changes and help inspectors like my self to continue serving the public and give hope to the inspectors that have lost faith in the system.

Thank you for your time and for giving me the opportunity to raise my safety concerns in front of your honorable committee.



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STATEMENT OF TOM BRANTLEY
PRESIDENT
PROFESSIONAL AVIATION SAFETY SPECIALISTS, AFL-CIO

BEFORE THE HOUSE COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

ON
CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES:
ABUSES OF REGULATORY "PARTNERSHIP PROGRAMS"

APRIL 3, 2008

Chairman Oberstar, Ranking Member Mica and members of the committee, thank you for inviting PASS to testify on the critical lapses in FAA oversight of airlines and abuses of regulatory "partnership programs." The Professional Aviation Safety Specialists, AFL-CIO (PASS) represents 11,000 Federal Aviation Administration (FAA) employees, including approximately 2,900 Flight Standards field aviation safety inspectors[1] located in 110 field offices in the United States as well as three international offices in Germany, the United Kingdom and Singapore. FAA safety inspectors are responsible for certification, education, oversight, surveillance and enforcement of the entire aviation system, including air operator and air carrier certificates, repair station certificates, aircraft airworthiness, pilots, mechanics, flight instructors and designees.

According to the FAA's website, aviation safety inspectors are the "FAA's on-site detectives." These federal employees "develop, administer, investigate and enforce safety regulations and standards for the operation, maintenance and modification of all aircraft flying today."[2] In addition to several other tasks, and depending on their field of concentration, FAA safety inspectors are responsible for regularly performing surveillance on aircraft operations and maintenance for air carriers. This includes inspecting air carriers, air carrier facilities and certificated repair stations performing maintenance work.

A 1996 act of Congress eliminated a portion of the FAA's mandate that directed the agency to promote air travel.[3] Although the written version of the FAA's mandate now instructs the agency to focus on maintaining and enhancing safety, there remains pressure on inspectors to promote the aviation industry even if it is at the sacrifice of safety enforcement. In fact, PASS has learned of numerous instances in which, due to collaboration between the FAA and industry, FAA safety inspectors were prevented from moving forward with enforcement actions after identifying a violation of the Federal Aviation Regulations. As a result, the role of inspector as safety enforcer is becoming increasingly overshadowed and inspectors are being pressured by FAA management not to pursue enforcement actions or to severely censor their evaluations. In some cases, the FAA actually retaliated against inspectors who attempted to hold airlines accountable by bringing attention to safety-related issues. Until the FAA recognizes the flying public—not the airlines or other aviation businesses—as its customers, PASS does not believe that there can be meaningful change in the FAA's approach to aviation safety.

FAA Culture Impedes Work of Safety Inspectors

FAA safety inspectors are specifically trained to assess the safe operations of air carriers and other certificate holders, and while a system of checks and balances is no doubt needed to ensure quality, ultimate trust should rest with the judgment and expertise of the inspector. Yet, obstacles are constantly being placed in the way of FAA safety inspectors, preventing them from performing their jobs. One recent high-profile example in which safety violations were detected at

[1] As of August 2007, the *FAA Administrator's Fact Book* lists the number of Flight Standards inspectors as 3,376. However, this figure is somewhat misleading because it includes first-line field and office managers. The PASS figure only includes inspectors who actually perform inspection functions in the field.
[2] Federal Aviation Administration. *Aviation Safety Inspectors* [updated January 4, 2007; cited February 2008]. Available from www.faa.gov/about/office_org/headquarters_offices/ahr/jobs_careers/occupations/av_safety_insp.
[3] Public Law 104-264, Section 401: Elimination of Dual Mandate.

an airline illustrates the FAA's cultural flaw all too clearly. In September 2007, the Inspector General (IG) released a report on an incident involving a safety inspector for Northwest Airlines who, after identifying safety problems with the airline, was prevented from further access to the carrier and reassigned to administrative duties. After a thorough investigation, the IG determined that many of the inspector's findings were legitimate and that the FAA appeared to focus on "discounting the validity of the complaints rather than determining whether there were conditions...that needed correction."[4] The IG warned that a "potential negative consequence of FAA's handling of this safety recommendation is that other inspectors may be discouraged from bringing safety issues to FAA's attention."[5] PASS fully concurs with the IG's assessment. In fact, many safety inspectors with whom we spoke were hesitant even to discuss similar situations with the union in preparation for this testimony for fear that their managers would find out and put them under investigation or otherwise "make work a nightmare."

Throughout the inspection process, inspectors face a barrage of obstacles that greatly interfere with their ability to issue an enforcement action against an air carrier. In general, if an inspector detects a possible violation while conducting an on-site inspection of an air carrier, he or she immediately notifies the operator and supervising inspector on location. The air carrier inspector then goes back to his or her office and enters information into the Air Transportation Oversight System (ATOS) database. General aviation inspectors enter information into a different database, the Program Tracking Reporting System (PTRS). In addition, the inspector may, as appropriate, open an additional record for tracking enforcement actions through the Enforcement Information System (EIS).

After entering all necessary information and researching the issue, and if approved to move forward, the inspector makes a recommendation to use administrative actions (such as warning notices, letters of correction or letters of investigation) or legal sanctions (such as fines or suspension or revocation of operating certificate). Unfortunately, seasoned safety inspectors report that filing an enforcement action against an airline is often futile because there is little chance the enforcement process will work as intended. If the many required steps are executed properly by the inspector, an enforcement action may not even leave the inspector's office if it is not moved forward by FAA management. A suspension or revocation action that is inactive for six months may be considered stale and dropped, voiding the hours of work the inspector has done on the issue. As described later in more detail, FAA management may also allow airlines to misuse FAA partnership programs in order to avoid incurring a penalty, a step that would stop the enforcement action process despite the many hours the inspector had devoted to responding to the safety violation.

Other issues faced by inspectors include being pressured to change actual inspection data in FAA databases, being reprimanded or removed from oversight responsibility of a certificate, being encouraged not to pursue enforcement actions or to amend a report to reflect better on the air carrier, and being forced to work around the FAA's preferential treatment of airlines. If those charged with inspecting the safety of the air carrier industry are not allowed to thoroughly examine

[4] Department of Transportation Inspector General, *Actions Taken to Address Allegations of Unsafe Maintenance Practices at Northwest Airlines*, AV-2007-080 (Washington, D.C.: September 28, 2007), p. 7.
[5] Id.

potential safety issues and fully report deficiencies, the FAA will fail in its mission of maintaining and enhancing aviation safety.

Pressure to Make Changes to Inspection Data

A particularly disturbing trend recently noted by FAA safety inspectors is management's tendency to urge or actually require inspectors to alter their information in FAA databases in order to diminish the seriousness of the inspectors' findings. For example, when an inspector enters his or her findings into the ATOS database, they are reviewed at various levels to ensure that it meets ATOS quality standards prior to the Data Collection Tool (DCT) being closed. Although the majority of data entered into ATOS by inspectors is provided by the airlines, inspectors are also responsible for entering any information gathered through their limited opportunities to visually inspect the aircraft or its components. Since ATOS makes air carrier risk assessments based on information inputted into the system, this makes the accuracy of data that much more significant.

With such importance placed on the information, it is particularly disturbing when management attempts to influence inspector entries into the system. Yet, this is exactly what is being done. Recently, two grievances were filed involving incidents in which inspectors working at the Northwest Airlines certificate management office (CMO) were forced to change information they had entered into the ATOS database by their front-line managers. According to FAA policy, when there is a difference of opinion concerning critical assessment data captured in an FAA database, all information is supposed to be elevated to the principal inspector so that he or she has the necessary data in order to assess the safety risk. In one instance, however, management demanded a more generic version of the data that did not reflect as negatively on the airline to replace the inspector's actual findings. In another case, an inspector, after documenting observations of noncompliance, was told to change responses in the ATOS database. When the inspector refused, believing that this would significantly affect the quality of the safety information, the inspector was admonished. A recent change to FAA policy will allow FAA managers access to the system and permit them to alter the data without forcing the inspector to make the changes. Management will be required to identify the author of the change and provide the reporting inspector with a copy of the change. Although this will certainly limit the demand placed on inspectors to conform to management pressure, this process still has the potential to impact the safety of the system.

FAA Management Too Lenient With Airlines Despite Inspector Findings

There are many examples in which FAA management has "looked the other way" rather than seriously contemplating the safety inspector's professional opinion and taking immediate steps to ensure that the airline was in compliance with FAA regulations. A particularly disturbing example involves an FAA safety inspector assigned to the United Airlines CMO who, in March 2007, discovered that the air carrier had extended the life limit on Boeing 777 Emergency Passenger Assist System (EPAS) batteries without approved data from the manufacturer or the FAA. The batteries perform a critical safety operation, providing the electrical charge needed to "blow" the door open and deploy the emergency slide in an emergency situation. The FAA-approved manufacturer's component maintenance manual specifies that these batteries have a three-year service life. The air carrier had changed their internal documents to allow batteries to

be used in service for 10 years. The FAA safety inspector also discovered that the EPAS batteries were being tested on a battery charger that had never been calibrated and traceable per the National Institute of Standards and Technology (as required by the battery manufacturer), and that the shop technician had never been properly trained on the charger. Instead of adhering to these regulations, the FAA allowed the air carrier to perform an in-house calibration and accepted the carrier's verbal assurances that the battery charger was "within tolerance."

An enforcement investigation report (EIR) was initiated by the safety inspector. In addition, since the air carrier had been using the EPAS batteries beyond their designed and approved service life, those parts were found to be suspected unapproved parts (SUP) and an SUP investigation report was initiated. The air carrier was notified of the situation and several meetings were held to address the underlying safety risk presented by having the same EPAS batteries installed throughout the United 777 fleet. However, these meetings resulted in no action to adequately mitigate the immediate and ongoing safety risk. The FAA safety inspector urged the air carrier to perform a simple test on the EPAS batteries before each flight that would at least indicate the possible performance of the batteries, but the FAA refused to exercise statutory authority in the interest of safety and compel the carrier to perform this test. In other words, the FAA allowed the air carrier to operate with batteries that were SUP, thus exposing passengers and air crew to significant risk. Despite further inquiries by the inspector, the FAA allowed United to continue to fly its 777 fleet and change the batteries on its own schedule. The EIR, which was completed by the FAA safety inspector with a proposed civil penalty of $97,000 in March 2007, is currently at the regional legal office waiting for an attorney to be assigned. The FAA safety inspector has completed the SUP report, but the case has not been finalized.

Consider the following additional examples in which the "cozy" relationship between FAA management and industry is highlighted:

- In 2003, an inspector assigned to Continental Airlines discovered that over 4,000 life vests had not been overhauled by a certificated repair station in accordance with the component maintenance manual. The inspector's supervisor did not want to have the airline replace the life vests and, according to the inspector, went so far as to accuse the inspector of wanting to bankrupt the carrier. FAA management allowed the airline to continue operating with these "un-airworthy" life vests for several weeks. Only after the persistent efforts of the inspector did a higher level of management insist the life vests be replaced immediately.

- When an inspector detailed Northwest Airline's noncompliance with the FAA-approved reliability program in 2005, a supervisor initially refused to send the letter of investigation to the airline. In fact, the supervisor told the inspector that there were no safety issues involved and that the airline could submit a revision to its program. After a second nationally initiated Flight Standards investigation, the agency team required the CMO to send the letter to the airline. To date, the issue is still not resolved and two enforcement actions have been written against the airline regarding its noncompliance. According to the inspector, the FAA legal department has contacted the manager of the CMO and they are currently working the issue outside of the enforcement process.

- In October 2007, a safety inspector assigned to American Eagle in Fort Worth uncovered training and operational issues the inspector believed should be addressed by the agency. The inspector wrote 11 letters on issues ranging from handbook compliance to regulatory compliance and sent them to the principal inspector assigned to the American Eagle CMO operations unit, who then sent them on to the unit supervisor. In November 2007 and again in January 2008, the inspector asked the unit supervisor about the status of the letters. On both occasions, the unit supervisor, who is a former employee of the carrier, responded that sending all the letters at once would overwhelm the carrier. After details regarding this hearing were released, the inspector was informed that the unit supervisor had told the principal inspector to the carrier.

- In 2007, inspectors assigned to the Hawaiian Airlines certificate were advised that they could no longer perform inspections on aircraft in service when the flight turnaround time is only an hour and a half. When a plane is in service and sitting at the gate on the "ramp," it is considered an excellent time to inspect the carrier to validate the airline's assertion that the aircraft is ready for passenger-carrying service, especially since most of these aircraft will be flying over water for extended periods. An email from management emphasized that the airline had expressed concerns due to delays caused by these inspections and that "on-time performance is a high priority item for Hawaiian." Inspectors have been directed not to conduct detailed inspections of an aircraft during "quick" turnaround in order for the inspectors to "be less apt to cause a disruption." The email specifically states that this change in procedure is to enhance the working relationship between the FAA and the airline.

Penalties Against Airlines for Safety Violations Often Reduced

Even if an enforcement action initiated by an FAA safety inspector makes it through all the procedural steps and results in a civil penalty, a process that can take up to several years, these fines or penalties are often dramatically reduced. Inspectors inform PASS that the FAA has reduced penalties for violations of Federal Aviation Regulations to a point where they are no longer a deterrent. In its eagerness to work in "partnership" with the aviation industry, the FAA has all but abandoned its enforcement responsibilities. A 2005 report by the Government Accountability Office (GAO) validated the concerns of FAA safety inspectors. The report highlighted that from FY 1993 through 2003, there was a "52 percent reduction in the civil monetary penalties assessed from a total of $334 million to $162 million."[6] Furthermore, inspectors have told PASS, and the GAO report has confirmed, that the lessening of penalties for present violations has severely reduced the prevention of future violations. In other words, if punishment for violating safety regulations is not appropriately strict, penalizing an airline will have little or no impact on future actions.

One case involving an FAA safety inspector working for the United Airlines CMO illustrates this prevalent practice of reducing the amount of civil penalties assessed on an airline found to be in violation. In 2003, the inspector discovered a significant problem with improper accomplishment of work under an FAA Airworthiness Directive on the United Boeing 777 aircraft. The AD required that "each back-up generator must be serviced by different individuals before any

[6] Government Accountability Office, *Aviation Safety: FAA's Safety Oversight System Is Effective but Could Benefit from Better Evaluation of Its Programs' Performance*, GAO-06-266T (Washington, D.C.: November 17, 2005), p. 12.

subsequent flight." The inspector found that the air carrier had been systematically performing dual servicing contrary to the AD for years. As a result, an EIR was filed. The EIR sanctioning guidelines provided for a recommended civil penalty of $500,000, but the office manager would not endorse the EIR with that proposed amount. The office manager eventually approved the EIR with a proposed civil penalty of $195,000. The informal hearing regarding the case was held in December 2007, and the proposed sanction after the hearing was $32,000. The final amount appears to be a civil penalty of $28,000. In addition, while gathering records for the EIR, the inspector discovered falsification of records. Despite the efforts of the inspector, there was never any consequence to the falsification issue.

FAA Allowing Airlines to Misuse FAA Partnership Programs

FAA management has allowed the culture at the agency to devolve into one in which satisfying airlines has been given preference over aviation safety. In fact, FAA management is allowing airlines to use FAA safety programs to avoid enforcement action. In 2005, the GAO forewarned of potential problems with these practices, specifically stating that the FAA "does not evaluate the effects of its industry partnership and enforcement programs to determine if stated program goals, such as deterrence of future violations, are being achieved."[7] Since the time of that report, little has changed to improve upon the procedures, which has resulted in significant misuse of these partnership and enforcement programs. There are two programs in particular that the FAA has allowed to be manipulated in order to benefit the airlines and allow them to escape possible penalization for safety-related problems. Not only does this reduce the essential aviation safety inspector role to a mere nuisance, diminishing their credibility with the airline they are charged with overseeing, it forces inspectors to work in an environment where their expert warnings are often ignored or severely downgraded—a dangerously negligent approach to aviation safety.

Voluntary Disclosure Reporting Program (VDRP)

The FAA's Voluntary Disclosure Reporting Program (VDRP) allows certificate holders operating under Title 14 of the Code of Federal Regulations to disclose voluntarily to the FAA apparent violations of certain regulations. As a result of airlines self disclosing a violation and presenting a plan for a "comprehensive fix" of the problem, entities will merely receive a letter of correction instead of a civil penalty. According to the FAA, this policy is intended to "encourage compliance with FAA regulations, foster safe operating practices, and promote the development of internal evaluation programs."[8] However, in order for the VDRP to operate successfully, several steps must be rigorously enforced by the FAA, but this is often not the case. At a minimum, emphasis should be placed on the importance of the air carrier to "promptly" disclose the violation upon detection. According to the order, "In evaluating whether an apparent violation is covered by this policy, the responsible inspector will ensure...[the entity] has notified the FAA of the apparent violation *immediately* after detecting it *before* the agency has learned of it by other means"[9] (emphasis added). Furthermore, aside from specific exceptions, FAA policy states that the FAA "will not forgo legal enforcement action if [the entity] informs

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[7] Id., p. 20.
[8] FAA Order 8900.1 – *Flight Standards Information Management System (FSIMS)*, Volume 11: Flight Standards Programs, Chapter 1: Voluntary Disclosure Reporting Program.
[9] Id.

the FAA of the apparent violation during, or in anticipation of, an FAA investigation/inspection or in association with an accident."[10]

The policy makes it clear that once an FAA safety inspector finds a safety violation, that discovery should result in an enforcement action—the airline is not supposed to be given a chance to self disclose at that point. If an inspector finds an apparent violation, it should be considered a significant event and should be treated accordingly. The important and safety-critical work of FAA safety inspectors must be taken seriously and their findings must be given proper attention and merit.

Regardless of the explicit directions in the FAA policy, the intense focus of FAA managers on maintaining a positive relationship with the airlines is resulting in serious abuse of the VDRP. PASS has learned of many cases in which inspectors find a safety violation but are being directed by their front-line managers to hold off on moving forward to allow the airline to self disclose the item. For example, in 2006, an FAA safety inspector working on the certificate of a major air carrier in the Southern region[11] discovered problems when reviewing modifications made to a Boeing 737. The inspector discovered that the problems applied to several aircraft and promptly notified the principal inspectors and operator. When following up on the incident the next week, the inspector discovered that the airline had been allowed to self disclose the problem despite the FAA safety inspector discovering the problem first. According to inspectors in the field, this abuse of the self-disclosure process occurs much too frequently, negating the purpose and intent of the program and raising the chance that safety risks will not be captured appropriately.

If an airline is allowed to self disclose after the problem has been found by an FAA safety inspector, that means either that the airline had knowingly been operating with a problem or the airline did not have appropriate staff with sufficient expertise to identify the problem. Regardless of the reasons, with the option to self disclose and avoid fines available to airlines, when an inspector finds a problem, the response should not be for the FAA to give the airline an out. Airlines are businesses with a focus on profit and, while safety is no doubt a priority, there must be government surveillance and accountability to ensure that profit does not overshadow the safe operation of the carrier.

Due to the prevalence of the misuse of the VDRP, PASS believes it is critical that the FAA reiterate the rules of the program in detailed correspondence to local FAA management and airlines participating in the program. Furthermore, while the FAA launched a VDRP database several months ago, PASS is concerned that this information is not being monitored on a regional or national level to identify trends that may impact several airlines. If this analysis is not being performed, PASS suggests that the FAA take action to ensure that the VDRP database is examined on an ongoing basis in order to identify and address widespread risks as well as determine whether the program is achieving the desired results.

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[10] Id.

[11] Due to fear of retaliation, the inspector would not permit PASS to disclose the identity of the air carrier.

Customer Service Initiative (CSI)

In 2002, the FAA unveiled its Customer Service Initiative (CSI) program in order to allow certificate holders to "request reconsideration of a decision made by an Aviation Safety office."[12] The guidance on the initiative reads similar to what one may expect to encounter in any service-based industry where the emphasis is on satisfying the customer. In PASS's view, however, the FAA should be focused on protecting aviation safety and treating the flying public as the most important customer rather than satisfying the aviation industry. The CSI allows the airlines the right to ask for review on any inspector's decision made in the regulatory or certification process. While it is no doubt important for an air carrier to have a method of reporting an inspector believed to be acting inappropriately, the FAA is permitting air carriers to use the CSI to remove an inspector simply for doing his or her job. In essence, the CSI program finds the inspector guilty without a trial, granting the airlines an almost effortless way to clean the slate, as well as sending a disturbing message to any other inspector assigned to the carrier that if they attempt to hold the carrier responsible, they may be removed from the assignment or face other repercussions.

When an airline that is facing fines or other penalties complains about an inspector's performance, that testimony should not necessarily be taken over the word of the professional and trained aviation safety inspector. Yet, PASS is aware of many incidents in which FAA management has allowed an air carrier to exploit the CSI process after an inspector attempted to hold the airline accountable. In some cases, air carriers have even requested that their certificate be transferred to another Flight Standards District Office (FSDO). Consider the following examples:

- In 2005, an inspector working at the Northwest Airlines CMO in Minnesota detected a problem with the airline's use of temporary workers who were not properly trained and familiar with the airline's maintenance operation. The inspector repeatedly related concerns that the airline's use of temporary workers who were not competent or properly trained could jeopardize the continued operation of the airline. In response to these findings, the airline contacted the FAA manager at the CMO and accused the inspector of harassment. Without conducting a proper investigation, the FAA removed the inspector from the certificate. When the agency refused to address the system issues regarding the use of temporary maintenance workers, the inspector was forced to file a safety recommendation. This safety recommendation was ignored, compelling the inspector to elevate the issue to Congress and the Inspector General due to serious safety concerns regarding the operation of the airline.

- In 2005, a major helicopter company performing an external lift operation in the FAA field office district of Fort Worth, Texas, was found in noncompliance with the company's FAA-approved altitude restrictions and congested area limitations. The reporting inspector had proposed severe sanctions against the pilot and operator, and a letter was sent to the operator detailing the proposed civil penalties. The operator complained about the sanctions and the enforcement actions were dismissed. Furthermore, inspectors in Fort Worth were prohibited from performing any future surveillance on the operator when it operates in their district.

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[12] Federal Aviation Administration. *Customer Service Appeals & Petitions* [updated August 3, 2005; cited February 2008]. Available from www.faa.gov/about/office_org/field_offices/fsdo/cs_initiative.

- In April 2006, an inspector in Reno was conducting a routine inspection of a repair station, Rebuilt Aircraft, and noticed that the repair station was not following the manual correctly, using the correct work orders, tracking the shelf life of supplies with expiration dates and other discrepancies. The inspector processed an enforcement action and recommended a sanction of $23,100. As is often the case, the FAA attorney negotiated the penalty with the repair station and the case was settled with a $500 fine, much lower than the original penalty proposed by the inspector. Following this case, the owner of the repair station complained about the inspector and wanted the inspector removed from the certificate. Despite the inspector having worked with the certificate since June 2003, to appease the owner, FAA management decided to remove the inspector from that certificate.

- The industry has also become adept at using the CSI process to move certificates to different FSDOs. For instance, inspectors working in the Minneapolis FSDO were holding Champion Airlines strictly accountable to follow the certification process. The airline complained to the FAA and the certificate was moved to the Northwest Airlines CMO in 2005. In addition, when the O'Hare FSDO discovered several safety-related issues with Midwest Airlines, the certificate was transferred to Milwaukee in 2005.

Due to the repeated misuse of the CSI program, PASS recommends that there be an independent review of the program in order to ensure that it is being used properly and achieving intended results.

FAA Must Ensure Adequate Inspector Staffing

PASS is extremely concerned about staffing of the FAA safety inspector workforce. There is no FAA program or initiative that can replace the skills and expertise of aviation safety inspectors. Insufficient inspector staffing combined with the evolving aviation industry places an incredible workload on the inspector workforce, which has already resulted in missed or cancelled inspections due to lack of staffing. With the increased outsourcing of maintenance work in this country and abroad, growing number of aging aircraft, the emergence of new trends in aviation and the expansion of the FAA's designee programs—all of which require additional inspector oversight—it is imperative that there are enough inspectors in place to monitor the safety of the system.

Making this situation even worse is the fact that nearly half of the inspector workforce will be eligible to retire in the next five years and many areas are already severely understaffed. The lack of an adequate workforce means it is more critical to ensure proper identification of airline safety violations and adequate follow-up. Despite this disturbing situation, in its FY 2009 budget request, the FAA has not requested any funding to hire additional Flight Standards aviation safety inspectors. However, in its version of FAA reauthorization, the House has directed the FAA to increase the number of aviation safety inspectors and has allocated specific funding to increase safety critical staffing through 2011. PASS appreciates the efforts of this committee and its recognition of the severity of the inspector staffing crisis.

Conclusion and Recommendations

The FAA has not only promoted an internal culture where safety is given second billing, but it has manipulated every aspect of the enforcement process in order to encourage and maintain a positive relationship between the agency and the airlines. Safety inspectors are on the frontline protecting this country's aviation system and trust should no doubt be placed in their professionalism and expertise. Punishing safety inspectors for discovering violations or impeding them from making safety of the system their priority should not be tolerated.

In its report on the incident at Northwest Airlines, the IG concluded that in order to maintain its focus on aviation safety, the "FAA needs better procedures for responding to and resolving safety complaints identified by inspectors."[13] On September 25, 2007, the FAA responded by concurring with IG recommendations and agreeing to "establish a new internal review capability that would allow it to perform independent assessments of safety allegations."[14] The FAA indicated that this capability would be fully implemented by September 30, 2008. Although this is a positive step forward that PASS hopes will address the seriousness of this situation, PASS remains skeptical of the agency's true motives since it has excluded PASS from involvement in the design of the new review system. In order to ensure accountability at every level, PASS must have an active role in the development and implementation of any review system created to respond and resolve safety complaints identified by FAA safety inspectors.

In the wake of Southwest Airlines' noncompliance disclosure, the FAA has issued Notice N8900.36 directing a two-phased audit of Part 121 air carrier compliance with Airworthiness Directives (AD). In phase 1 of the audit, which was due March 28, inspectors sampled 10 ADs for each of the air carriers' fleets. Phase 2 of the audit, which is due June 30, will sample additional ADs to total 10 percent of the ADs applicable to the air carriers' fleets. Unfortunately, while the original notice instructed inspectors to perform a visual inspection of the aircraft along with verification of records, the FAA released a broadcast message that the FAA inspectors need only perform a records check. In other words, the aircraft and/or its components are not required to be inspected.

Without FAA surveillance of an aircraft, the aircraft's physical AD compliance status is unknown despite what the records may indicate. Quite simply, paperwork alone is not an indication of safety. PASS has serious concerns as to the validity of any results collected through this directive and whether a records check on so small a sampling of aircraft will render meaningful results or assurance of compliance.

The Southwest Airlines noncompliance with ADs brings up another area of concern. FAA management continues to present the safety value of ATOS and its method of data collection and ability to identify risks. Southwest Airlines is an ATOS carrier and has been since the inception of ATOS in 1998. How effective is the FAA's ATOS process in identifying and managing risk if Southwest Airlines was able to become so lax in its AD compliance? The answer to this question is clear: ATOS is not working as intended because it has not been properly resourced and

[13] Department of Transportation Inspector General, *Actions Taken to Address Allegations of Unsafe Maintenance Practices at Northwest Airlines*, AV-2007-080 (Washington, D.C.: September 28, 2007), p. 3.
[14] Id., p. 8.

supported by the FAA. The FAA cannot rely on incomplete data, the majority of which is provided by the airline, and limited visual inspections to determine risk. A data-driven system is never a substitute for physical inspections performed by FAA safety inspectors.

There is no doubt that the relationship between the FAA and the airline industry needs to be revamped in order to ensure safety issues are given appropriate attention. PASS agrees with the concept of rotating managers in order to prevent these types of "cozy" relationships from developing. Those with the ultimate responsibility for oversight of FAA safety inspectors and the carrier should be the group that is rotated among facilities. As such, PASS recommends that a plan be executed to rotate all first- and second-level managers on a regular basis. This rotation will help to discourage management from becoming too closely connected with the airlines.

The FAA's most important customers are the flying pubic, not the airlines, and its most critical role is to protect the safety of these customers. Safety is always the primary focus of the FAA safety inspector workforce—their contributions and the safety of the aviation system should never be anything but the agency's top priority.

TESTIMONY OF VINCENT L. COLLAMORE, CONCERNING THE OVERFLY OF AIRWORTHINESS DIRECTIVE (A.D) 2004-18-06, THAT REQUIRES REPETITIVE INSPECTIONS TO FIND FATIGUE CRACKING OF CERTAIN UPPER AND LOWER FUSELAGE SKIN PANELS TO CERTAIN BOEING MODEL 737-200,-200C,-300,-400, AND -500 SERIES AIRPLANES.

I was notified by Southwest Airlines Regulatory Compliance prior to March 19, 2007, the exact date I am unsure of, that Southwest Airlines had possibly overflown a repetitive inspection on some of their -300 and -500 aircraft and that they were unsure of the exact number of affected aircraft. They had also informed the Principal Maintenance Inspector (PMI) Mr. Doug Gawadzinski of this finding prior to notifying me. On March 19, 2007, Southwest Airlines Regulatory Compliance Manager Mr. Paul Comeau made the Official Self Disclosure that Southwest Airlines had in fact overflown the required repetitive on stringer 10 left and right between Body Station (BS) 540 to 597 and 663 to 727 on 49 aircraft to Mr. Gawadzinski.

I was never assigned the responsibility to investigate this event. I did provide Mr. Gawadzinski a copy of A.D 2004-18-06 and Boeing Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001. Although I was not assigned to investigate this event I did familiarize myself with the A.D and Service Bulletin. During this review I found no specific requirements to inspect stringer 10 between (BS) 540 to 597 and 663 to 727. I did notice that when A.D. 2004-18-06 was in Notice of Proposed Rulemaking (NPRM) and was out for comment a request was made "for an inspection method be specified for the internal doubler at the emergency exit surround structure as shown in Figure 5 of the service bulletin, or that the requirement to inspect this area be removed." the inspection requirements of Boeing Service Bulletin 737-53A1210, Revision 1 in the area between BS 540 and BS 727 would require a different inspection procedure than the Boeing 737 NDT Manual Part 6, Subject 53-30-18 or 53-30-19 procedures which are specified in figure 5 of Boeing Alert Service Bulletin 737-53A1210, Revision 1, dated October 25, 2001.

The FAA Aircraft Certification Office (ACO) response was "We agree with the commenter that there should not be a requirement to inspect this area because the internal doubler that extends above stringer 10 stabilizes the skin in this area and eliminates this area as a cracking concern."

Based on this information the decision was made by the PMI to accept the Self disclosure and allow the continued operation of the affected aircraft.

Respectfully Submitted
Vincent L Collamore
Aviation Safety Inspector

Testimony of Paul E. Cotti

My name is Paul Eugene Cotti, and I am currently an airworthiness unit supervisor in the FAA's AMR Certificates Management Office (AMR CMO). I have been in the FAA Flight Standards Service for nearly 18 years. Of the 14 years that I served as a field inspector, four were as a Principal Inspector. I have an unblemished Flight Standards Service record, and have been selected three times for regional "Field Inspector of the Year" awards. I have also received over 40 other high performance-related recognitions during my FAA career. My work experiences prior to the FAA include a variety of aviation maintenance-related positions in commercial aviation and the Department of Defense. I care very deeply about the safety of the flying public, and for FAA success in achieving the objectives of its critical mission. I derive no pleasure or personal satisfaction from providing this testimony, but am hopeful that it is useful in preventing any repeat of the circumstances and conditions which I must describe below.

I served as the Geographic Unit supervisor in the Southwest Airlines Certificate Management Office (Southwest Airlines CMO) from March 2005, until an administrative reassignment to my current office in May 2007. During that entire period, the Southwest Airlines CMO management team was often divided on matters relating to the office's management and oversight of the Southwest Airlines Company operating certificate. This division can be summarized as being between management officials that insisted on adherence to the stated and implied intent of the policies and procedures contained in FAA orders, and those that insisted on exercising degrees of latitude and discretion that often fell well outside of the parameters established by those orders.

Those that insisted on adherence to FAA orders included the office manager, the assistant manager, and me. We worked diligently to identify and correct office deficiencies because it was a basic expectation of our positions, and because we recognized that doing so was most likely to foster an orderly environment under which the FAA's safety objectives and a level regulatory playing field could be achieved. However, under the banner of "collaboration" with the airline, the latter group, whose most prominent member was the Supervisory Principal Maintenance Inspector (PMI), did so in a manner that was often contrary to FAA orders, and at times openly hostile to the concepts and requirements of transparency and accountability.

When properly engaged in, FAA collaboration with airlines can be an effective method for reducing risks and improving safety. However, collaboration in this particular case lost its FAA definition when it was engaged in an environment in which regulatory compliance could be delayed, or gained only through "deals" which under the best of circumstances only provided to the traveling public that which it is already entitled on a continual basis. It is unfortunate that the resistant group was not as committed to collaboration with the office manager as it apparently was to the airline. Had they done so, the events and conditions that ultimately resulted in these hearings would not have occurred.

As stated, the most prominent and consistent member of the resistant group was the office's PMI. Rather than clearly and dutifully articulating FAA positions and expectations to the airline and his work unit, I believe that the PMI often rendered decisions and opinions which defied the logic expressed in FAA policies and guidance. Of particular concern was the manner in which investigation of potential regulatory violations were handled. By virtue of his important position, his erroneous decisions and opinions were unfortunately afforded a significant degree of legitimacy by the airline and those FAA employees that were on the PMI's side of the office divide.

This created a distinct contrast between the PMI on one hand, and the office management and other personnel that insisted on following FAA orders on the other. In my view this had a detrimental impact on how the airline perceived the hazards and risks that were discovered and presented to them by the FAA personnel that were following FAA orders. Over time and for various reasons, the PMI's resistance to transparency and accountability was also adopted by a number of inspectors in the office as well. This further exacerbated divisions in the office, and had a very detrimental impact on the office's productivity and effectiveness.

It is important to know that the expectation to follow the FAA's national orders was specifically expressed and elaborated on by the regional Division Manager at every management conference attended by the Southwest Airlines CMO management team during the above period. In light of their obligations and such frequent admonitions from their chain of command, I am at a loss to understand how the PMI or the resistant group could have possibly justified their actions; or why those types of actions went uncorrected for over two years.

Although the office's Geographic Unit provided operations and airworthiness inspection services to the principal inspectors, it was deliberately designed by the FAA as a separate work unit, with a line of responsibility and authority that was direct to the office manager. This design constituted a control to ensure that from a supervisory standpoint, the Geographic Unit was independent of the PMI and the other two principal inspectors.

The PMI, and at times the Principal Avionics Inspector, were openly adverse to this organizational design; most notably for me when I insisted that the unit's inspectors follow national orders with respect to appropriate investigation and enforcement of the regulatory violations that they discovered during the course of their work. Under conditions of shared FAA values and practices, the Geographic Unit's service to the principal inspectors, and the Principal Inspectors' acceptance of those services, should have been seamless and without friction.

However, because of the PMI's divergent values and practices, regulatory violation findings by the Geographic Unit were often met with active or passive resistance from the PMI, and efforts to address safety findings were consequently delayed, disjointed, or less than fully successful. This occurred even after the manager reiterated and reaffirmed the role of the Geographic Unit in a number of office management meetings, and in clarifying revisions to the office's Quality Procedures Manual. On more than one occasion the PMI or one of his direct reports improperly contacted Geographic Unit inspectors to undermine my insistent position with regards to regulatory enforcement, in order to affect an outcome that was outside of the FAA's clearly stated enforcement orders and enforcement decision-making processes.

The PMI was also openly critical of my efforts to improve the deficient safety inspection and enforcement performance of a number of Geographic Unit employees, most notably a remotely-sited inspector in Houston that was responsible for geographic oversight of the airline's Houston maintenance base. I concluded by his behaviors that the PMI was threatened by inspection and enforcement outcomes which he personally could not influence and control, regardless of the fact that those outcomes would fully conform to FAA policies.

As I previously stated, the office manager was fully supportive and expectant that the office management team and all of their direct reports adhere to FAA orders, which are soundly designed and vetted to ensure uniform nationwide application. He and the office assistant manager made numerous attempts, and employed a wide range of methods to establish a single office expectation that appropriately harmonized and focused the efforts of all the office's work units. As stated above, they were often actively or passively resisted by the PMI and those that resided on the PMI's side of the office divide.

On quite a few occasions, knowledgeable and responsible inspectors in the office brought disconcerting airline events or circumstances to the manager's attention; apparently because they were unable to garner the level of acknowledgement and support from the PMI that was necessary for addressing those matters as required. A number of those events and circumstances were especially alarming because they represented precursors for aviation accidents.

Due to the demands of the manager's position, he often tasked the assistant manager and me with conducting internal office reviews in order to validate the inspectors' concerns, and to establish whether various FAA orders and processes were being properly and consistently administered by office personnel. Our reviews were objectively conducted and the results dutifully reported back to the manager. More often than not, the results of those reviews were unsatisfactory; particularly so with regards to the PMI and his staff. It is my understanding that the manager consequently attempted to improve the PMI's performance, and that he communicated these efforts and his validated concerns to his superior at the FAA Southwest Regional office.

The findings of our inquiries further exposed the scope and nature of the divide in the office, and also resulted in further discoveries that certain investigative, enforcement, and airline safety oversight-related processes were being mismanaged. Examples included failures to take required enforcement action in response to the discovery of regulatory violations; concerns with how Aviation Safety Action Programs (ASAP) were being administered; efforts by the PMI and his ASAP representatives to prevent dissemination of de-identified ASAP information to the manager, who was responsible to approving continuation of that program; misapplication of the Air Transportation Oversight System (ATOS) surveillance process; the manner in which Southwest Airlines maintenance time limitations were approved and documented; and overall office performance and adherence to its quality management system and processes. When these matters were brought to his attention by the manager, assistant manager, other inspectors, and I, the PMI was hostile, close-minded, and resistant to efforts to professionally discuss and take actions appropriate to those concerns.

The most glaring example of the PMI and the resistant group's failure to follow FAA orders involves the manner in which it responded to the voluntary disclosure from the airline that it had grossly over flown Airworthiness Directive (AD) 2004-18-06, which the FAA ordered to detect conditions which could have resulted in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane. The prohibition against passenger flights on aircraft for which mandatory airworthiness determinations may not have been accomplished, should have been immediately and specifically conveyed to the airline by the PMI, and enforced as necessary. Such an FAA response should be clear to any journeyman FAA inspector and a natural reflex for someone in the critical position of Principal Maintenance Inspector. In my view, his "collaborative" approach to safety oversight prioritized his personal relationship with airline officials above his obligations to the public, his subordinates, and the FAA.

The FAA's voluntary disclosure and aviation safety action programs can be beneficial to the traveling public and to airlines and individuals that fundamentally commit to all of the requirements of those programs. However, the effectiveness and long term legitimacy of these programs is completely dependent on the constant vigilance of its FAA practitioners and overseers in order to detect and ensure that abuses do not occur, and that all program-related decisions are based upon sound understandings of responsibilities and the proper exercise of authorities. That did not occur in this case.

Throughout the above period, I communicated my concerns through appropriate channels, and maintained the expectation and faith that FAA machinery would engage, and appropriately correct the PMI and those that were driving the office divide by their resistance to authority and accountability. However, I was flabbergasted and shocked in January 2007 when a regional office-mandated management team building exercise in late 2006 resulted in a requirement that each management team member sign a agreement to professionally cooperate with each other on office matters. I interpreted this to mean that the real source and scope of serious differences on safety and regulatory compliance-related matters was not being acknowledged, and that the conflict in the office was being completely misunderstood by the regional office as being no more than a clash of personalities and equally valid opinions.

My observations concerning events and conditions within the Southwest Airlines CMO ended with my transfer to the AMR CMO in May 2007. I accepted the explanation that was provided at the time that my reassignment was based on an agency need to fill a critical vacancy in that office.

I trust that my testimony and responses to any questions or other requests are helpful to this honorable Committee and its processes. Whatever the outcome of the Committee hearings, I am hopeful that the outstanding service and everyday commitment to aviation safety by so many in the Flight Standards Service is not forgotten by those that we every day strive to faithfully serve.

Paul E. Cotti

Joint Statement of Herbert D. Kelleher, Executive Chairman, and

Gary C. Kelly, CEO, of Southwest Airlines Co.

Before the

Committee on Transportation and Infrastructure

United States House of Representatives

April 3, 2008

Chairman Oberstar, Ranking Member Mica, Members of the Committee: This Committee has raised important issues, both for Southwest and for the airline industry in general, and we want to assure you that we are working aggressively to address those issues.

- **Safety is Southwest Airlines' top priority**

Safety is the top priority for both of us. And it is Southwest Airlines' top priority. On this, you have our personal commitment on behalf of 34,000 Southwest Employees. The need to be safe is part of our history, our culture and our Company DNA.

Being safe is the right thing to do, and it is the law. Airlines are held to the highest standard of care when it comes to passenger safety. Since our Employees and their loved ones are our most frequent flyers, we also have a powerful personal motivation to be vigilant when it comes to safety. And, in addition to being a legal, moral, and personal imperative, being unsafe would be the worst business strategy any airline could have.

We are extremely proud of our Employees — all of whom are owners — but none more so than the safety professionals in our Maintenance and Engineering Department, some 2,500 members strong. Our maintenance Employees are represented by the Aircraft Mechanics Fraternal Association (AMFA), and we work closely with AMFA's leadership. Our maintenance work force has a record second to none, is the most productive in the industry, and these fine people deserve the industry leading pay and benefits they receive. They have never suffered a furlough, nor has any other Southwest Employee.

Members of this Committee may have heard from AMFA as well as the Southwest Airlines Pilots Association (SWAPA), our pilots' union, attesting to their faith in, and their personal commitment to, the safety culture at Southwest. We are deeply grateful for their steadfast support and their dedication to our mutual effort to improve our Company.

- **Southwest has an unparalleled safety record**

Over our 37-year history, Southwest has flown over 16 million flights and has served almost 1.2 billion Customers – four and one-half times the entire population of the United States. We have transformed commercial aviation into a system of affordable transportation for the public at large and have done so with an outstanding record of safety. This unparalleled safety record has been attained in part through a cooperative partnership effort between the airline industry and the FAA. While the closeness of that relationship is now under scrutiny, it cannot be denied that the FAA and the airlines have worked together to produce a safe and successful airborne transit system.

- **To maintain our outstanding safety record, we must continuously improve**

Southwest is, and always has been, a leader in developing safety programs. An abbreviated and by no means complete list of safety initiatives is attached to this testimony. We are also aware that constant vigilance and continuous improvement are necessary to maintain our excellent safety record. We cannot rest on our laurels. We cannot simply rely on what we have done in the past. It is imperative that we continuously improve our safety systems.

While the last month has been a very difficult time for all of us at Southwest Airlines, we want to assure you and the flying public that we take this matter very seriously and will apply Southwest's strong commitment to safety to make all changes necessary to improve our Airworthiness Directive ("AD") and regulatory compliance systems and ensure that our outstanding safety record continues into the future.

- **Southwest has vast experience with 737s**

To say the least, the airline industry is challenging. Still, Southwest has done quite well. Starting with just three planes flying to three cities in 1971, Southwest has grown to be the largest carrier of passengers in the world with an all-Boeing fleet of over 500 737s. Southwest was the launch Customer for three models of the 737: the -300, -500, and -700. As the airline of choice for 100 million people last year, and the largest 737 operator by far, Southwest has more experience with 737s than any other airline in the world.

Ironically, the very AD at issue in this investigation might not have come about had it not been for Southwest's vast experience and expertise with the

737. The AD was based on a Boeing Service Bulletin. That Service Bulletin, in turn, was based in large part on a pre-existing maintenance program developed by Southwest. It was our observations with respect to cracking of the "chemically-milled" 737 skin panels on the Classic 737-300 and the 737-500, coupled with our own rigorous inspection program (conducted four times as often as the AD inspections), that were the genesis of the Boeing Service Bulletin and the "Chem Mill" AD.

- **Southwest has invested continuously in its fleet of 737s, both by purchasing new aircraft and by making voluntary aircraft improvements**

Through boom and bust cycles in a notoriously tough business, Southwest has consistently invested in new airplanes and upgraded our fleet. Southwest's large fleet is modern – on average under 10 years of age. Boeing credits Southwest with single-handedly keeping the 737 assembly line open on two separate occasions: once during the Gulf War when oil prices spiked and a deep recession diminished passenger traffic, and again after 9/11.

In addition to purchasing new aircraft, Southwest has invested continuously to make sure each of our aircraft operates safely and efficiently. On average, each plane receives roughly $1.6 million in voluntary improvements and maintenance per year. In 2007 alone, Southwest invested $826 million in maintenance materials, repairs and modifications for our fleet, which represents a 25 percent increase over 2006.

Southwest has also made a series of expensive, voluntary improvements to our Classic 737-300/500s, including an effort to reduce the occurrence of skin

cracks. For example, in 2003, Southwest worked with Boeing and the FAA to develop a modification program to replace the existing chemically-milled window belt skins with new solid skin panels. In 2004, Southwest initiated a study to pinpoint areas of the Classic 737 fuselage that are most subject to skin cracks. We worked closely with Boeing and the FAA to develop a new Service Bulletin, which Southwest uses today to guide the replacement of the existing skin panels. The installation of these new panels is a permanent repair and eliminates many of the problems identified in the six ADs addressing 737 Classic skin cracks. These modifications are very expensive and are purely voluntary on the part of Southwest Airlines.

- **The Boeing 737 Classic Design**

The Boeing 737 Classic was designed with a "fail-safe structure" that affords a superb margin of safety. The fuselage design is "fail-safe" because there are three independent structural elements: the external skin, the internal "bonded doubler," and the aircraft frames and stringers. This design allows skin cracks and other skin damage to occur without compromising structural integrity. The first three attachments to this testimony attest to the level of safety afforded by the current version of the 737. The first attachment is a statement from Boeing that confirms, based on its review of our fleet's history and test data, as well as other inspections and maintenance previously incorporated, that safety of flight was never compromised in March 2007. The second is a detailed explanation of the 737's fail-safe design from Boeing, which explains why a missed inspection, standing alone, would not present a safety of flight risk. The

third is a statement from Gregory A. Feith, a noted aviation expert and former NTSB Investigator-in-Charge, confirming that there was no risk to the flying public in March 2007.

It should be noted that the aircraft involved in the 1988 Aloha Airlines incident, a Boeing 737-200 that first entered commercial service in 1969, was an early, non-advanced 737 that used production techniques that are different from anything found in Southwest's current fleet.

- **Aircraft Inspections**

It is also important to dispel the misimpression that we did not inspect our airplanes for skin cracks. Nothing could be further from the truth. On a regularly scheduled basis, we perform an overlapping, repetitive, and comprehensive series of inspections of our 737s to detect skin cracks, literally inspecting every inch of the aircraft. For example, the following inspections are routinely performed:

MV1:	Performed overnight on all aircraft that remain overnight at Southwest maintenance stations, at least every four days. A walk-around inspection is performed on all areas, including the fuselage, to ensure safety of flight items.
MV2:	Performed overnight every seven days. More in-depth than the MV1, including an inspection of fuselage, cabin and servicing items.
MV3:	Performed overnight every 50 days. A much more comprehensive inspection that includes all MV1 and MV2 inspection requirements plus the lubrication of components.
Cabin Visit:	Performed overnight every 100 days. An intermediate check, includes interior tasks, fuselage, wing and engine inspections.

HC checks: Performed overnight every 250 days. These checks perform intensive fuselage and wing inspections, and also include functional tests of various systems.

Y checks: Performed over two to three weeks at a two-year interval. This is a "heavy" inspection of fuselage and wings, including several Systems Tests.

In addition to these regularly-scheduled inspections, there are also skin inspections required by six different ADs, which encompass over 1100 pages of instructions. The combination of Southwest's regularly-scheduled maintenance and AD-mandated inspections make our 737 Classic aircraft one of the most carefully and thoroughly inspected aircraft fleets in the world.

The March 2007 events were triggered when Southwest undertook a modification of certain "lap joints" on our aircraft. Once this FAA and Boeing approved modification is performed, it resolves the skin crack issue addressed by the 2004 AD, eliminating the need for more frequent skin inspections in most of the affected areas. The record-keeping error we made with respect to interrelated ADs, was that our inspection paperwork did not include a small portion of the hull that still needed to be inspected under the 2004 AD even after the lap joint modification was performed.

Contrary to some suggestions, we did not miss an inspection. We conducted the required inspections. But, we inadvertently omitted a small area (0.6% of the skin surface) that ordinarily should have been specifically inspected under the AD. The "missed" area continued to be inspected by our other regular and routine inspections, as well as by an additional AD that called for crack

inspections along a line that ran within 0.7 inches of the short length of the "missed" area.

We do not say these things as an excuse for any compliance irregularity, but wish to dispel any perception that we did not inspect our aircraft.

- **Regulatory compliance must be taken seriously**

The analysis supporting the safety of the Boeing 737 should not be construed to suggest that we take regulatory compliance lightly. We continuously monitor our compliance with ADs, and it was pursuant to such an internal audit that we discovered this potential "non-compliance" on our own and took the initiative to inform the FAA. A failure to comply with Federal Aviation Regulations is unacceptable. For that reason, we are taking immediate steps to improve our regulatory compliance systems and auditing.

- **The March 2007 events**

The controversy surrounding Southwest's March 2007 skin crack inspections first came to our attention on February 13, 2008, during discussions of an early February Business Week magazine article entitled, "Airline Safety: A Whistleblower's Tale." Due to the serious allegations asserted, our General Counsel had directed an immediate independent investigation led by outside counsel, which we fully endorsed. That investigation continues to-date. Then on March 5, 2008, Southwest learned, for the first time, that the FAA proposed a civil penalty in connection with these events.

- **Whistleblower allegations**

On March 7, 2008, Chairman Oberstar held a news conference at which he described some of the allegations made by "whistleblowers" within the FAA. This was the first notice we had of any details about the allegations made by the FAA whistleblowers. Obviously, we were concerned about the allegations outlined at this news conference. Our investigation of this matter was ordered to be expedited. On March 10, 2008, we received the preliminary results.

- **Two issues needed to be addressed**

Two issues had to be addressed immediately. The first was that better judgment should have been exercised than to allow those aircraft to fly after the potential non-compliance was discovered. The second was that senior management should have been consulted on such a significant issue, but was not.

- **Was flight safety compromised?**

As always, our first concern was safety, and whether flights were allowed to operate in an unsafe manner. The regulatory compliance issue is a serious one, but, it was critically important to us, Southwest's Employees and our Customers to know whether it was safe to fly. So, we contacted The Boeing Company for its expert opinion, as well as former NTSB Investigator-in-Charge, Gregory A. Feith. Again, those statements are attached hereto for the record. Both confirmed, based on their expert knowledge of the 737 and our comprehensive maintenance program, that "safety was not compromised," and "there was no risk to the flying

public in March 2007." Neither expert was asked to address whether we were in compliance with FAA regulations, which remains a separate and important issue.

- **SWA took immediate action**

On March 10, the same day we received a preliminary briefing on our investigation, Southwest took the following actions:

- Confirmed that senior management will be involved in all decisions of this magnitude
- Reaffirmed to Maintenance and Engineering Department leadership that we will not operate aircraft if there is any credible evidence of AD non-compliance
- Placed on leave the regulatory compliance Employees involved in the March 2007 event

Southwest also initiated a number of additional efforts to strengthen our maintenance and engineering, regulatory compliance, and AD compliance functions, including the following:

- Review of these functions by outside independent experts
- Audit of all open FAA Airworthiness Directives
- Reorganize AD and regulatory compliance functions
- Restructure our Continuing Analysis and Surveillance System
- Increase the number, scope and frequency of audits
- Add more stringent documentation of AD/Maintenance Plan changes

When Southwest, the FAA and independent consultants complete their reviews, we will act quickly to evaluate all findings and recommendations, and incorporate all appropriate changes into our existing processes.

- **Foreign outsourcing of maintenance work**

Separately, we have decided not to move forward with plans to conduct certain maintenance operations in El Salvador, which were to begin in June of 2008. On this point, let us be clear. The decision not to outsource maintenance to a licensed facility in El Salvador was not due to a lack of confidence in the vendor, a fine and respected company by the name of Aeroman. Aeroman has a proven track record. Aeroman has demonstrated its capabilities and its professionalism. The decision to alter our plans with respect to Aeroman was made entirely on the basis that given the intense scrutiny being given to our entire maintenance operation, top to bottom, now was not the time to add complexity with significant changes to our maintenance operations. Rather, now is the time to focus strictly on the regulatory compliance of our existing maintenance operations.

- **Southwest will improve and not merely rest on its safety record**

We want to assure Congress that Southwest will not rest on our safety record, no matter how good it may be. We can and we must strive to seek out any weaknesses and improve on them. We commit to you that we will constructively and aggressively react to the issues raised by this Committee in order to keep our proud, safe airline the safest in the world. Our Southwest people and our Customers demand nothing less.

ATTACHMENT 1

BOEING

Boeing Statement on Southwest Airlines 737 Inspection Activity

SEATTLE, March 06, 2008 -- Southwest Airlines contacted Boeing for verification of its technical opinion that the continued operation of SWA's Classic 737s, for up to 10 days until the airplanes could be reinspected, did not pose a safety of flight issue. Based on a thorough review of many factors, including fleet history and test data, as well as other inspections and maintenance previously incorporated, Boeing concluded the 10-day compliance plan was technically valid. In Boeing's opinion, the safety of the Southwest fleet was not compromised.

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ATTACHMENT 2

407

737 Classic Fuselage Skins

(22 March 2008)

Commercial airplane structure prior to FAA Amendment 25-45 was certified under the design requirement known as 'fail-safe'. Fail-safe structure provides the ability to fly and land safely with significantly large structural damage. Fail-safe design features provide protection against unanticipated, inadvertent damage and maintenance errors that airplanes may encounter in their service life. Fail-safe designs provide inherent robustness in the event of significant structural damage from several possible sources. Sources include fatigue damage, environmental deterioration (corrosion), accidental damage, maintenance errors, manufacturing flaws, and discrete events such as engine burst and impact damage.

Experience has shown that fail-safe design produces structure with a credible safety record. Numerous in-service incidents have demonstrated the ability of Boeing airplanes to fly and land safely with significant structural damage. Fail-safe design provides multiple load paths and damage containment. Generic fail-safe features can be summarized into the following categories:

- Alternate/intermediate/adjacent members that pick up load from failed members
- Fastener capability matched to load redistribution requirements
- Damage containment features, such as fuselage tear straps
- Boundaries of components and subcomponents, such as major joints or heavy frames
- Appropriate operating stress levels
- Material toughness and elongation characteristics

The specific requirements of 14 CFR Part 25, Section 25.571, Amendment 25-0 addressing fail-safe strength states the following: "It must be shown by analysis, tests, or both, that catastrophic failure or excessive deformation, that could adversely affect the flight characteristics of the airplane, are not probable after fatigue or obvious partial failure of a single principal structural element. After these types of failure of a single principal structural element, the remaining structure must be able to withstand static loads corresponding to..."

All fuselage primary flight-loaded structure must be designed to be fail-safe, that is, with sufficient residual strength to carry limit load with failure or partial failure of a principal structural element. This requires that the structure have multiple elements and/or redundant load paths and have adequate damage containment capability for a period of unrepaired use. Limit load conditions must consider tension, compression, shear, internal pressure, combinations of these loads, and, if appropriate, the presence of an active crack, in determining the residual strength.

Fail-safe design concepts should provide for visual damage detection by minimizing hidden critical details. Directed inspections are not considered within the scope of fail safety but are commonly applied to fail-safe structure in situations where fatigue or corrosion have been documented to occur either in-service or in test.

Fail safety has traditionally been achieved by providing multiple load paths and damage containment features with built-up structure. Multiple load path structure is defined as "redundant structure in which (with the failure of individual members) the applied loads would be safely redistributed to other load carrying members." In addition to the inherent load redistribution capability, built-up structure has other benefits related to fail safety:

- Multiple levels of fail safety are provided by allowing intermediate failures before reaching the maximum assumed fail safe damage size.
- A high level of resistance to unanticipated damage sources is provided by having separate members. If damage is initiated in one member, there is typically a significant period of unrepaired use before similar damage is initiated in adjacent members.
- Separate parts and mechanical joints provide boundaries for crack growth, tending to contain a crack in one member for a period of time before damage progresses to an adjacent member.
- Fail-safe capability for adjacent members typically provides significant static margin for non-failed conditions and maintains appropriate stress levels for operating loads.

Damage containment occurs when damage growth is interrupted by encountering an external or internal boundary, or by encountering a reduced stress field which significantly discourages further growth. Included under damage containment is the concept of crack arrest, defined as the "arrest of dynamically extending cracks within a continuous medium". Crack arrest features ensure that unstable rapid crack propagation at any load level up to limit load will be stopped within a continuous area of the structure prior to exceeding the maximum allowable damage.

Fail-safe design as found in 737Classic Fuselage Skin assemblies

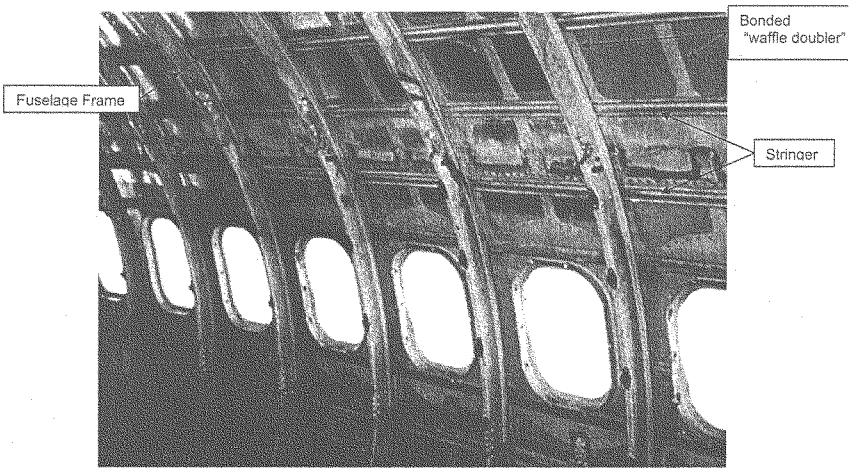
The 737 Classic fuselage is designed to be fail-safe through the use of three separate load paths. Two of the load paths are contained in the skin assembly itself. These load paths are created by structurally bonding two independent layers of material together, the external skin and the internal bonded doubler. Typically, both the skin and doubler are .036 inch thick 2024 aluminum alloy. Fatigue and damage tolerance testing, and in-service experience have clearly demonstrated that this design is effective in containing typical damage and allowing continued safe flight until the damage is detected. This design is effective because when damage occurs in the primary layer (external skin) due to fatigue, corrosion or other causes; the fail-safe internal bonded doubler provides an alternate load path. In this situation, the fail-safe bonded doubler does two things: first it provides an alternate load path for the loads to redistribute load around the damage: and

second, it impedes the growth of the damage, containing it to a safe size until the damage can be discovered and repaired.

The third load path in the fail-safe design of the 737 fuselage is through the frames and stringers. Under normal conditions the frames and stringers share a portion of the load with the skins. When the skin is damaged, the frames and stringers are designed to allow some off-loading from the skin to occur to help redistribute the loads around the skin failure.

Fail-safety and Chem-mill Cracks

The bonded doubler, discussed above, is commonly referred to as a 'waffle doubler' due to its waffle-like pattern (see photo). This waffle pattern is achieved through a process known as "chemical milling" which chemically removes selected areas of the internal bonded doubler. This design feature is one of the critical advancements in aircraft design that allowed the 737 to become one of the most weight-efficient commercial airplanes ever developed. Below is a photograph of an airplane in heavy maintenance, and the skin assembly is clearly visible with the waffle doubler obviously seen between frames.



Though proving to be a dramatic weight savings while at the same time providing all of the fail-safe design features described above, this innovation in skin panel design resulted in a common fatigue detail that did not become evident until large numbers of 737 Classic airplanes had been in service for many years. This phenomena is commonly referred to as "chem-mill step cracking" as detailed in Service Bulletin 737-53A1210. Based on fleet data and fatigue testing, this type of fatigue crack is very well understood and its behavior can be predicted with high confidence. The fundamental fail-safe design philosophy has proven to be an effective way of safely containing this type of crack. For chem.-mill cracking of the external skin, the frames and internal bonded doubler successfully provide all of the fail-safe features intended. The internal bonded doubler and frames safely redistribute loads around the chem-mill crack in the skin, and the waffle pattern of the internal doubler provides physical boundaries that inhibit fatigue crack growth and contains cracks to a size that allows for continued safe operation of the airplane until the cracks are discovered by directed inspections.

Issues unique to the 1988 decompression accident

The configuration of the airplane involved in the decompression accident of 1988 was unique to the first 291 737-100/-200 airplanes ever produced. That early production configuration included a 'cold bonded' lap joint design that was phased out after in-service experience demonstrated several drawbacks. The room temperature cure adhesive used in this configuration was very difficult to assemble and commonly disbonded early in the life of these airplanes. This disbonded condition, if left unrepaired, frequently resulted in two unrelated conditions. Early fatigue cracks at the upper row of lap joint fasteners were found to occur due to high stress levels at the edge of each hole. Secondly, when left unchecked, moisture ingression into the disbonded lap joints occurred and corrosion commonly resulted. When working in combination, durability of these lap joints was difficult to predict and consequently, Boeing issued a Service Bulletin in 1972 that recommended inspections and eventually modification of this lap joint configuration. In the case of the subject accident airplane, a sudden uncontrolled decompression resulted due to the interaction of many small fatigue cracks and large areas of unrepaired corrosion.

This condition fundamentally does not occur with any 737 airplanes produced after Line Number 291, and in fact, none of those airplanes registered in the United States are in revenue service today.

ATTACHMENT 3



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Safety of Flight Assessment

I was requested by Southwest Airlines (SWA) to review and assess the potential safety of flight risk that could have resulted from the continued in-service operation of 46 of their Classic 737 airplanes in March 2007 as they progressively inspected a small area (under 0.6%) of the fuselage skin as required by FAA Airworthiness Directive 2004-18-06. The assessment involved the review of technical documents associated with both mandatory and non-mandatory inspections, pertinent service/maintenance history for the 46 airplanes, a technical briefing by the Southwest Airlines Engineering Department and technical data/analysis provided by Boeing (the airplane manufacturer) related to structural integrity of fuselage skin cracks that were found on five of the 46 SWA airplanes. The scope of the assessment was confined to the safety of flight issues only.

Based on the information I have reviewed, it is apparent that on March 15, 2007, SWA initiated re-inspection of the affected airplanes to accomplish the inadvertently missed portion of FAA Airworthiness Directive (AD) 2004-18-06. A review of the historical information that led to the issuance of the AD indicates that a progressive inspection for fuselage skin cracking was initially distributed to operators in the form of a "non-mandatory" Service Bulletin (SB) that provided "risk mitigation" actions that operators were encouraged to incorporate into their maintenance program. This Service Bulletin was based, in large part, on an inspection program developed by Southwest Airlines. The issuance of the AD was a continued effort to ensure that cracks in the fuselage skin on the Boeing 737 airplanes was identified and mitigated well before they could pose a safety of flight issue. It is evident from the 4500 hour initial inspection requirement (regardless of aircraft age (i.e.flight cycles)) that the FAA did not regard the skin cracking as an "immediate threat" to the safety of flight of the airplane. Thus, the FAA Airworthiness Directive permitted aircraft to remain in-service for approximately 1½ years, until a normally scheduled heavy maintenance visit occurred, before the first inspection was required.

In addition, it is evident from the analysis and testing data developed by Boeing that cracks up to 6 inches in the fuselage skin do not compromise the structural integrity or pose a safety of flight issue. This is further supported by the design of the fuselage structure which incorporates "internal reinforcing doublers in the skin assembly" and "tearstraps", both of which are intended to provide strength, and slow or abate the growth rate of a crack under normal operating aerodynamic loads.

Based on the available data and information reviewed, it is apparent that there was no risk to the flying public in March 2007 while Southwest Airlines performed their program to re-inspect the small area of aircraft fuselages identified in the AD inspection that was inadvertently missed.

Gregory A. Feith
International Aviation Safety & Security Consultant



Mr. Feith is a former National Transportation Safety Board (NTSB) Senior Air Safety Investigator with a wide range of aviation investigative, safety and experience. He has investigated hundreds of general aviation, business/corporate and air transport aircraft incidents and accidents worldwide during his 28 years as an aircraft accident investigator and aviation safety expert, of which more than 20 years was with the NTSB. Greg served as the Investigator-in-Charge or U.S. Accredited Representative for the investigation of numerous high profile aircraft accidents that include the Valujet DC-9 in-flight fire in the Florida Everglades in 1996; the American Eagle ATR 72 in-flight icing accident at Roselawn, Indiana in 1994; the USAir DC-9 windshear accident at Charlotte in 1994; the Korean Air 747-300 controlled flight into terrain at Guam in 1997; the American Airlines MD-83 runway overrun at Little Rock in 1999; the Emery Worldwide Airlines DC-8 elevator control failure at Sacramento in 2000; the Swiss Air MD-11 in Peggy's Cove, Nova Scotia in 1998; and the Silk Air Boeing 737 in Palembang, Sumatra in 1997.

Greg has won numerous NTSB and aviation industry awards and was the recipient of an **Aviation Week and Space Technology Laurel Award in 1996** for his leadership in the investigation of the Valujet DC-9 in-flight fire accident in the Florida Everglades. He also received the 2001 Embry-Riddle Aeronautical University Distinguished Alumni Award for "extraordinary distinction and success in the field of aviation and achievements;" and the **SAFE Association, Michael R. Grost Award** for "outstanding contribution in the field of accident investigation."

Greg is currently in private practice as an international aviation safety and security consultant specializing in: aircraft accident investigation, reconstruction and flight safety; expert witness testimony; general aviation, business/corporate and commercial airline flight safety and security program design, development, implementation and evaluation; and business/corporate and commercial airline emergency response (ERP) and crisis management program development and evaluation. He is also a principle member of The Aviation Response Management Advisory Group (TARMAC), which is comprised of former NTSB, FAA, FBI, NYCPD and U.N. experts dedicated to analyzing, developing and implementing programs that enhance both the flight safety and security of corporate/business aviation flight operations.

Greg is widely known and respected for his frequent public speaking engagements and safety lecture; involvement in aviation safety and security education programs, and his persona as an instructor at Embry-Riddle Aeronautical University in the area of accident investigation/reconstruction and aviation safety. Greg regularly appears in a variety of aviation safety-related television programs on Discovery, TLC, the History Channel, **"Seconds to Disaster"** on National Geographic and PBS. He is the host of a television series on the History Channel titled **Secrets of the Black Box,** dedicated to telling the story about the investigation of aircraft accidents and the "Lessons Learned" that have enhanced the safety of aviation. In addition, he is a frequent contributor to various writers for articles in aviation publications such as Business & Commercial Aviation, Aviation Week and Space Technology and Aviation International News. Greg is seen regularly as an aviation safety and security expert on NBC, MSNBC and other major networks worldwide.

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ATTACHMENT 4

SOUTHWEST AIRLINES' SAFETY INITIATIVES

I. Southwest Airlines' Leadership in Safety Initiatives

- Safety personnel at Southwest Airlines include graduates of the University of Southern California's Aviation Safety and Security Program. Our people also have completed many safety programs at the Southern California Safety Institute, the FAA Academy's Transportation Safety Institute, the NTSB Academy, and have gained professional development through the International Society of Air Safety Investigators, of which six Southwest employees are full members. Various Southwest employees participate on the Air Transport Association (ATA) Flight, Ground, and Cabin Safety Committees. Southwest Airlines participates and sponsors the annual Cabin Safety Symposium held in North America. Southwest Airlines is a long time full member of the Flight Safety Foundation. More than 100 of our employees have completed the FAA's System Safety Course, including a group of 52 who undertook the instruction when we sponsored three FAA Instructors to convene the three-day course at Southwest Airlines' Headquarters.

- Industry, Boeing, and FAA partnered to create the Industry Maintenance Steering Group (MSG-3), a new maintenance program for the -200, -300, -400, and -500 models of the 737 aircraft. Southwest Airlines was a major contributor of both data and technical expertise that were used to create the MSG-3 logic-based maintenance program for these aircraft. MSG-3 improves upon the predecessor MSG-2 program by incorporating the most current methodology, thereby promoting a higher level of safety. While adopting the MSG-3 program is voluntary for carriers which were operating these models of the 737 prior to its release in 2004, Southwest Airlines is continuing the process of transitioning its fleet of 737-300/500 aircraft from an MSG-2 based maintenance program to an MSG-3 based maintenance program. The 737-700 uses a maintenance program based on MSG-3.

- Southwest Airlines has worked closely with Boeing and the FAA to develop new inspections and modifications, many of which were developed in advance of regulatory requirements.

    ◊ It was Southwest which led the way to implementation of the Chem Mill Airworthiness Directive (AD). In June 1999, because of cracks observed at the chem-milled areas of the aircraft skins bonded adjacent to lap joints, Southwest developed two inspection documents to mitigate safety concerns.

The first document, issued in August 1999, prescribed a one-time external ultrasonic inspection to verify that the bonded internal skin panel was still intact. The second inspection document was issued the following month (September 1999) and prescribed an external close visual inspection of the chem-mill areas adjacent to lap joint at stringers 4, 10 and 14 (crown area), which was repeated every "B" check (every 100 days).

As these inspections were developed, we were reporting our findings to Boeing. In December 2000, Boeing issued Service Bulletin (SB) 737-53-1210 to address this type of cracking on the 737 Classic fleet. In October 2004, the FAA mandated compliance with this Service Bulletin by issuance of what is most commonly known as the Chem Mill AD.

◊ The Extreme Makeover Program is an assortment of voluntary alterations, to the exterior skin panels and interior structural components, to address the structural durability of the 737-300 and -500 aircraft. In the course of these alterations, several elective and Airworthiness Directive-mandated inspections are being addressed.

In 2004, Southwest Airlines initiated a study to pinpoint which areas of the fuselage are the most troublesome. This study substantiated that the lower fuselage lobe and particularly ten skin/bonded panels (four forward of the front spar and six aft of the rear spar) are the most prone to fatigue cracking.

Southwest Airlines worked closely with Boeing and the FAA and developed a new Service Bulletin that replaces the ten lower crack-prone skin panels with new solid skin panels. The installation of these new panels addressed all mandatory inspections of the following ADs at the common areas of the modification:

- AD 2002-07-08 "Lap-joint & Window Corner AD"
- AD 2003-14-06 "Skin/Bonded Doubler Inspections"
- AD 2004-18-06 "Chem Mill Inspections AD"
- AD 2005-07-19 "Cargo Doorway Skin Panel Inspections"
- AD 2006-07-12 "Scribe Inspections"

Further, Southwest Airlines provides to Boeing the removed production panels from the oldest 737-300 airplanes to assist Boeing with its on-going investigation to better address fleet aging concerns such as scribes, lower lap-joints fastener inspections, and in general fatigue assessments of aged structure.

◊ In 2002, the FAA issued an Immediate Adapted Rule AD 2002-22-05 applicable to all Boeing Model 737 Classic aircraft to require repetitive inspections to find fractures of the spindles on the wing flap systems. The AD required repetitive inspections ranging from daily inspections to inspections every three days

based on the overhaul age of each component. The inspections often produced inconsistent and inaccurate results because of the lack of uniformity in their application by the various operators of the 737 Classic aircraft.

Southwest hosted a training session/seminar at our Dallas Maintenance Headquarters that was attended by multiple 737 operators, Boeing, and the FAA to show how to properly inspect the flaps. From this session, Southwest developed a training video which we shared with Boeing. Boeing, with Southwest Airlines' permission and FAA concurrence, distributed this video around the world to every 737 Classic operator as a visual aid to assist in seeing that these critical inspections were accomplished properly. Southwest received recognition from the FAA, the NTSB, Boeing, the Air Transport Association (ATA), and many other operators for making available such valuable information, all in the name of aiding the industry in the interest of safety.

◊ In August 2007, the FAA issued Emergency AD 2007-18-15 for inspections of the wing leading edge slat track downstop assemblies for loose hardware. Over the next several days, Southwest, as the Lead Airline for the 737 Fleet, worked closely with the FAA, the NTSB, and Boeing, to rapidly develop an inspection plan for the worldwide fleet.

When the AD was released, although the AD allowed 24 days to accomplish these inspections, Southwest Airlines was the first and only airline to accomplish these inspections within five days from AD issuance on all affected airplanes. By accomplishing the inspections of our fleet so quickly, we were able to provide valuable feedback to the NTSB, the FAA, Boeing, and other domestic and international operators on our findings and unique how-to instructions and sequencing for access requirements. Again, Southwest received recognition from the NTSB, the FAA, Boeing, and numerous operators on how aggressively we stepped up and addressed such an important safety issue.

- Solid-State Cockpit Voice Recorder (CVR) Conversion — Southwest Airlines contracted with Honeywell in December 1999 to upgrade/convert Southwest Airlines CVRs to include two-hour recording capability, thus anticipating by nine years the requirements of the Final Rule issued on March 7, 2008, mandating such conversion by March 31, 2010.

- Required Navigation Performance (RNP) — Working with the FAA in this collaborative effort, Southwest Airlines has committed to equipping its entire aircraft fleet with RNP capability, at which point Southwest will have more aircraft so equipped than any other domestic air carrier. RNP provides very accurate lateral and vertical guidance, which allows precise navigation accuracy without the use of ground based navigation systems. This capability enhances safety by accurately containing the aircraft flight path and provides precision guidance to runways that

are not served with instrument landing systems. RNP also enables capacity improvement in the National Airspace System, increases efficiency, and reduces the environmental impact of aviation.

- Aviation Safety Action Partnership (ASAP) Programs — The objective is to enhance aviation safety by preventing accidents and incidents by generating trend information that would otherwise be unobtainable:

  ◊ The initial Flight Operations Memorandum of Understanding (MOU) was signed by officials from Southwest Airlines, the Southwest Airlines Pilots' Association (SWAPA), and the FAA on July 27, 2000 as an 18-month demonstration program. The "Continuing Program" began on June 6, 2002, and was extended per a MOU revision in July 2007.

  ◊ The initial Maintenance Memorandum of Understanding (MOU) was signed by officials from Southwest Airlines, the International Brotherhood of Teamsters, the Aircraft Mechanics Fraternal Association, and the FAA on September 4, 2001 as an 18-month demonstration program. The "Continuing Program" began upon expiration of the demonstration program and has been renewed for successive two-year terms with the current term set to expire, unless sooner voluntarily terminated, on October 5, 2008.

  ◊ The initial Dispatch Memorandum of Understanding (MOU) was signed by officials from Southwest Airlines, the Southwest Airlines Employee Association, and the FAA in March 2003 as an 18-month demonstration program. The Continuing Program remains in place per a MOU revision, dated October 3, 2007, extending the Partnership until October 3, 2009.

- Systematic Approach For Eliminating Risk (SAFER) Program — Southwest's Maintenance Department has been at the forefront of the System Safety initiative, constituting the SAFER program in 2005. This program was industry leading at adoption and continues to assist our Maintenance organization to proactively identify, eliminate, or mitigate risks that would have a negative impact to safety for our employees, customers, and aircraft.

- Heads-up Guidance System (HGS) — In January 2005, Southwest Airlines began voluntary installation and training of HGS. The HGS provides the pilot with a full complement of aircraft situational data as well as two unique types of information derived from inertial sensors: flight path and flight path acceleration. In addition, a sophisticated guidance cue is used to direct control inputs by the pilot. The interrelationship of these indications, in combination with other flight data displayed, keeps the pilot continually aware of the aircraft position, flight path and energy state, and, as a result, allows for extremely precise aircraft control. The HGS is specifically designed to be flown manually, even under extremely low visibility conditions.

In addition, because HGS keeps the pilot continually aware of how environmental conditions are affecting the flight path, the ability to avoid or fly out of potentially dangerous windshear encounters is enhanced.

- 737 Rudder System Enhancement Program (RSEP) Rudder Modifications — In January 2003, Southwest Airlines modified and returned to service the first Boeing 737 aircraft with the rudder system modification known as RSEP. Since then, Southwest has modified more than 300 additional existing aircraft and has received another 177 new aircraft with this modification.

- Onboard Performance Computers — Southwest introduced onboard performance computers in 1997. The usefulness of this tool is analogous to the transition from long hand multiplication and division to a calculator. Where performance was formerly extracted from tables and charts (with a commensurate probability for human error), we now have computer-generated data that is precise for all phases of flight and provides our flight crews with the ability to quickly and accurately determine the optimum performance capabilities of the aircraft for any given flight segment. No other major Part 121 carrier had the capability to do this, and only recently have efforts been made by those carriers and Boeing to certify tools to do what Southwest Airlines has had in place for more than a decade. Southwest continues to improve the system with new and improved features to enhance safety.

- Communications Management Unit (CMU) — The CMU is the central computer handling the Aircraft Communications and Reporting System (ACARS) functionality. Southwest uses this system to monitor and log critical aircraft parameters and send reports when aircraft safety parameters are exceeded so that Maintenance, Flight Operations, and Dispatch personnel can take action. Southwest also receives reports on stable cruise data to help evaluate the overall performance of our fleet and identify when an aircraft or fleet of aircraft require additional monitoring. The functionality of the CMU is being constantly evaluated and upgraded as new technologies increase its usefulness to the fleet.

- Enhanced Ground Proximity Warning Systems (EGPWS) and Predictive Windshear — EGPWS uses aircraft inputs such as position, attitude, air speed and glideslope, which along with internal terrain, obstacles, and airport databases, to predict a potential conflict between the aircraft's flight path and terrain or an obstacle. This system has been instrumental in the significant reduction of the number of airline industry Controlled Flight Into Terrain (CFIT) accidents.

  EGPWS/TAWS was a CFR Part 91 Rule requirement to be accomplished by March 29, 2005. Southwest Airlines began installations in January 1995 and completed EGPWS installations in October 2004. Predictive Windshear, derived from the Weather Radar system, while not mandated, has been installed fleet wide.

- Southwest's Operations and Safety Programs have been included in the bi-annual audit conducted by the Department of Defense (DoD) under the Air Carrier Safety

Program. The DoD, which audits each U.S. airline authorized to carry military personnel, has lauded Southwest Airlines' safety programs following each audit.

- Pilot Hiring Requirements — Southwest has among the most stringent hiring requirements of any airline worldwide. To be hired, each pilot must possess a U.S. FAA Airline Transport Pilot Certificate, Unrestricted U.S. Type Rating on a Boeing 737. In addition, each candidate must have actual flight experience of 2,500 hours total or 1,500 hours turbine total, including a minimum of 1,000 hours in turbine aircraft as the pilot in command. Southwest Airlines defines "Pilot in Command" (PIC) for the purposes of application for employment as the pilot ultimately responsible for the operation and safety of the aircraft during flight. Southwest considers only pilot time in fixed-wing aircraft. In essence, all Southwest Airlines pilots are qualified as PICs/captains.

- Flight Instruction — Southwest Airlines' team of flight instructors has in excess of 1,000,000 hours of actual flight time experience. To initially qualify, each Southwest flight instructor must possess a FAA-issued Airline Transport Pilot Certificate with a B737 Airplane Type Rating. Additionally, each flight instructor must satisfactorily complete the initial training required to be completed by a Southwest first officer and the upgrade training required to be completed by a Southwest Airlines captain. Specialized training is required for the enhancement of instructor skills, the use of standardized lessons, the operation of the various training equipment instructor controls, and the importance of creating accurate and complete qualification records.

- Aircraft Technician Requirements — Southwest requires all related maintenance functions to be performed by an airframe and power plant (A & P) federally licensed aircraft technician. The necessary qualifications to be hired as an aircraft technician at Southwest are among the most stringent in the airline industry. To be considered for employment, aircraft technicians must possess a current A & P License and have a minimum of two years of heavy aircraft (12,500 pounds or more) experience or equivalent experience with systems similar to Boeing 737 aircraft. Southwest's technicians are required to maintain consistent experience and training in all areas of aircraft maintenance, allowing our technicians to remain current and proficient at all levels of maintenance functions.

- Aircraft Technician Apprentice Program — Southwest also maintains an Aircraft Technician Apprentice Program that is somewhat unique to the industry. Under this program, current Southwest employees from other work groups that have an A & P license, but less than the required heavy aircraft experience, train under the constant supervision of Southwest A & P mechanics for 18 months to gain the requisite experience. Upon successful completion of this program, including an additional six-month probationary period, an apprentice has the benefit of focused training and experience in a controlled environment from some of the best mechanics in the industry.

- Crew Resource Management (CRM) — CRM consists of training given to pilots and other participants to ensure recognition and the most beneficial use of all available resources for detecting and solving operational problems. Southwest CRM training began on December 13, 1989. Southwest utilizes internal and external resources – including Human Factors expertise from NASA Ames Research and subject matter experts from the University of Texas – to make sure our CRM training is continuously improved and updated to allow focus on the use of best available resources and techniques.

- Operations Coordination Center (OCC) — The Director of Operations and the OCC, including Dispatch and Maintenance Control, enhance safety by providing a real-time focus on CRM. Real-time communication allows Southwest to develop a verified, accurate assessment of environmental and operational conditions, thereby enabling collaborative decision making with regard to daily operations that enhance safety and efficiency. Information from the processes involved is shared with operational department leaders on an ad hoc basis, as well as more formally during the biweekly "Ops Roundup" meetings.

- Southwest Integrated Flight Tracking system (SWIFT) and Aircraft Situation Displays (ASD) – Southwest uses these technology tools in the OCC. They provide visual alerts (color changes, dialogue boxes, etc.) to assure continuous recognition of changing conditions. Yet another CRM tool, SWIFT enables the OCC to "lock down" a flight/aircraft with known maintenance requirements and prevent departure until the particular condition is addressed.

- Southwest Airlines Normal Operations Team (SNORT) — During 2002, in order to address information garnered from monitoring ASAP reports, Southwest partnered with representatives from the Human Factors, Human-Systems Integration Division of NASA Ames Research, led by Dr. Immanuel Barshi, to form the Southwest Normal Operations Review Team. During the ensuing two-year period, this team, which included Southwest pilots, check airmen, and flight instructors, focused on the development and implementation of a new, innovative method of carrying out flight operations flight deck procedures, thereby enhancing safety through increased focus on standardized procedures. The Flight Training Center trained all pilots in the new procedures from January 1, 2004 through April 20, 2004.

  The SNORT process and the resulting procedures have been recognized by the FAA to represent a leading-edge initiative, and, most importantly, have been proven to be very successful in enhancing the safety of Southwest's operation through auditing procedures and acceptance by Southwest pilots. Flight operations safety data collected through the Flight Data Analysis Program validates that the improvements to our normal operating procedures increased the level of focus on consistency and standardization, with a corresponding enhancement of operational safety.

- Flight Data Analysis Program (FDAP) — Similar to the Flight Operations Quality Assurance (FOQA) programs of other major carriers, the FDAP Implementation and Operations Plan was adopted in August 2001, with overwhelming support from Southwest pilots and SWAPA, in furtherance of the FAA's endorsement of the development and implementation of voluntary FOQA programs as a tool for continuously monitoring and evaluating operational practices and procedures–specifically one of the programs identified as included as part of a carrier's Internal Evaluation Program.

  FDAP enables the routine analysis of flight data. Analysis of FDAP aggregate data provides significant benefits because it identifies trends that highlight potential problems and enables corrective steps to be implemented before accidents happen. The Southwest Airlines FDAP program now analyzes more flights per month than any other airline in the world, with 340-plus aircraft being monitored by the program and 47,000-plus flights reviewed each month. Southwest Airlines now has more than 1.1 million flights in its database.

- Voluntary Aviation Safety Information (VASI) — While FDAP and ASAP are encompassed within VASI programs at Southwest Airlines, the extension of these programs to enhance safety throughout our industry is evidenced by our involvement in the FAA industry information sharing efforts. Southwest employees have been key contributors to the development of the effective FOQA Advisory Circular, as well as "Threat and Error Management"/ASAP software. In conjunction with another carrier (UPS), we essentially wrote the Aviation Safety Information and Analysis System (ASIAS) and advocated for its acceptance by additional airlines and pilot associations, including the Allied Pilots Association and the Air Line Pilots Association. ASIAS is one of the key FAA initiatives for NEXGEN and the future U.S. System Safety processes as it enables sharing safety information from existing FOQA and ASAP programs.

  By committing our people and our information to this effort, we were the first airline to agree to send its safety information across the internet, saving the FAA substantial dollars in recurring costs. We lead the first combined airline FOQA data sharing initiative in 2005 and have been directly involved in every effort since. No other U.S. airline has committed more resources to this effort, and we believe we can be considered and are recognized as the industry experts in this area. We did this of our own volition, without expectation of any type of recognition or reimbursement, because of our sincere belief that doing so enhances the safety of our industry and the traveling public.

- Turbulence Safety Action Team (TSAT) — Southwest Airlines established the TSAT in 2004. The team includes representatives from Flight Operations, Dispatch, Operational Safety, Inflight, and Flight Operations Training to retrospectively analyze and examine events that occurred as a result of encountering turbulence during flight. With the benefit of relevant and specific event data, including the turbulence plots, weather, injury, and response data, the TSAT focuses on how to improve our

operations by learning from these occurrences to decrease the likelihood of future events, thereby mitigating the potential of injuries to our customers and flight crews.

- First Aid/Cardiopulmonary Resuscitation (CPR)/Automated External Defibrillation (AED) Training — Including all employee groups, National Safety Council (NSC) certified training has been provided to in excess of 11,000 Southwest Airlines employees:

  ◊ All Station Leadership is required to attend the CPR/AED/First Aid course instructed in accordance with NSC standards every two years. This course is also offered on an optional basis for employees covered by a Collective Bargaining Agreement.

  ◊ We have also trained Maintenance "new hire" employees, as well as a select group of mechanics, to support confined space entry needs in maintenance operations. Other internal customers include Reservations, Flight Operations, and In-Flight. To enhance our capability to respond quickly to medical emergencies on our Headquarters campus, we trained our contract security personnel and the staff of our cafeteria contract service.

  ◊ Southwest achieved NSC approval of the First Aid, CPR AED instruction provided to our flight attendants, which means each of our flight attendants are NSC Certified. Southwest is the first airline to have achieved such approval and certification. Working with the NSC, we developed and obtained approval of the first "recurrent" training program for this course.

  ◊ In conjunction with our training program, we have purchased and installed AEDs in Ground Operations, Provisioning, and Maintenance at locations that have at least 50% of their target group employees trained to assure availability of this important device within reasonable proximity. This is not the first time we have ventured into the AED acquisition market. We have them on every airplane and have even placed them in airport terminals when the local authority did not have funding to do so.

- Emergency Preparedness —

  ◊ The NTSB has observed our emergency preparedness exercises and has made presentations to Southwest Airlines' Emergency Response Committee. At the NTSB's request, our Station Emergency Program Team partnered with the NTSB to develop a Station Emergency Training class.

  ◊ The NTSB has recognized Southwest Airlines for "taking a proactive approach to Emergency Preparedness and... doing a good job at preparing our Employees." The NTSB has shown our original version of *Everyone Counts* at its Training Center, and it shows Gary Kelly's Flight 1248 media briefing in their "Managing Communications After an Aircraft Disaster" course.

- ◊ Virtually all of Southwest Airlines' executives serve on our Emergency Response Committee and have a role in a crisis.

- Infant Fares — To make travel more affordable for customers who reserve and purchase seats for children under two years old, Southwest Airlines is the only airline that offers deeply discounted Infant Fares because it has been proven safer for a child to travel in an approved child restraint device rather than in the lap of an adult.

II. Departmental Safety Focus

- Flight Operations — To assure achievement of the highest level of safety throughout our operations, our commitment is to obtain, validate, and analyze all available information and data, including information garnered directly from our pilots and all operational departments, and ensure development and incorporation of best operating practices into, and delivery to proficiency through, our training and all aspects of our operation.

  Inflight — Our commitment is to foster and support a safety culture in Inflight that identifies risks to the operation and employees and proactively deals with these issues before they become injuries or accidents. After an injury, incident or accident occurs, we will investigate for the well-being of the individual involved and to gather information for prevention of future injuries.

- Ground Operations and Provisioning — Our continuous commitment to action and enhanced structure identifies our support for continuing to enhance the safety culture attendant to all aspects of our operations, including maintaining a vigilant focus on quality assurance, thereby enabling our ability to monitor, measure and improve training, and behaviors in every regard. This inures to the benefit of our employees and our customers, as well as our aircraft and equipment.

- Fuel Operations — The crux of Fuel Operations' safety/quality focus is the Fueling and Fuel Quality Manual, which is used to assure the safe and proper fueling of our aircraft. Its procedures and standards are derived from the ATA's Standards for Jet Fuel Quality Control at Airports, commonly known as ATA Specification103, and also from Boeing, GE, the National Fire Protection Association, the American Petroleum Institute, and the American Society for Testing and Materials. Maintenance Quality Assurance conducts an annual audit of Fuel Operations to ensure we are meeting the needs of the Company and that our methods, tools, reviews and procedures meet the highest levels of safety.

- Maintenance — Our commitment is to meet and exceed our responsibility to assure the highest level of professionalism, workmanship, and compliance with regard to maintaining the airworthiness and operational performance of each Southwest

Airlines aircraft, including its components systems, mechanisms, and structure, to ensure the personal safety of each Southwest customer and employee.

- Operations Coordination Center (OCC) — The commitment of the OCC is to meet the continuous and omnipresent needs of Southwest Airlines for real time situational awareness and communication with each of its operating departments and thereby assuring that we are operating in the safest operating environment.

III. Companywide Safety Focus

- The commitment of the Safety, Security and Environmental Department is to serve as a resource to all of Southwest Airlines in areas of safety, security, and environmental regulation, compliance, training, investigation, and internal evaluation. Technical support is provided to assure proper procedures, resources, and oversight are available and utilized to maximize injury prevention and minimize the occurrence of accidents and incidents.

  Southwest has numerous voluntary reporting programs, all of which are non-jeopardy programs that encourage our employees to come forward with observations and suggestions, thereby enhancing the likelihood we can appropriately assess attendant risk and move forward to remedy hazardous conditions before an injury, accident, or incident occurs. We are not content with what we have in place, though, and are focused on developing ASAP-like programs in Inflight, Ground Operations, and Provisioning.

  Newsletters are a common method of communicating at Southwest Airlines, ranging from the monthly *LUVLines* corporate newsletter to the *Onboard* newsletter published by our Inflight Department to *From the Ground Up* in Ground Operations and *Plane Talk* in Maintenance, to name but a few. All of these periodicals regularly feature a focus on safety.

  Our Certification and Compliance and Safety Performance Teams are fully engaged with the operations groups to assure we meet the parameters of the Air Transportation Oversight System, as well as address all issues identified in the recent International Air Transport Association (IATA) Operational Safety Audit (IOSA) gap analysis we voluntarily initiated. Meeting these goals will further enhance the safety of our operations.

  Safety at Southwest is vibrant and our efforts vigorous. We recognize, however, that our efforts must be ever-increasing to assure we maintain the highest levels of safety and thereby continue to earn and warrant the trust of our customers and our employees.

- The Southwest Airlines' Safety Commitment was endorsed by Gary Kelly and Colleen Barrett in June 2007 to more formally state the focus of our Safety Culture and has been incorporated within our Guidelines for Leaders. We are

focused on making sure this becomes a part of the fabric of our workplace through not only our Safety Representatives and Field Leadership, but by promoting the various voluntary reporting mechanisms in place. We are also in the process of evaluating and implementing additional/improved reporting mechanisms, including electronic access to Safety Recommendation Reports — a voluntary mechanism currently available in paper format throughout Southwest Airlines — and additional 24-hour telephone communication vehicles.

- While monthly interdepartmental meetings focused on safety have been in place in the Maintenance and Safety Departments since 1999, the Operational Safety Committee was organized in 2006 to further this practice throughout the company's operational departments. This Committee brings together safety leaders from across operational lines to jointly focus on, prioritize, and resolve safety issues and meets monthly. This Committee is responsible for coordinating the safety efforts across the operation and for developing the risk mitigation strategies for our airline. Examples of focuses to date include our weight and balance process, regular discussion of safety data, development of a companywide Safety Management System, Field Condition Reporting, dissemination of ASAP/Irregularity Report information, updates on operational events, and support of the FAA "Call to Action" to reduce runway incursion occurrences.

- An Operational Safety Investigation Protocol has been developed based upon the Flight Operations Safety Mediated Debrief program to provide a better focus on particular events involving multiple departments. The protocol allows gathering and development of information in a "non-punitive environment" to be used to enhance safety processes and procedures.

- Southwest Airlines voluntarily commissioned an IATA IOSA Gap Analysis – which is not required for our domestic operations – as an assessment of how we are functioning as a company from a safety perspective. According to the auditors, Southwest Airlines is one of the few airlines to have conducted this comprehensive industry leading audit before being required to do so. The audit was conducted in December 2007, and we received the report in January 2008. The report's findings and recommendations are currently being addressed.

- The Safety @ SWA program began in Ground Operations in 1999 and currently continues at all of our Maintenance, Station, Ground Operations, Provisioning, and Inflight Base locations, with monthly focuses, regular meetings, and our annual interdepartmental conferences, which include Senior Leadership participation. The safety representatives participating in the program include supervisors, managers, agents, mechanics, and flight attendants who are active in our operations, promote adherence to safety processes and procedures at their locations and bring their day to day experience to our corporate focus on enhancing all aspects of the safety of our operations.

- On an annual basis, the Ground Service Equipment group (GSE) within the Ground Operations Department selects approximately ten Southwest Airlines cities in which it conducts a full equipment evaluation. These evaluations, performed jointly with local leadership, union representatives and Safety Department members, allow GSE to thoroughly review the status of equipment for that location. It allows for a hands-on physical evaluation of all vehicles, a review of local preventive maintenance programs and shop facilities, and also provides local union leadership and employees the opportunity to raise questions or voice concerns about equipment issues. The ramp walks are conducted over a two-day period and generally include at least one GSE Regional Director and five GSE managers from various Southwest Airlines locations. The first day includes a review of all equipment on the ramp, in Provisioning and in Cargo. The second day includes a briefing with local leadership on the status of equipment followed by attendance at the normally scheduled monthly safety meeting.

- An overview of the Safety, Security and Environmental Services Department, together with a case study, is provided to our front line leaders to provide guidance regarding the expectations of Leaders at Southwest Airlines with regard to safety, as well as to let them know what safety resources available. In addition, annual OSHA/EPA required safety training classes are required for all Ground Operations and Provisioning employees. Course of instruction includes topics such as HAZCOM, Lockout/Tagout, Fire Protection, Emergency Action Plans, Hearing Protection, and Hazardous Waste Operations and Emergency Response Standard (HAZWOPER).

- Through participation with the ATA Ground Safety Committee, which is currently chaired by a Southwest Airlines' Safety Manager, Southwest is actively involved in collaborative initiatives to develop best practices to investigate aircraft damage and equipment incidents, develop a ramp area driving safety program, and prevent passenger loading bridge damage. We are also active in the NSC Aviation Safety Committee program to prepare an industry standard guideline for ergonomics in aviation, focused on all aspects of ergonomics from clerical and administrative functions to baggage handlers. We also participated with OSHA and the NSC in an OSHA Alliance focused on baggage handling in ticket counter operations.

IV. Awards and Recognition

- **World's Safest Airlines, 1990** — *Condé Nast* ranked Southwest Airlines number one for best record by number of flights and number one for best record by number of passengers carried.

- **Airport Safety Excellence Award, 2001** — Indianapolis International Airport Received the "Airport Safety Excellence Award" for 2001 from the Great Lakes Region Airports division of the Federal Aviation Administration.

- **Diamond Award Certificate of Excellence 1999, 2003, and 2005** — The FAA honored Southwest Airlines' Maintenance and Engineering Department with the Award in recognition for its maintenance training program. The award is the highest level given by the FAA to airlines in recognition of maintenance training.

- **Safety Performance Survey, 2005** — Highest in flight Safety, the most well-maintained fleet, and best overall performer.

- **PAMA Gold Metal, 2005, 2006, & 2007** — Over the past three years, Southwest Airlines Maintenance Technicians have participated in the Professional Aviation Maintenance Associations (PAMA) Olympics designed to test the Mechanics' all-around knowledge of aircraft maintenance, highlighting Safety, quality, and adherence to procedures. Southwest Airlines placed in the top three in 2005 and 2006 and achieved first place in 2007.

- **Environmental Excellence Award, 2007** — The Port of Portland presented Southwest Airlines with an Environmental Excellence Award in recognition of an exemplary effort in the category of Environmental Innovation.

- **5 Year Blue Thumb Award, 2007** — City of Dallas for outstanding compliance with the pre-treatment of wastewater.

Testimony of

Terry D. Lambert
Manager ASW-290
Safety Analysis and Evaluations Branch

Regarding

Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory "Partnership Programs"

Before the U.S House of Representatives
Committee on Transportation and Infrastructure

April 3, 2008

My name is Terry D. Lambert. I have been an Aviation Safety Inspector with the Federal Aviation Administration since February 1998. I have been assigned as Manager of the Safety Analysis and Evaluation Branch (ASW-290) since April 1, 2007.

The ASW-290 Branch performs analysis of safety related data and provides timely reporting to the Division Management Team (DMT). Additionally, the ASW-290 Branch serves as the focal point for field office evaluations and other special investigations and studies as needed.

In early May 2007, I was assigned as a technical expert to assist the Civil Aviation Security Division, ASW-700, conduct an investigation into an anonymous hotline complaint concerning Douglas Gawadzinski, Supervisory Principal Maintenance Inspector (SPMI) for the Southwest Certificate Management Office (SW CMO). The anonymous complaint alleged in March 2007, Southwest Airlines (SWA) inspected forty-nine aircraft for cracks in their fuselage. The complaint alleged that six aircraft had cracks in their fuselage; however, the aircraft remained in revenue service. The complaint also alleged Doug Gawadzinski was aware of the fuselage cracks and he did not ground the aircraft.

During the same period of time, I was also assigned the following:

- To review Bufford Eatmon's report dated December 6, 2005, where SWA was sent Letters of Concern (LOC) versus Letters of Investigation (LOI).
- To review SWA's Self-disclosure for AD 2004 -18-06.

- To review Kermin Teppin and Skip Whitrock's review of AD 2004-18-06.
- To review memo sent from Inspector Bobby Boutris to Manager Michael Mills.
- To conduct an Office Technical Evaluation of the SW CMO.

While assisting ASW-700 conduct interviews, during the security investigation, the following was uncovered:

- March 14, 2007, SWA determined they may not have been in compliance with Airworthiness Directive (AD) 2004-18-06.
- Paul Comeau, Regulatory Compliance Manager, SWA, called Doug Gawadzinski on March 15, 2007, regarding a concern that SWA had a possible non-compliance of AD 2004-18-06 on over 100 aircraft.
- SWA submitted a Voluntary Disclosure (VDRP) on March 19, 2007, on the AD 2004-18-06 issue.
- AD 2004-18-06 requires inspections of areas that are known to be subject to fatigue cracks in the upper and lower panels of the fuselage.
- SWA created Engineering Authorization (EA) 1-A53-7446 on March 14, 2007, to accomplish the non-destructive testing (NDT) and the detail visual inspection (DVI), as required by AD 2004-18-06.
- If AD 2003-14-06 had been previously terminated, only the DVI was required by AD 2004-18-06.
- SWA created EA 1-A53-7450 on March 16, 2007, to accomplish the DVI on those aircraft that did not need the NDT inspection.
- Larry Collamore, Partial Program Manager (PPM), in his statement on June 7, 2007, stated Doug Gawadzinski had cut him out of the

loop regarding AD 2004-18-2006. Larry Collamore stated he wished he had been kept in the loop because he would have advised Doug Gawadzinski to ground the aircraft. Larry Collamore stated FAA policy directs inspectors to ground aircraft that fall into the over-flight status.

- During Larry Collamore's second interview on September 24, 2007, he stated that Doug Gawadzinski told him about the AD 2004-18-06 issues on March 19, 2007. Doug Gawadzinski said SWA had just called to report it was possible 112 aircraft had over flown AD 2004-18-06.
- During Larry Collamore's second interview he stated he received a call from Paul Comeau shortly after the conversation with Doug Gawadzinski, and the same information was presented.
- During Larry Collamore's second interview he stated that after the conversation with Paul Comeau he had a conversation with Mijid Karim, Structure Engineer for SWA. Mijid Karim told Larry Collamore until the records personnel did their research, he would not know how the over flight occurred.
- Larry Collamore told Paul Comeau and Mijid Karim to keep him in the loop.
- According to Larry Collamore's statement in the second interview, he did not receive instructions from Doug Gawadzinski and went about his business.
- Larry Collamore stated he never asked Doug Gawadzinski further questions about the over-flight.
- On the Voluntary Disclosure submitted by SWA, they stated the

non-compliance ceased after detection. The investigation revealed this was not the case. SWA continued to operate the suspect aircraft in revenue service while the inspections were being accomplished.

- SWA used EA 1-A53-7446 and EA 1-A53-7450 to inspect 25 aircraft from March 15, 2007, (day after discovery) through March 18, 2007, (date before VDRP submittal).
- From March 19, 2007, (date of disclosure) through March 23, 2007, (date all inspections were accomplished), 25 more aircraft were inspected for a total of 50.
- During the last part of May 2007, ASW-290, at the direction of ASW-200, requested that Robert Carroll, Acting SPMI, conduct an investigation into AD 2004-18-06 over-flight issues to ensure all affected aircraft were in compliance with the required inspections. Robert Carroll had Inspector Matt Crabtree, from the SWA CMO, develop the report. The report was completed on June 1, 2007. ASW-290 used that report to develop a spreadsheet showing when the AD 2004-18-06 inspections were accomplished, which EA was used, number flights each aircraft flew in revenue service from March 14, 2007, until accomplishment of the AD inspection, and the aircraft where cracks were discovered. The date of March 14, 2007, was used to calculate total flights because SWA stated in the VDRP that March 14, 2007, was the day of discovery and SWA developed an EA on the same date. Using that methodology, review of the flight logs indicated that SWA flew 1241 flights after the detection of the non-compliance issue, and cracks were found on six of the aircraft inspected.

The information developed about AD 2004-18-06, by ASW-290, was given to the DMT and ASW-230. An enforcement case was opened on the issue.

ASW-290's review of the Bufford Eatmon report, dated December 6, 2005, where LOC's versus LOI's were being sent to SWA was under question. The following was revealed:

- At the request of ASW-200, Inspector Bufford Eatmon reviewed 29 LOC's Doug Gawadzinski had sent to SWA in lieu of LOI's.
- Bufford Eatmon stated 20 of the letters were appropriate and five of the letters should have been sent out as LOI's.
- When interviewed by security on June 13, 2007, Bufford Eatmon stated Doug Gawadzinski ignored FAA guidance in his chosen actions, and guidance would have certainly dictated a more severe action be taken against SWA.

Bufford Eatmon's statement was included in the Report of Investigation.

ASW-290's review of SWA's Self-disclosure of AD 2004 -18-06 and Kermit Teppin and Skip Whitrock's report of AD 2004-18-06 discovered the following information:

- Kermit Teppin and Skip Whitrock's report only reviewed the records of two aircraft.
- The VDRP submitted by SWA did not meet the 72-hour time requirements, as required by AC 00-58. Therefore, the VDRP should not have been accepted.
- SWA did not identify the affected aircraft in the VDRP.

- Doug Gawadzinski received the initial notification, and accepted it on March 19, 2007.
- Doug Gawadzinski received the written report on April 5, 2007, and accepted it on April 10, 2007.
- Doug Gawadzinski signed off the Surveillance section of the VDRP on March 10, 2007. During the interview, Doug Gawadzinski stated he did not have any follow-up surveillance accomplished.
- Doug Gawadzinski closed the VDRP on April 10, 2007.
- There was no other review of the VDRP.

This information was provided to the DMT.

ASW-290's review of the memo sent from Inspector Bobby Boutris to Manager Michael Mills revealed the following:

- This memo was received by Ron McGarry the first part of May 2007.
- The review revealed that Bobby Boutris' memo indicates Doug Gawadzinski insisted inspectors not send LOI's, instead Doug Gawadzinski would rather deal with the carrier off the record or send an LOC.
- The ASW-290 review summarized that Doug Gawadzinski had chosen to take his own path rather than follow policy.

A summary of the ASW-290 review was given to the DMT.

ASW-290 conducted a Technical Evaluation of the SWA CMO from April 9, 2007 through April 12, 2007. A team of five Managers/Supervisors and the Regional Operations Research Analysis, under the control of Team Leader

Kermit Teppen, Assistant Manager AMR CMO, conducted the evaluations. During the evaluation, 45 areas were identified as deficient. The most egregious concerns are as follows:

- The evaluation determined that the office file system was not in accordance with guidance, and was not being maintained properly.
- No formal documentation was being maintained for approval or rejections.
- Airworthiness had 20 Safety Attribute Inspection's that had not been accomplished within the last five years.
- Airworthiness had four Element Performance Inspection's overdue.
- Operations had one Element Performance Inspection overdue.
- No approval data was maintained for the B737-300/500 MSG-2 or MSG-3 Continuous Aircraft Maintenance Program.
- No approval data was maintained for the B737-700 MSG-2 or MSG-3 Continuous Aircraft Maintenance Program.

This Report was given to the DMT.

End of Testimony

Testimony of William L. McNease, April 3, 2008.

Thank you for the opportunity to speak to this panel today.

I have spent 14 years of my life working for the US government. Ten of those years with the Federal Aviation Administration.

During my last assignment with the FAA as an Inspector on the Federal Express certificate I found an issue with FedEx that has implications not with just FedEx but throughout the industry.

Due to the loss of retirement benefits and large cuts in pilot salaries, many pilots are supplementing their income by flying for companies other than their primary employer.

This is legal and in accordance with current Federal Aviation Regulations only as long as flight, duty or rest times are complied with. What I found was that the Director of Operations at Federal Express was issuing authorization letters allowing pilots to do outside commercial flying. When I contacted Federal Express Crew Scheduling I was informed that the company has no policy or method to track outside commercial flying.

With no way to track outside commercial flying there is not a method for the company or the pilot to assure that the Federal Aviation Regulations are being followed.

During the course of another investigation it came to the attention of our office that a pilot for FedEx had been caught flying an illegal charter trip. The pilot admitted that he had flown this trip and his status as a Check Airman, representing the FAA, was immediately rescinded. This pilot is a MD-11 international captain.

Since this pilot and the company had possibly violated the Federal Aviation Regulations by not recording or tracking the outside commercial flying I asked my supervisor how he wanted me to proceed. I was told not to continue my investigation. I was given no reason why not to proceed.

I followed up with an email to my supervisor to verify what I was told. No answer via email was ever received by me. I later met with my supervisor along with another inspector as a witness and asked once again if he wanted me to not investigate this matter. I got the same answer. Do not continue the investigation.

I was amazed that I was being told not to continue an investigation with such far reaching implications. I am not implying that FedEx or the pilot involved have violated the Federal Aviations. What I am saying is that without an in-depth investigation the FAA and FedEx have no way to determine if a violation had occurred or is continuing to occur.

This same situation applies throughout the airline industry and to my knowledge is not being investigated.

On another issue I was treated the same way but at a much higher level within the FAA. I was told from FAA management in Washington to stop working on this problem. Once again I was not allowed to do my job as an inspector in this critical security issue.

I understand that Chairman Oberstar has referred that matter to another committee so I will not go into those details at this time.

Thank you for your time and I would be happy to answer any of your questions.

Congressional Testimony
Michael C. Mills

My name is Michael C. Mills. I am currently Assistant Manager of the Dallas/Ft. Worth Flight Standards Office in Fort Worth, Texas. I have been employed with the FAA for almost 13 years, about half of which has been in a managerial role. Prior to my employment with the FAA, I worked for 28 years as a commercial airline pilot, and much of that time was spent in airline operations management. I have accumulated more than 15,000 hours of accident-free flying, and, in my employment with the FAA, I have enjoyed rapid advancement and a blemish-free employment record until May 8, 2007, when I was abruptly removed from my position as manager of the Southwest Airlines Certificate Management Office, a job I had held for two and a half years.

My removal occurred within a matter of days after I had discovered and reported to my superiors that Southwest Airlines had overflown critical safety inspections of some of its aircraft and that one of my subordinates, the principal maintenance inspector, had apparently suppressed this information.

Inspectors Boutris and Peters, along with one of my supervisors, Paul Cotti, all of whom are appearing with me today, were instrumental in discovering and analyzing the records that led to my initial reporting of these overflights and my call for an investigation in early April, 2007. I applaud their courage in exposing this episode, especially in light of the humiliating treatment I have received as a result of my actions. Mr. Boutris and Mr. Peters are not wild-eyed reactionaries who carry a grudge for some perceived injustice and have some long-standing desire to punish the FAA. They are honest, hardworking men, proud of what they do, and who attempted to work within the system to have their concerns addressed. They saw in me someone they could trust, and I decided to help them. My dismissal for doing so was a fate that was certainly not lost on them, so it is no surprise that they sought the whistleblower protection that was available. I only wish that I had done so.

This is a story largely about unhealthy relationships and my struggle to overcome them in order to achieve the purpose for which I believe I was hired—to protect the public interest in matters of air safety. I encountered unhealthy relationships between the FAA and Southwest Airlines, between FAA regional division managers and their subordinate field managers and between regional division managers and FAA headquarters. It is a story of arrogance, egotism, unbridled ambition, turf protection, mistrust, missed opportunities and the havoc that can be caused by one misguided individual's uncanny ability to influence others into believing his own improbable self-hype.

Even considering the damage to my reputation at the hands of my superiors, I am still proud to be a part of this Agency and its important mission. To a substantial degree, I also support the partnership concepts established between the FAA and the airlines that are of concern to this committee. I believe that risk-based surveillance and data gathering through these partnerships have a place in the FAA toolbox, so long as they are used as tools and not as a replacement for common sense and the irreplaceable skill and dedication of our inspectors.

This unfortunate episode bears stark evidence that the success of these partnerships is highly dependent upon the integrity of those persons engaged in the process and the propriety of their actions. I believe the information I am presenting will illustrate a type of breakdown that can occur if this principle of good stewardship is ill-conceived, ignored or undermined. In this case, there was plenty of this to go around.

I was appointed as manager of the Southwest Airlines Certificate Management Office (Southwest CMO) on November 15, 2004, by Tom Stuckey, the Southwest Region Flight Standards Division Manager. After a few months on the job, it became clear to me that the oversight mission of the office toward Southwest Airlines was considerably degraded by virtue of the informality that had developed in the office's business transactions with the carrier and the coziness between some of the inspectors and their counterparts at Southwest Airlines. I also found that the FAA Principal Maintenance Inspector, Douglas Gawadzinski, one of four supervisors who reported to me, appeared to be unusually lenient with the carrier in several areas, especially in investigating and documenting violations of the federal aviation regulations.

This assessment led me to publish, within a few months of my arrival, a memorandum to all the office employees entitled, "A Time for Change," setting forth a notice of course correction, in an attempt to refocus the office toward a more businesslike oversight model aligned with FAA policy and guidance.

Representing an immediate obstacle to this effort to tighten up the oversight was Gawadzinski, who supervised approximately eight airworthiness inspectors in the office and had indirect supervision of several others who were domiciled in other parts of the country. Gawadzinski had been working in the Southwest CMO for some time prior to my arrival, having previously participated in an executive development program that took him to FAA headquarters in Washington on a detail arranged, presumably, through Mr. Stuckey, who acknowledged to me that he was Gawadzinski's mentor. During his time at FAA headquarters, Gawadzinski became acquainted with James Ballough and Nicholas Sabatini, among other high-ranking FAA executives.

Gawadzinski, who possessed an unusually outsized ego and made no secret of his ambition to join the executive ranks himself, had convinced a number of the inspectors who worked for him, as well as one or more of his fellow supervisors, that he enjoyed a special relationship with Mr. Ballough and Mr. Sabatini, whose names he would drop on an almost daily basis, leaving the impression that he was in frequent personal contact with them.

Gawadzinski made sure that everyone in the Southwest CMO was aware of his purported connections at FAA headquarters, and he even claimed to have knowledge and direction from the senior executive level that transcended current regulations, which he termed "outdated." He told me and others that "Nick and Jim" were eager for him to return to Washington, but that they had agreed to allow him to stay in place in the Southwest CMO until he completed his self-styled mission to inculcate Southwest Airlines adequately with the system safety concept.

Gawadzinski's zeal for this effort was such that it distracted him from normal oversight duties and the proper establishment of surveillance plans and recordkeeping. He knew that the promotion of system safety among air carriers was in vogue at FAA headquarters, and to the extent that he could be recognized as the progenitor of a successful program at Southwest Airlines, he was convinced that his prospects for ascending the FAA hierarchy would be enhanced. He fancied himself as an ambassador from FAA headquarters toward the carrier, even referring to himself as such on occasion. He made frequent visits to Southwest Airlines in this regard, often referring to his increasing presence at the carrier as "building bridges" and "tearing down walls," terms he had coined from books he had read on the subject of system safety.

Lending additional credence to Gawadzinski's presumed privileged status occurred during a visit by Mr. Sabatini to a conference at Southwest Airlines headquarters in Dallas in 2006. Mr. Sabatini was the keynote speaker before a large conference hosted by the company for all levels of its managers from all over the country. My management team from the CMO had also been invited, and we were seated at a table near Mr. Sabatini and his entourage. Upon greeting each other, Gawadzinski abandoned our table and joined Mr. Sabatini's group for the remainder of the conference. The special attention afforded Gawadzinski did not go unnoticed by the management of Southwest Airlines and by his peers at our table, and he certainly did not keep it a secret from his subordinates upon returning from the conference. The episode was used effectively by Gawadzinski to project to the rest of the office and to Southwest Airlines evidence of his connections at the highest levels of the FAA. He believed his "insider" status entitled him to promote certain accommodations for the carrier in helping Southwest "work through" issues of regulatory noncompliance in its maintenance and engineering department. He believed this approach was innovative and in keeping with a refined line of thinking at headquarters regarding the FAA's role in overseeing major air carriers.

This stance placed Gawadzinski and a faction of his subordinate inspectors loyal to him in direct conflict, on an almost daily basis, with my goal of strict adherence to FAA policy and regulations. He was also openly resentful of being passed over for the office manager's position to which I was appointed and considered me unqualified for the job, referring to me among others as "another general aviation pilot whom he would have to train to manage a CMO." (For the record, I do not have a background in general aviation.)

There were other circumstances that empowered and emboldened Gawadzinski. By all accounts, Kenneth Kadey, my immediate predecessor as manager of the Southwest CMO, had ceded to Gawadzinski an unusual degree of freedom and autonomy to practice his "enlightened" concept of oversight toward Southwest Airlines. In his turnover briefings to me upon my appointment as CMO manager, Kadey made no mention of having observed anything amiss with Gawadzinski's unorthodox brand of oversight. Having presided over the office during an entire year in which he noticed nothing abnormal, Kadey was promoted to a position as Tom Stuckey's chief of staff, thereby precipitating my appointment as CMO manager in his place. Gawadzinski, having enjoyed a relatively free rein under Kadey, realized that I was becoming a threat to him, and this fueled his ever-increasing defiance of my leadership and authority.

While it was incomprehensible to me that Gawadzinski's shameless self-promotion would have found any real adherents at FAA Washington headquarters, I was surprised at one point to learn that Gawadzinski was working with Mr. Ballough on a project that concerned the staffing of my office. This was quite unsettling, as it certainly would have been a courteous gesture for Mr. Ballough to have cleared the project and Gawadzinski's participation in it through me. I began to think that Gawadzinski's influence-peddling might have legs in Washington after all.

I made numerous attempts to gain Gawadzinski's cooperation and to encourage him to work within our team to accomplish the goals I had set for the office. While he would occasionally pay lip service toward this end, he remained defiant and could barely conceal his disdain for me and the constraints imposed on him by my leadership.

As a part of my effort to assess the degree to which oversight and enforcement standards had been relaxed by Gawadzinski, I sought the assistance of other airworthiness inspectors in the office in whom I had confidence. These included Inspectors Bobby Boutris, Douglas Peters and Supervisor Paul Cotti. By the time I had written the "A Time for Change" memo, Inspector Boutris had recognized my intentions to tighten up the office as an opportunity for him to come forward with long-repressed concerns about Gawadzinski's actions as principal maintenance inspector. Inspector Boutris began to provide evidence of a number of instances wherein Gawadzinski had waived enforcement action that should have been taken against the carrier in favor of mere "letters of concern." He also pointed out unauthorized allowances that Gawadzinski had approved in Southwest's maintenance manuals that could have had significant effects detrimental to safety.

Meanwhile, Inspector Boutris, who reported to Gawadzinski, continued to perform surveillance of Southwest Airlines and frequently found and documented more discrepancies than other inspectors. This caused the carrier to complain and infuriated Gawadzinski, who made numerous attempts to restrain Inspector Boutris by attempting to restrict his travel. In these cases, I would countermand the restrictions Gawadzinski imposed, causing him to be even more hostile and defiant toward me.

As time went by, I received reports that Gawadzinski had placed in a sensitive information-sharing position one of his subordinates who he may have known was in employment negotiations with Southwest at the time he was also representing the FAA on this panel. On another occasion, I received evidence that Gawadzinski had forced one of his inspectors to change the findings in an official surveillance report to enable the carrier to avoid enforcement action and instead self-disclose the event. I submitted this evidence to my superiors at the regional office, who took no action that I was aware of. After being removed from my position as manager, I turned the information over to FAA security.

By the time I had issued the "A Time for Change" memo and Inspector Boutris began to share his concerns with me, I recognized that I must attempt to orchestrate a change in Gawadzinski's actions or to effect his removal at all costs. Counseling Gawadzinski had proved futile despite many sessions, both in private and in a peer setting. So, I began documenting my instructions to him with the intention of using what I was certain would be his failure to follow them in measuring his performance and effecting a change in his attitude or conducting disciplinary action.

In doing so, however, I braced myself for what I knew would be a turbulent time ahead, during which support from Mr. Stuckey would likely be tepid or nonexistent. I also expected a great deal of opposition from Gawadzinski, who did, indeed, take his case immediately and often to his mentor, Mr. Stuckey.

One would need to have been a close observer of the FAA Southwest Region division management in order to appreciate the difficulty that I unquestionably knew would exist in my attempt to rein in Gawadzinski. Mr. Stuckey is generally recognized among his subordinates as an intelligent, energetic and ambitious individual who can be personable at times, but who is seldom approachable and runs the region largely as a fiefdom. He has a very short attention span, and it was not uncommon for him to end a conversation with a subordinate in mid-sentence if he lost interest in the subject being discussed. He has a highly unpredictable managerial style, at times micromanaging local offices and, at other times, detaching and insulating himself via his deputies from those offices where managers experience complicated situations. He maintains an autocratic style and tends to choose for his inner circle people who are largely unencumbered with opposing viewpoints or a willingness to make a decision apart from his influence.

The managerial ranks under Mr. Stuckey are almost always in a state of flux because he frequently replaces or reassigns office managers and supervisors as the quick and easy solution for those offices whose internal troubles result in their becoming more visible than others. This roiling of management personnel in the southwest region is widely recognized across other regions, and many of our peers from the outside privately express their dismay at the management froth surrounding Mr. Stuckey. The high turnover rate among managers and supervisors has had an unquestionably emasculating effect on those who serve in those positions, causing some perhaps to compromise their integrity and make improper accommodations among their staff or their operators with the understanding that everyone will simply remain quiet about it.

Because I was not willing to give in to Gawadzinski as perhaps other managers had in the past, I certainly knew that things were going to get noisy, because he was clearly not going to be constrained without a fight. Knowing that Mr. Stuckey prized, above almost all else, the quiescence of field offices, I was hoping that I would be able to make my way through this mine field without becoming a casualty myself. Unfortunately, it didn't turn out that way, and my fears were ultimately realized.

In an attempt to ensure tranquility among his field offices, Mr. Stuckey had, for a number of years, conscripted teams of managers and supervisors to travel periodically to the offices of their peers and solicit, privately and in sworn secrecy, opinions from the employees about their relationships with each other and with the office management. These were known as Workplace Environment Assessment Teams, or "WEAT" teams, designed ostensibly to assist office managers in identifying and solving employee problems before they became untenable. In practice, however, these visits were highly intimidating to the management of those offices and were generally viewed as witch hunts that had the very real potential of imperiling their jobs.

The high turnover rate of managers and supervisors was well exemplified at the Southwest CMO, as that office had been through five managers in five years at the time of my arrival. Such turnover, combined with Mr. Stuckey's alternatively paternalistic and reclusive management style, contributed to a feeling of constant imbalance among office managers and fostered the attitude that maintaining peace, at any cost, was a means of attaining longevity in their jobs. It also did little to foster an expectation that Mr. Stuckey would support them if the going got tough.

In this environment, I knew that I would have to provide unassailable documentation of Gawadzinski's improprieties in order to bring about a resolution. I began this documentation with an e-mail sent to my immediate supervisor, Ron McGarry, on September 19, 2005, detailing the difficulties I was having with Gawadzinski and his defiance of the changes I was attempting to make. Notable in that message was a copy of the previously mentioned surveillance record that an inspector may have been forced by Gawadzinski to alter in a way that would favor the carrier. As I stated earlier, McGarry took no action on this matter, and I turned the evidence over to FAA security after my removal as manager.

Soon thereafter, I asked for and was granted a personal meeting with Mr. McGarry to discuss the situation with Gawadzinski. When I arrived for the meeting, Mr. McGarry took me into Mr. Stuckey's office, where he and Ken Kadey, Mr. Stuckey's chief of staff, joined us. During that meeting, I presented a folder with approximately two dozen examples of letters of concern that I deemed to be inappropriately issued by Gawadzinski to Southwest Airlines, many of which he issued prior to my arrival as manager. I told the assembled group that, in my view, these should have been processed as enforcement actions, but were instead intentionally issued so as to diminish the impact on the carrier. I told the group this was an indication that Gawadzinski was too close to Southwest and that a change needed to be made.

Mr. Stuckey said he would take the matter under advisement, and later, through Ron McGarry, instructed me to turn the letters over to Buford Eatmon, a supervisor at the Continental Airlines Certificate Management Office in Houston, for review. Aside from the obvious lack of trust in me demonstrated by Mr. Stuckey's choice of a lower-level supervisor to judge the validity of my findings, I was incredulous at the seemingly low level of importance he placed on this issue. It was not clear why he did not look over the documents himself or at least have had them reviewed by his staff at the regional level, given the seriousness of my allegations. Thusly did Mr. Stuckey demonstrate his inexplicable capacity to squander yet another opportunity to build confidence in one of his subordinates, a relationship through which he might have formed an ally instead of an adversary.

Later, I asked for a follow-up report of the supervisor's review of the letters of concern, but I did not receive it. So, I called Mr. Eatmon and asked what he had found. He stated that my findings had merit, in his view, and that he had counseled Gawadzinski regarding the matter. I thought this a bit peculiar, since I was Gawadzinski's supervisor and should have been doing the counseling. What was clear, however, was that I was not calling the shots in this matter. Eatmon stated that he was not allowed to divulge the details of the counseling, so I was unable to acquire corroborating documentation that I needed to use for taking disciplinary action against Gawadzinski. I have provided representative copies of these letters of concern to all the agencies investigating this matter.

Rather than focusing on the safety implications of the letters of concern and my assertion that Gawadzinski was too close to the carrier, Mr. Stuckey ordered a "Peer Review" of the Southwest CMO, which was undertaken soon after my meeting with him. This was in keeping with one of Mr. Stuckey's favorite tactics in dealing with offices with problems—assembling teams of untrained conscripts from within his sphere of influence under the guise of conducting an "unbiased" review. This tactic had served him well over the years and, in fact, could be considered to be brilliantly conceived in affording him and his deputies a degree of plausible deniability, insulated from the repercussions of an ill-advised decision, because it could be blamed on a flawed observation or recommendation of his review team. For me, a far more useful and longed-for approach would have been for Mr. Stuckey to take a personal and insightful interest in the problems of his subordinate managers, affording them more than the solicitation of a "one-pager" memo that he was famous for demanding when we needed help. Unfortunately, he was unable to muster enough trust to do this, thereby squandering again that most essential attribute of a well-functioning organization—the feeling of being part of a team.

The peer review conducted at the Southwest CMO confirmed the difficulties, on many levels, that the employees had in dealing with Gawadzinski. Notably, however, the issue of the letters of concern was largely ignored by the peer review team, possibly because they did not recognize their significance. And once again, other than the issuance of a report of the team's findings, no action was taken and no assistance was offered by Mr. Stuckey in getting something done with Gawadzinski.

For those who question why I did not take immediate unilateral action against Gawadzinski to effect his removal, it needs to be clarified that this was not an easy thing to do at my level. It was not within the capability of an office manager to take such action against one of his subordinates, especially one who is a management employee, without elaborate due process, which can be daunting in terms of time expended and documentation required. If a significant action is contemplated against an employee, this can only be undertaken after lengthy documented counseling and progressive disciplinary actions. It was also necessary to consult heavily with the labor relations specialists at the regional level and to obtain their concurrence, along with that of division management, on the action to be taken. This is made even more difficult when the employee to be disciplined is highly resistant and knows how to use to his advantage the rather elaborate employee protection apparatus of the federal government.

However, one quick method of effecting a personnel change with little difficulty is that of the division manager's authority simply to reassign someone to another position in another office, an action to which Mr. Stuckey was certainly no stranger and which I was hoping I could convince him to do. An office manager did not have such authority without regional concurrence, and my attempt to gain it in the meeting with Stuckey, McGarry and Kadey had obviously been rebuffed.

During the first week of November, 2005, a remarkable and troubling event occurred at a manager/supervisor meeting in Fort Worth. Ron McGarry pulled me aside during a break to talk about the documentation of Gawadzinski that I had begun—and apparently which Gawadzinski had complained about. McGarry said this was not an effective way for me to deal with my subordinates and instructed me to cease this practice. I was completely astonished at this overt interference in what McGarry knew to be my attempt to deal with the Gawadzinski problem. At this point, I hardly knew what to think; I began to fear that Gawadzinski may indeed enjoy some special status and protection after all. I wasn't sure how to proceed at this point.

As a few more weeks went by, and I continued to complain about Gawadzinski, Mr. McGarry seemed increasingly intent upon characterizing my struggle with him as the result of a personality conflict and would not consider anything else as a possibility. In support of his obsession with this notion, he insisted that Gawadzinski and I undergo a mediation session, in an effort to resolve what he perceived to be our personality problems. I complained bitterly to Mr. McGarry that this was not a personality issue but one affecting safety, but he was utterly dismissive of this argument. Now fearful of the consequences for me of not following his direction, and not knowing how far up the FAA hierarchy Gawadzinski was protected, I participated in the mediation and signed an agreement toward fostering an improved working relationship. This ill-conceived, forced agreement, plus the restrictions McGarry placed on me against documenting Gawadzinski's actions, crippled my ability to circumscribe his activities for months to come. Meanwhile, Gawadzinski's stature was undeniably elevated among those employees loyal to him at the Southwest CMO. This weakened my authority considerably, and I knew I would have to wait for an event that would provide incontrovertible evidence of Gawadzinski's mishandling of his job. I was certain that I would not have to wait for long.

Suppressing my concern for the consequences, I decided to elevate again to Ron McGarry another issue involving Gawadzinski's mismanagement of his job. I had become aware that, before my appointment as office manager, Gawadzinski had reached an inappropriate agreement with Southwest Airlines as to which of its maintenance manuals and documents he would review. The agreement, in essence, allowed the carrier itself to make this determination. Among these were some whose review and approval by the FAA were required by regulation. Gawadzinski's rationale for relaxing this requirement for Southwest was that he had information from "Nick and Jim" that some of the FAA regulations were outdated and that the Agency should be trending away from such close oversight. He was saying, in essence, that Southwest Airlines should police itself in this area. Some of the documents that were allowed to escape FAA review under this scheme were maintenance task cards, an omission which would later prove critical in the airline's overflying airworthiness directives and required inspections that engendered this Congressional inquiry. Much of the evidence I collected for submission to the region was brought to me by Inspector Boutris.

I sent this information to Ron McGarry on November 28, 2005, in a lengthy memo detailing the deficiencies I had noted and requesting assistance from him in conducting an independent appraisal of Gawadzinski's handling of this issue. As I knew Mr. McGarry's area of expertise, like mine, was not in the airworthiness discipline, I followed up with a personal visit to his office, accompanied by Paul Cotti, one of my airworthiness-qualified supervisors, to help detail for him the problems I had noted in my memo. In the memo, a copy of which has been supplied to investigators, I stated: *"The PMI has largely been resistant toward inquiries by the office manager as to the validity of these elements of airworthiness certificate management. Because of the lack of transparency, I believe a possible safety risk may exist, and I am requesting the assistance of ASW-200 in conducting an independent in-depth evaluation of at least the concerns presented above and of any aspect of any other element of the CMO operation deemed appropriate by division management."*

Mr. McGarry did not agree that an independent review was needed, and, remarkably, Gawadzinski's lapse of judgment, which should have been obvious, did not appear to resonate with him. At this point, I was wondering what it would take to get Mr. McGarry or Mr. Stuckey to take seriously the problem with Gawadzinski. Needless to say, this added to my suspicion that Gawadzinski was being protected for some reason and increased my uneasy feeling that I could ultimately wind up being the victim instead. At the time, I did not feel comfortable bypassing Mr. Stuckey and taking my concerns to Washington. I was well aware of the unspoken—but no less real—adversity that could come my way by failing to follow the chain of command. Only after Mr. Sabatini described in a recent Town Hall meeting a new means for elevating problems to a higher management level has Mr. Stuckey suddenly become a proponent of doing such a thing.

If the peer review were not enough, Mr. Stuckey sent to my office, in the spring of 2006, a WEAT team, whose purpose I described earlier. He apparently was still focused on office harmony rather than the evidence I had turned over to him that Gawadzinski's actions were either incompetent or contrary to policy. But, more troubling, this indicated that the regional management was either still oblivious to the safety implications of what I had presented or was intent on ignoring them.

The findings of the WEAT team were given to me in draft form, and they largely confirmed Gawadzinski's defiance of my authority and the difficulty he was having with his subordinates, especially those who were, by now, known to be reporting his misdeeds. Although I asked repeatedly, I was never provided with a final copy of the report, as was customary for WEAT visits, so I still do not know if the final report was altered from the draft version. Even though the draft report highlighted how dysfunctional Gawadzinski had become, it was still not enough evidence, apparently, for Mr. Stuckey to act.

In December, 2006, still supposedly insisting that the problems with Gawadzinski were the result of a personality clash, Mr. Stuckey authorized yet another mediation event, this time for my entire supervisory staff! This was conducted offsite by a member of the regional labor relations group. The result of this meeting was another forced agreement, signed by me and all my supervisors toward fostering a better working relationship. This agreement, combined with all the other regional restraints, brought to a complete stop my ability to resolve the issues with Gawadzinski, especially because the documentation tool had been taken away by Mr. McGarry back in November, 2005, and now, the management team had been told, through the forced agreement, to get along with Gawadzinski or else. With this in place, I could only wait for Gawadzinski's next blunder to be revealed.

Finally, in late March, 2007, I became aware, through reports by Inspector Boutris and my own review of self-disclosures, aided by Inspector Douglas Peters and Supervisor Paul Cotti, that Gawadzinski had accepted a disclosure from Southwest that it had overflown inspections required by an FAA Airworthiness Directive to detect cracks in the fuselages of older B-737 aircraft. Through reviewing the records, I learned that Gawadzinski had accepted the self-disclosure and then quietly closed it without mentioning it to me or the other supervisors, even though he had many opportunities to do so in our almost daily meetings. In researching the matter, members of my staff found indications that the airline had indeed discovered cracks in the fuselages of some of its aircraft, but was allowed by Gawadzinski to continue flying them until they could be repaired at a convenient time, contrary to the terms of the airworthiness directive.

I reported this to Mr. McGarry, who instructed that a team once again be assembled to give an independent evaluation of my findings. The team later confirmed the findings in a written report to Mr. McGarry, but not without some controversy. At the team's in-briefing on April 11, 2007, one of the members, Kermit Teppen, a close friend of Gawadzinski's, told the assembled group, including Paul Cotti and Robert Naccache, that he suspected I might be making too big an issue of this because, according to him, *we often have to cut deals with the carriers because they can't be expected just to ground suddenly a large number of their aircraft.* All the other meeting participants were stunned by this statement and, immediately afterward, I made a note of the exchange. Because of Teppen's remark, I was unsure of the objectiveness of this team's investigation, but I was relieved later when the other team member, Skip Whitrock, prevailed in supporting my findings.

I later learned that an investigation of Gawadzinski had begun around this time, and I felt a degree of relief that some remedial action may finally be taken with him.

Gawadzinski recognized that Inspector Bobby Boutris had a role in bringing to light these issues unfavorable to him and began pleading with me to have him removed from the office because of the "disruption" he was causing. I did not accede to these requests and, a short time later, Gawadzinski brought into my office an anonymous complaint that appeared to have originated from a Southwest Airlines employee. The complaint made some highly implausible claims against Inspector Boutris, and its timing seemed very suspicious. I was obligated, however, to turn the matter over to the regional office, which I did. The instruction came back to remove Inspector Boutris from any oversight of Southwest Airlines while the matter was being investigated. The regional office even considered removing Inspector Boutris from the CMO, until the assistant manager, in my absence, commendably refused to concur with this action. Inspector Boutris continued to supply me with evidence he had collected regarding Gawadzinski, and, shortly before I was removed, I sent the entire file via overnight express to Ron McGarry.

Shortly after informing my superiors of the AD overflight by Southwest and while that matter was still under investigation, I became aware that the carrier may also have overflown a required standby rudder inspection, again through a self disclosure that had been accepted and quietly closed by Gawadzinski without reporting it to me or the other supervisors. I assembled a package containing the evidence of that overflight and sent it to the regional office for review on May 3, 2007. Later that day, I called the regional office to inquire about their review of my submission and received a very troubling, even chilling, response. One of the staffers who received the package told me, almost under his breath, that he had been instructed by Mr. McGarry to handle this matter "very quietly" and "low key." I asked him what that meant, and he didn't respond.

Within a few days, I had my response. Mr. McGarry came to my office on May 8, 2007 and handed me a letter signed by Tom Stuckey, relieving me of my duties as manager of the Southwest CMO. He instructed me to call the office staff together in an all-hands meeting and then ordered me to leave the building. I asked him if I had done anything wrong and if I was under investigation. He answered "no" to both questions. I followed his instructions and quietly left the office, with no opportunity for me to say goodbye to my staff, while he informed them of my dismissal. Thankfully, Mr. McGarry also dismissed Gawadzinski at the same time but, to this day, I have received no reasonable explanation as to the rationale for the action taken against me, an action that will forever wrongly convey the presumption that I was as culpable as Gawadzinski in this very public scandal. The FAA, in its briefings to reporters over national television, has implied that its removal of two managers—one being me—was the Agency's appropriate official response, implying culpability on my part. I fear that my reputation will never recover from this mischaracterization of the facts.

In my view, my actions over the period of my tenure at the Southwest CMO were focused on the elimination of a serious deficiency in the oversight of the carrier—an imperative that I felt I could not ignore, even though I could not be sure of its impact on my career. My actions to remove the threat Gawadzinski posed were ultimately successful, in spite of an absence of support and the outrageous obstacles placed in my way by the regional office management. The price of my effort to ensure safety, however, was not the recognition or reward that should have been afforded the official who reported the incident, but the humiliating and totally unwarranted ejection from perhaps one of the most prestigious middle management jobs in the FAA.

Also worthy of note is the contrast between my treatment and that of my two predecessors who were managers of the Southwest CMO. The unhealthy relationship between the CMO and Southwest Airlines almost certainly existed during their tenure, yet they either did not recognize it or were fearful of raising it above their level. As a result, the problems with the office remained invisible, and those managers were ultimately promoted to higher level positions.

In the spirit of full transparency, I must also submit to you that my successor as manager of the Southwest CMO is, in my view, ineligible to hold his position because of a significant ethical issue. He was improperly allowed, through an agreement signed with Southwest Airlines by Mr. Stuckey, to receive a B-737 type rating from the carrier, worth an estimated $15,000, at no cost to himself or the Agency. This was accomplished through a memo of understanding that is reserved, according to FAA policy, for Aircrew Program Managers. My assistant manager at the Southwest CMO, Robert Naccache, and I had pointed out to Mr. Stuckey the impropriety of this arrangement, but he insisted that the agreement should remain in place.

Within a few weeks after my removal, and still concerned about these matters, I wrote a prophetic e-mail to the office manager who succeeded me at the Southwest CMO. I had no idea then just how poignant my remarks would turn out to be:

Bobby, the two recent events (the fuselage crack AD and the standby rudder inspection overflights) seem to be in a soft pedal mode at the branch level. I base my opinion on a phone call to me from Jay Nelson on this date (May 3, as depicted in the accompanying e-mail traffic) wherein he made frequent references to keeping this "low profile" and "quiet." If you don't get any feedback from my request below (for regional analysis), that will be further evidence, I would think, that they are operating at a diminished interest level, for whatever reason.

My feeling is that this will likely not remain "low profile" nor "quiet." My advice to you, as my successor, would be to ensure that you are fully conversant with these two events, among others you may ultimately discover, and take whatever measures are necessary to validate the adequacy of Southwest's control over its (maintenance program).

Because of the illumination of this unfortunate incident, Mr. Sabatini has announced that he will take steps to improve employee communication at all levels, including a mechanism to encourage employees to take their concerns to a higher level when there is a failure in the chain of command. I would add to that initiative a recommendation that regional managers be rotated periodically so as to lessen the likelihood that a dysfunctional management team, intent on preserving itself at any cost, can cover its misdeeds so effectively for so long.

I thank this Honorable Committee for the opportunity to present this information.

Robert A. Naccache
Ret. Assistant Manager
Southwest Airline CMO

In response to your invitation, it is an honor and privilege to provide my testimony concerning critical lapses in FAA safety oversight of airlines and abuses of Regulatory Partnership programs.

First If I may, I would like to introduce myself and state some of my credentials. My name is Robert Andre Naccache. After over twenty years of service in flight standards, I recently retired in November 2007 from the FAA as the assistant manager of the Southwest Airline Certificate Management Office (SWA CMO). During my tenure with the FAA, I served about two years in the geographic unit, one year in the international unit, six years as a Principal Operations Inspector for several domestic and international carriers, eight years as a Supervisor for the Certification and Surveillance Unit and three years as an Assistant Manager. While with the FAA I was awarded the Southwest Region's Field Inspector of the Year Award in 1994. I also twice received the Southwest Region's Supervisor of the Year Award for 2001 and 2003.

Prior to my career with the FAA, I was an airline transport pilot for seventeen years, flying the Boeing 707 and the Boeing 747 between Europe, Asia, Australia and the U.S. Before that I worked as an FAA certified flight instructor in general aviation for three years. This gives me over forty years of experience in the field of aviation.

I care a great deal about the FAA. It is an excellent agency unmatched anywhere else in the world. The majority of employees produce outstanding work for aviation safety. The FAA guidelines are well conceived and thought out. The air transport industry and the FAA created partnership programs as a means of addressing

safety problems and to prevent potential safety hazards. However they need to be consistently and fairly implemented across the board. This has been the problem in the SWA CMO. Of the FAA Partnership Programs the abuse of authority of the following two are discussed in my written testimony. They are: Voluntary Disclosure Reporting Program (VDRP), and a Memorandum of Understanding (MOU) addressing airman certification.

Mr. Mike Mills and I were assigned to the SWA CMO simultaneously as Manager and Assistant Manager respectively on November 14 and 15, 2004. It was not long until we noticed that there was a lack of substantiating data, records, correspondence and other supporting documentation related to certificate management. The Principals were not adhering to FAA policy and guidance in terms of enforcement action. Often a Letter of Concern (LOC), which is not placed into the Enforcement Information System (EIS), was sent to SWAA in lieu of a Letter of Investigation (LOI) which is recorded in the EIS. Therefore no record of enforcement process is available for those violations. My attempts to correct these issues were always met with intense resistance from the Principal Maintenance Inspector (PMI). As our concerns about the PMI and other inspectors' relationships with the carrier increased, the Manager tried in vain through numerous meetings and memos to correct the situation. Some of these Inspectors are still working at the SWA CMO. The PMI often circumvented the Manager by visiting the Regional Office without his knowledge. After communicating several times to the Regional Office about these issues, the Manager was told it was a personal problem between the PMI and himself. Ultimately the Regional Office prepared an Agreement of Cooperation which Management at the SWA CMO were told to sign. The last version of this agreement was signed in January 2007.

Two months later around the end of March, I was made aware by the Manager Mike Mills, and Supervisor Paul Cotti, that the PMI allowed SWAA to operate about forty-seven aircraft in violation of an Airworthiness Directive (AD) compliance. The operation of these aircraft continued for several days after the carrier provided the information through the VDRP. This operation continued with the knowledge of the PMI. I'm not sure whether the other two Principals knew or not. When asked about his reasoning, the PMI said that he had no concern with the airworthiness of those suspected aircraft. **This was a serious safety issue; cracks were found in the aircrafts' fuselages.**

At about the same time there was another case of SWAA operating aircraft without complying with a required inspection concerning the standby rudder power control unit (PCU). The investigation revealed that about seventy aircraft overflew the inspection. After self disclosing the violation through the VDRP, there was no indication that SWAA took any action to stop the operation of those aircraft as required, again with the knowledge of the PMI. The fact that those suspected aircraft continued operations in passenger revenue service in both these instances shows a non adherence with the purpose of the VDRP by the carrier and the PMI. This should raise questions about abuse of the program.

One airworthiness inspector, Mr. Bobby Boutris, who became aware of these violations, tried to do the right thing and kept insisting to follow the agency guideline. He was shunned as a trouble maker and, for a period of several months, was suspended by the Regional Office from any work related to SWAA. This suspension came on account of an anonymous letter sent to SWAA and forwarded to the FAA Regional Office whereby an alleged SWAA mechanic made various accusations against him. I feel the timing of the anonymous letter is more than a little suspicious, since it came in the midst of the

investigation concerning the above issues that may ultimately involve the PMI and/or others into question of regulatory actions or inactions. The veracity or motivation behind this anonymous letter needed to be considered.

The Manager sent repeated requests to the Regional Office for assistance. The last one, concerning the CPU issue, was sent the first week of May 2007. He was removed from his position a few days later and replaced by Mr. Bobby Hedlund, the Principal Operation Inspector (POI) at the time.

Six months later and shortly prior to my retirement, during the external ongoing investigation, the Regional Office directed the SWA CMO to open an enforcement action against SWAA for operating unsafe and un-airworthy aircraft.

On the Operation side, guidance and policy were not followed specifically in the approval of a Memorandum of Understanding (MOU) with the carrier concerning airman certification. I believe that this approval was a blatant abuse of authority by higher management leading to conflict of interest and unethical practices.

As found in Order 8400.10, (now Order 8900.1 issued 9/13/2007) the designated examiner program was originally established under the provision of FAR 183 for the purpose of delegating certification authority to select employees of FAR 121 and FAR 135 operators when the FAA experiences an exceptionally high demand for **airman certification** work. The primary objective of an examiner program is to make effective use of available inspector resources for airman certification and to relieve the FAA inspector from certification activities in order to perform oversight and management functions more efficiently. As a guideline, 40 complete airman certification or type rating actions on a specific aircraft type annually is usually sufficient activity to justify establishing

such a program. The number 40 has been established because it roughly approximates one year of work for an inspector. Sometimes fewer than 40 certification actions per year can be accepted. For example, an operator's entry into international operations, multiple crew domiciles. Each situation may be considered separately to determine if establishing such a program is beneficial to the FAA and the operator.

As part of this program, the carrier must enter into an MOU, a written agreement between the operator and the FAA, which specifies how the program is to be conducted. The MOU must specify (1) that the operator may have the benefit of Aircrew Program Designees (APD, *an airline check airman*) authorized by the FAA to conduct certification on behalf of the administrator and (2) in return, the operator shall provide initial and recurrent training at their expense to the FAA inspector, know as Aircrew Program Manager (APM) who oversees the APD's activities.

The carrier's APD designation must be renewed every twelve months. **Order 8400.10 (now 8900.1) states that before renewing an APD Designation the FAA shall determine whether the designee's (APD) level of activity warrants a re-designation and whether the designee's (APD) services continue to be needed.** The examiner's level of activity may be determined from the FAA tracking system. Also the administrative steps for renewal are the same as those outlined in the order for the original designation, **which requires an observation by the FAA's APM of the carrier's designee (APD) candidate giving and oral exam and conducting a check ride for the issuance of a type rating certificate. During my three years at the SWA CMO as Assistant Manager, I do not know of any certificate issued through the SWAA approved training program.** SWA policy is to hire pilots who are already certified and type rated through

outside approved training programs. Only one type of aircraft is flown by SWAA, the Boeing 737.

In principle, SWAA does not conduct airmen certifications. Their check airmen only conduct line checks and proficiency checks. **Therefore in accordance with Order 8400.10 (now 8900.1), SWAA does not meet the qualifications required to participate in an Aircrew Examiner Program. In addition, SWAA does not qualify to enter into an MOU with the FAA, and so is not qualified to have the benefit of an APD.**

After being assigned to the SWA CMO as Assistant Manager, I discovered that despite the absence of any airman certification, SWA had been granted an examiner program by the Regional Office for many years. This program with SWAA is not in accordance with the FAA guidelines and with no benefit to the FAA since there are almost no **certification** activities at the carrier. To my knowledge this MOU is different from that of any other carrier in that instead of training only the APM, they agreed to provide extensive training (*over two months at their Dallas headquarters facility*) for all operations inspectors assigned to oversee their carrier. In some instances this training ended by the issuance of a type rating (in my estimate, a value of about $15,000 per inspector). I believe this substantial benefit to the inspector is a direct conflict of interest. It may also lead to camaraderie between the inspectors and the air carrier beyond their professional relationship. This may be the reason that the order limits the training to the APM or his representative only, and not to other Inspectors, especially the POI or Manager.

I discussed this issue with the SWA CMO Manager, Mike Mills and we decided to send the MOU back to the Regional Office for cancellation. Unfortunately the Regional Office chose not to cancel the program but rather to maintain the status quo. I did not approve of this decision, but as an assistant manager it was out of my control.

In June 2005, a new Principal Operations Inspector (POI), Mr. Bobby Hedlund, was selected to the SWA CMO. Not long after his selection, and with the Regional Office's knowledge this POI, Mr. Hedlund, who approves all SWA programs, manuals, and Operations Specifications, was one who took advantage of this program not approved in accordance with the Order 8400.10. (now 8900.1), as explained above. At the end of the training, Mr. Hedlund obtained an aircraft type rating on the Boeing 737 **at Southwest Airline's xpense**. On May 8, 2007 the Regional Office replaced Mr. Mike Mills by Mr. Bobby Hedlund as the manager of SWA CMO. Despite the fact that Mr. Hedlund had spent a couple months in training with the carrier and obtained an aircraft type rating through them, he is now, as manager, overseeing the whole airline. I feel this is the most flagrant conflict of interest that I have ever witnessed in my 20 year career in the Federal Government. I believe that this ongoing situation at the SWA CMO should be questioned and dealt with appropriately. *(note: Except for the APM or his representative, all FAA Operations Inspectors, when required by the agency, obtain their training and aircraft type rating through the FAA training system, funded by the agency)*

In conclusion we need to make sure that the job is done in a manner consistent with FAA policy, guidance and directives. I believe that abuse of authority and regulatory partnership programs should never be allowed because this will lead to serious consequences.

April 3, 2008

Testimony of Douglas E. Peters before the Transportation and Infrastructure Committee:

Good morning Mr. Chairman and Members of the Committee:

My name is Douglas E. Peters; I am an Aviation Safety Inspector employed by the FAA and am currently assigned to the American Airlines Certificate Management Office (AMR CMO) as the "Acting" Boeing 757 Partial Program Manager. I have been employed by the FAA for a total of 7 years, all of which have been in the Flight Standards Service. Prior to my assignment to the AMR CMO, I was assigned to the Southwest Airlines CMO (SWA CMO) from April 2001 through October 2007, holding the positions of Inspector, Assistant Principal Maintenance Inspector and Data Evaluation Program Manager. I have had an untarnished career at the FAA and in February of 2004 was selected the SWA CMO "Maintenance Inspector of the Year."

Prior to my employment with the FAA, I worked for two major U.S. Air Carriers and I am a veteran of the United States Air Force. I have 27 years of experience in aircraft maintenance.

I have provided detailed records to the Office of Inspector General, the Office of Special Counsel, and FAA Security regarding FAA employees of the SWA CMO's participation and involvement in violation of FAA regulations, abuse of authority, and substantial and specific danger to public safety. I am not a disgruntled employee nor do I wish to embarrass the FAA or ruin its reputation, I merely wish to truthfully describe the events that brought me here today.

At this time, I would like to take this opportunity and try to explain the events surrounding the Southwest Airlines AD over-flight issue and explain how that event became the catalyst that brought us before the committee. In April 2007, the SWA CMO conducted an internal investigation of a SD that was submitted by Southwest Airlines to the FAA regarding an AD over-flight and was accepted by PMI Douglas Gawadzinski. I was the lead inspector on that investigation. During that investigation, the Division Management Team instructed Office Manager Mike Mills to hand over the preliminary results of the investigation to an audit team that was on-sight in our office. At that time, my investigation was ongoing and incomplete however, I had discovered that several aircraft had been operated in an unsafe condition beyond the date of March 15, 2007, three of which had

cracks in the area of inspection required by the AD. A fourth aircraft was found to have cracks in a location outside of the inspection area called out in the AD.

The audit team was constructed of management personnel from other offices within the SW Region. Following the audit team's conclusion of the AD over-flight investigation a memo from FAA Managers Teppen and Whitrock dated April 18th was given to Manager Mills stating that Southwest Airlines had indeed operated 47 aircraft in an unairworthy condition and that the PMI condoned such operation. Additionally, the memo stated "SWA CMO has a relaxed culture in maintaining substantiating data as well as any documents that would support any decisions made by the airworthiness unit." PMI Gawadzinski was the supervisor for that unit.

Following that memo by FAA Managers Teppen and Whitrock, on May 8, 2007 Mike Mills called the entire office to an all hands meeting where the Assistant Division Manager for Flight Standards, Ron McGarry, temporarily removed both the Manager and the PMI pending an investigation and announced Bobby Hedlund as the "Acting" manager of the CMO.
Neither Manager Mills nor PMI Gawadzinski attended that meeting.

On June 11, 2007 at approximately 1:00 PM Acting Manager Bobby Hedlund stopped by my office during the timeframe of the FAA's initial internal investigation of the AD overflight. I was typing my requested written statement to Agent LaFlair. I informed Hedlund that I would be sending him a memo regarding unethical actions taking place by inspectors in the SWA CMO. He agreed to look into the matter once he received the memo. Before Hedlund left my office, I told him that I thought writing my concerns about the unethical actions was the "right thing to do." He stated that he agreed we should always do the "right thing" and that's what his father had always told him to do. He got out of the chair and walked over to my bookcase where I keep family pictures in frames. He picked up a picture of my son and I that was taken next to an aircraft and said, "This is what's important, family and flying." He then pointed to a family picture of our entire family and said again "this is what is important." On his way out the door he made the following statement, "you have a good job here and your wife has a good job over at the Dallas FSDO, I'd hate to see you jeopardize yours and her careers trying to take down a couple of losers."

On June 14, 2007 I sent the memo previously described to "Acting" Manager Bobby Hedlund.

As of today, I have never received a formal response to that memo.

On June 13, 2007 I submitted a 15 page written statement following a two day interview where I was interviewed by FAA Security. Special Agent Jay LaFlair and Flight Standards Manager Terry Lambert conducted the interview. During my sworn statement, I described over two and a half years of PMI Gawadzinski's impropriety, unethical actions, abuse of authority, and misuse of government resources along with relaxed oversight of Southwest Airlines. I also included in my statement several instances where his subordinates were engaged in unethical actions as well.

In July 2007, I made my first contact with congressional staff personnel at the T & I committee. I informed them of situation in the office and that I believed that Southwest Airlines was at risk due to the lax oversight that they had been under and the absence of accountability actions with regard to FAA personnel. I also informed them that the conditions were basically the same following an FAA Security investigation that had taken place in June and that there was a serious divide within the Certificate Management Office. The divide consisted of those who followed national policy and those who were loyal to Gawadzinski. I provided a copy of the AD over-flight disclosure to substantiate my initial concern.

After waiting for nearly two months for corrective action to occur by either the Division Management Team or the Flight Standards Director, James Ballough for the improprieties identified by the FAA security investigation, it was evident that no action was being considered by FAA Senior management personnel leaving a strong underlying tone that the happenings at the SWA CMO were not only condoned, but possibly sanctioned.

In August 2007 after gathering additional facts and documentation following the FAA's security investigation that occurred in June, Inspector Boutris and I filed disclosures with the Office of Special Counsel. We supplied the OSC and the T &I detailed documentation which substantiated our safety concerns and supported our disclosures. The poor condition of the Southwest Airlines' regulatory maintenance oversight was a risk that neither Inspector Boutris nor I was willing to accept.

On August 28, 2007 during a telephone conversation with T & I congressional staff personnel, I was informed that a call had been placed to FAA HQ to the Director of Flight Standards, James Ballough. Director Ballough was not available to take the call however, a message was left regarding the events at Southwest Airlines and he was encouraged to return the call. During the next few weeks, several unsuccessful attempts and messages were said to have been made by T & I personnel to contact the Director during the period of time between August 28th, and mid-September.

According to T & I staff personnel, the FAA initially refused to cooperate with requests for information regarding this matter. Only under threat of subpoena in an October 5, 2007 letter to "Acting" Administrator Sturgell from Chairman Oberstar and Chairman Costello was the documentation from the FAA internal investigation obtained

On September 9, 2007 "Acting" manager, Bobby Hedlund called the SWA CMO for an all-hands-meeting where Division Manager, Tom Stuckey and Assistant Division Manager, Ron McGarry were present. The meeting was called to announce that Bobby Hedlund was selected as the permanent Manager of the Certificate Management Office and that Mike Mills had accepted a position as Assistant Manager at the DFW FSDO. To my knowledge, this was the first visit by the Division Manager to address the Certificate Management Office in over two years. He spoke about change and made reference to "the train leaving the station" and that if anyone didn't want to be on that train, he might be able to help in making arrangements for that person or persons to work in another location.

At the close of the meeting, I asked to speak with him. Mr. Stuckey and Assistant Division Manager Ron McGarry visited me in my office. I stated to the Division Manager that I did not want to be on that train and that I had put in a request for reassignment to the AMR Certificate Management Office. I also stated that he was about five months too late. I made reference to the divide in the office and how Gawadzinski's previous subordinates along with one other inspector had engaged in unethical and inappropriate actions in May. I presented him a copy of the June 14th memo that I had given to then "Acting" Manager Hedlund. He briefly scanned over the memo and handed it to Ron McGarry. They both acknowledged my request for reassignment and stated that they would talk to the manager of the AMR Certificate Management Office but the final decision would be entirely up to him.

On October 14, 2007 I was reassigned, to the AMR CMO as the "Acting" Boeing 757 Partial Program Manager.

Only under the watchful eyes of the T & I Committee, the OIG, and the OSC did this gross misconduct by FAA management personnel at the SWA CMO, Regional, and HQ levels surrounding the activities at the SWA CMO, receive the close scrutiny that was warranted.

It didn't have to come to this; or maybe it did!?

As a follow-up to the FAA's Town Hall Meeting which was held on March 18, 2008, ironically one year following the AD over-flight Self-Disclosure by Southwest Airlines; it was evident FAA management personnel with the responsibility and the authority to take appropriate action proved themselves unworthy to being custodians of the public trust. The proof was provided by their blatant disregard and failure to respond to significant safety events that were constantly reported, in both verbal and written form, to the Division Management Team.

Mr. Sabatini made several points in his FAA Town Hall Meeting which I agree with. First, being that we have identified a risk; however, I'm not confident that the risk defined by him is accurate. Secondly, I also agree that what's in the media today is troubling, and I believe as an agency appropriate action does indeed need to be taken. After being a key witness to the lack of concern for public safety through the intentional and blatant disregard of National Policy, I do not have the confidence that all of the responsible individuals will be identified and held accountable.

There have been public statements made that indicates the FAA is conducting damage control to protect the agency's reputation while clouding the issues surrounding the impropriety that occurred in the FAA's SW Region and was known by FAA Senior Management. There is evidential proof that there are more involved than just one man, or a "few individuals". It is my earnest plea that this committee take the accompanying data along with the factual testimony that is being voiced today to draw conclusions and submit a plan of action that not only restores faith in the FAA, but also dispels any fears or concerns that the American citizens might have toward aviation safety. The implications that this was all the doing of ONE man, is simply a misnomer. This one man, Douglas

Gawadzinski was fueled and energized by others around him that were willing to disregard policy. We operate on a documented and carefully engineered system of rules and orders, and at no time is any one of the individuals involved permitted the self-induced power to make determinations contrary to that guidance.

In the aforementioned FAA Town Hall meeting, Mr. Ballough describes the events surrounding Inspector Boutris' claims. He stated, "there were indicators, there were warning signs that we should have picked up that go back a period of over two years, at least." Southwest Airlines Yes, I agree we've identified a risk and a breakdown. Regarding Boutris, it wasn't at CMO *Inspector* level, regarding Manager Mills; it wasn't at the CMO *Manager* level. These two individuals were raising safety concerns to the Division Management Team for over two years. In addition to meetings by the Manager with Division Management Team personnel, emails, and memos from Boutris and myself, several WEAT Team visits occurred. WEAT Team was a term used for Workplace Evaluation Assessment Team where other FAA management personnel would come and visit to assess the environment in the CMO. These are the office audits I spoke of earlier today. I personally communicated my concerns twice during the past 3 years to WEAT Team members. The audit that occurred in April of 2007 revealed several shortcomings regarding the lack of approval documentation for Southwest Airlines' maintenance program.

The flying public and Southwest Airlines deserves to hear the truthful facts surrounding the lack of oversight at this carrier. They also deserve to board a flight without having to worry if the FAA Inspector responsible for the oversight of that carrier has allowed them to fly in an unsafe aircraft. They deserve to fly on that plane knowing that when known safety concerns are brought to FAA Divisional, and HQ levels, that they are not ignored and pushed aside until threat of subpoena has been made by members of Congress.

In conclusion, let me say that I feel it is my duty to see this matter through in hopes of the committee assessing the information and making a determination of what needs to happen next. The unethical actions that have been identified and permitted, as well as known unsafe conditions have gone on for too long. The fact that Senior FAA management knew about the issues within the SWA CMO, is undisputed.

I have received unsolicited encouragement from field Inspectors all throughout the agency, with many of them revealing examples of the same type of management malfunctions that we are discussing today. Not only for my sake, but for theirs, I feel empowered and compelled as a United States citizen and having the privilege of being a Federal employee, to stand up for the rights of all Aviation Safety Inspectors. I am thankful for the opportunity to come before you and explain the obstacles that we face on a daily basis, placed upon us oftentimes by our own agency that hinders us from our first and foremost duty: safety.

As for South West Airlines as a whole, it is my opinion that your company was led down the wrong path by a handful of individuals, both within your ranks and ours. Unfortunately, these individuals have negatively impacted your company's reputation and put passengers and crew at risk. I'm not sure how long it will take to recover from this but, I am sure that if any company can do it, SWA can. You have a great company and your reputation will shine again.

Thank you Mr. Chairman and Members of the Committee.

STATEMENT OF NICHOLAS A. SABATINI, ASSOCIATE ADMINISTRATOR FOR SAFETY, FEDERAL AVIATION ADMINISTRATION, BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, ON "CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY 'PARTNERSHIP PROGRAMS,'" APRIL 3, 2008

Chairman Oberstar, Congressman Mica, Members of the Committee:

I appreciate the opportunity to appear before you once again this morning. My name is Nick Sabatini and with me today are James J. Ballough, Director of Flight Standards Service here in Washington, and Thomas E. Stuckey, Manager of our Flight Standards Division in our Southwest Regional office. We have been asked to address the circumstances surrounding a specific incident involving the Federal Aviation Administration's (FAA) oversight of Southwest Airlines and whether that incident supports the contention that FAA's implementation and management of its voluntary disclosure programs, which the Committee refers to as regulatory partnership programs, are appropriate and in the best interest of aviation safety.

I will discuss the details of this incident later in my statement, but first, I think it is entirely appropriate to review these voluntary disclosure programs and evaluate how they have been administered, whether they have been effective, and if they should be modified. It is my hope that you will ultimately agree with me that the value of these programs should not be negated by an incident that all agree was extremely disturbing and not in accordance with the high standards of the FAA and my organization. My disappointment and regret over the FAA's failure to carry out its duties and responsibilities in this instance is beyond my ability to express and I do not minimize its importance. But I would hope that, after a balanced evaluation of all the available evidence, it can be put in a context where we in aviation learn from our mistakes and that the very real safety benefits of our programs are not jeopardized by an overly broad and possibly damaging reaction.

As many Members of this Committee will remember, it was not long ago when FAA's relationship with its stakeholders, including the airline industry, was extremely adversarial. Airlines warned their employees about cooperating with the FAA for fear of enforcement action against the individual or the airline. In that atmosphere, when an airline discovered that inadvertent mistakes had been made, they attempted to resolve the problems internally, without alerting the FAA. The value of this approach was limited. A specific problem was resolved at a specific facility. But the past practice of, in essence, keeping the problem a secret unless caught, did not permit the opportunity to put the problem in a broader context to determine whether a more comprehensive solution was necessary.

The trust that is necessary for voluntary disclosure programs to work did not come over night. There was certainly a period of adjustment for industry to believe that the FAA would not use their mistakes against them. In fact, there were adjustments to be made by everyone involved. FAA inspectors had to learn how to work with industry to raise the safety bar and how to enforce our safety standards when necessary. They had to understand that the value of being part of crafting the solution to a problem sometimes outweighed punitive action. But they also had to be able to identify those actions or violations that merited enforcement action, despite disclosure. Industry had to understand that what may appear to be an isolated event may have far broader implications, and that admitting the problem may mean finding a much more comprehensive solution, one benefitting an industry, rather than a facility. But, as with FAA inspectors, the industry needed to understand that disclosure was not a "get out of jail free" card. Certain types of violations would still result in punitive action. Therefore, fundamental to the success of all of the programs was a clear understanding of under what circumstances a reported violation could be processed through administrative action and under what circumstances legal enforcement action would apply. Each program has a specific process and checklist so that it is clear to all involved what type of action is acceptable for disclosure and what is not. What is clear, and what should have been clear to all of our inspectors, is that continued noncompliance after voluntary reporting is not permitted under any circumstances.

Our three major voluntary reporting programs gather information provided by certificate holders, individual employees of a regulated entity, and even the aircraft operating in the system. To illustrate how the programs work, the protections in place and the limited circumstances in which a disclosure may be accepted, I would like to briefly describe our primary disclosure programs.

The Voluntary Disclosure Reporting Program (VDRP) is intended to identify and correct adverse safety events that would otherwise not come to the FAA's attention. The qualifying VDRP disclosures and associated corrective actions are protected from both FAA formal enforcement action and public release. These protections allow FAA to oversee and participate in the root-cause analysis of events. VDRP requires FAA to review and approve all corrective actions, oversee the corrective actions and perform surveillance to assure the continued effectiveness of such actions. This process enables FAA to obtain and analyze important safety information of which the FAA might otherwise be unaware. FAA issued Advisory Circular AC 00.58A that provides clear guidance for submission of a disclosure of a safety problem to qualify for VDRP. There is also a VDRP website*. It is FAA policy to accept a voluntary disclosure and forego legal enforcement action when ALL of the following criteria are met:

1. The certificate holder has notified FAA of the apparent violation immediately after detecting it and before the agency has learned of it by other means.
2. The apparent violation was inadvertent.
3. The apparent violation does not indicate a lack, or reasonable question of, qualification of the individual/entity.
4. Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation.
5. The certificate holder has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. The comprehensive fix must

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* http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/85EB126D9DAF2461862571E800667468?OpenDocument

also include a follow-up self-audit to ensure that the action taken corrects the noncompliance. This self-audit is in addition to any audits conducted by the FAA.

Voluntary disclosures that meet these criteria are "closed" with an FAA administrative action (i.e. a Letter of Correction or a Warning Notice), meaning that no other regulatory enforcement action (e.g., civil penalty, or certificate suspension or revocation) is taken.

The Aviation Safety Action Program (ASAP) is another voluntary reporting program that is also designed to identify and correct adverse safety events reported by an employee of a regulated entity (e.g., an airline or maintenance facility) that would otherwise not be likely to come to the attention of FAA or company management. The objective of the ASAP program is to encourage air carrier and repair station employees to voluntarily report safety information that may be important to identifying potential precursors to accidents. This program enables participants to identify actual or potential risks. An ASAP program is tailored to one entity (air carrier, repair station) and is entered into voluntarily by the FAA, the certificate holding entity (i.e., Part 121, 135 or 145 certificate holder), and any applicable third party, such as the employee's union. A key part of the program is that it is overseen by a two or three member panel, known as an Event Review Committee (ERC), made up of designated representatives from the FAA, the certificated entity and usually a representative for the employees union or organization.
The main responsibilities of the ERC are to review and analyze reports submitted under ASAP, determine whether such reports qualify for inclusion, identify actual or potential safety problems, and propose solutions for the problems. ASAP is implemented in accordance with a Memorandum of Understanding (MOU) that provides the specifics of each program. FAA guidance on how to draft an acceptable MOU are found in FAA Advisory Circular AC 120-66B and on an ASAP website*.

Where an employee is the sole source of a disclosure regarding a possible safety violation that qualifies pursuant to the MOU, it is FAA policy not to use the content of any such

* http://www.faa.gov/safety/programs_initiatives/aircraft_aviation/asap/

ASAP report to initiate or support any legal enforcement action against such employee. Similarly, the certificate holder will not use the information in a report submitted under ASAP to initiate or support any company disciplinary action. Where the employee is not the sole source of information, but the information is still accepted under ASAP, the FAA will take administrative action instead of legal enforcement action, even when sufficient evidence exists to support a violation. Administrative action means an FAA Warning Notice or Letter of Correction, which is expunged from FAA's files after two years. Where the employee is not the sole source of the information and the information is insufficient to prove a violation, the FAA will issue a Letter of No Action, which is expunged from FAA's files after 30 days.

To be accepted, an ASAP report must be submitted in a timely manner, usually within 24 hours of the employee's having become aware of the possible noncompliance with the Federal Aviation Regulations. The alleged regulatory violation must be inadvertent, and must not appear to involve intentional disregard for safety. In addition, the reported event cannot be accepted if it appears to involve criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification. The ERC determines the disposition of all ASAP reports through consensus, including the corrective action for accepted reports, if determined to be appropriate.

As of February 2008, over 70 operators are participating in ASAP, and over 170 MOUs have been established for different employee groups (pilots, dispatchers, mechanics and flight attendants).

One final voluntary reporting program with which the Committee may be aware is the Flight Operational Quality Assurance (FOQA) program. FOQA is a voluntary airline program for the routine collection and analysis of digital flight data generated during line operations. Although it enables monitoring of individual aircraft operations and system performance, its principal value is in providing objective information on adverse safety trends obtained by aggregating data from multiple flights. Acquisition of such aggregate data can provide an unprecedented basis for proactive intervention to correct unsafe

trends before they can lead to accidents. Today's FOQA program is the result of a successful Demonstration Project initiated in 1995 that enabled FAA to both establish the usefulness of the information and gain the insight needed to establish a regulatory framework for the program.

The FOQA regulation, finalized in 2001, codifies protection from the use of data from FAA approved FOQA programs for enforcement purposes, except for criminal or deliberate acts. No airline is required to have a FOQA program, nor is it required to obtain FAA approval of its program. However, an airline that seeks the enforcement protection of the rule must obtain FAA program approval through the formal approval of the Implementation and Operations Plan. FOQA also requires participating airlines (there were 20 as of February 2008) to inform the FAA of adverse safety trends revealed by their programs, as well as corrective action undertaken.

The FAA conducts periodic FOQA Information Sharing Meetings with industry to identify and discuss safety issues of potential national significance. Issues identified from such meetings serve as a source for follow-on study. Additionally, broad systemic issues identified through the Information Sharing Meetings lead to corrective actions that benefit not only one program owner but the industry as a whole. One such example is a change to an air traffic procedure to enhance safety.

In an industry with an excellent safety record, finding ways to improve safety is always a challenge. But it is a challenge that we embrace and in the last decade, many of the safety improvements we have made are the direct result of information we received through these voluntary disclosure programs; information that industry and its employees would not have provided to us just a few years ago. While it is entirely appropriate to review the guidelines and procedures implementing these programs to determine whether they remain valid, I urge you to recognize the ongoing importance of these programs for providing us with access to important safety information to identify and address safety problems before they manifest themselves in an accident.

As a result of the information we have obtained through voluntary disclosure programs, we have implemented safety enhancements in deicing programs, airport signage, air traffic procedures, and maintenance procedures. For example, there have been instances when a carrier or individual employees of the carrier identified and corrected improperly installed equipment. By sharing the data we were able to improve and clarify information provided to mechanics so a similar mistake would not occur at other carriers. The vast amount of information we receive through the voluntary reporting programs is invaluable and while I support a dialogue to ensure appropriate and consistent implementation of the programs, I truly believe a disruption of these programs will negatively impact safety.

I will turn now to the completely unacceptable situation that occurred last year involving Southwest Airlines and FAA's oversight of their operations. FAA has fully cooperated with the ongoing investigations of this incident with the Inspector General and the Special Counsel. I will not restate the facts of the situation here, as the basic facts are not in dispute. The bottom line is that the FAA Principal Maintenance Inspector (PMI), who was charged with overseeing Southwest Airlines, inappropriately and in violation of existing FAA policy and regulatory requirements, accepted a voluntary disclosure under the VDRP program. The disclosure was the fact that 46 Southwest Airlines aircraft had continued flight operations past the due date for a required inspection of the aircraft airframe for cracks. These aircraft had overflown an Airworthiness Directive (AD) requiring the inspection.

Despite this determination, and, again, in violation of existing FAA policy and regulatory requirements, the airline, even after reporting this safety violation under VDRP, did not ground these aircraft immediately but instead continued to operate the aircraft. To be clear, no FAA inspector has the authority to permit continued non-compliance of aircraft operations. In fact, the VDRP requires a confirmation that the non-compliance has ceased in order for the VDRP to be accepted. Subsequently, the airline conducted the required inspections and six aircraft were discovered to have cracks, five of which were ultimately determined to have the type of crack the AD was designed to detect. A total of

1451 commercial operations were conducted by Southwest Airlines in violation of the law, putting thousands of passengers at risk. That this was done with the implicit consent of the FAA PMI overseeing the carrier is beyond my comprehension. I am also disturbed that, while the office manager began a review of this situation and asked for support from our Southwest Region Flight Standards Office (Region), it was not fully investigated until one of my front-line safety inspectors reported it to the Administrator's hotline and DOT IG hotline.

On March 6, 2008, the FAA issued a $10.2 million proposed civil penalty to Southwest Airlines for its decision to knowingly continue to fly noncompliant aircraft in commercial operations. This decision was inexcusable and put its passengers at risk. The FAA PMI who accepted the VDRP in violation of existing FAA standards and policies and who essentially permitted the unsafe flights to continue has been reassigned, is no longer supervising inspectors, and is the subject of a pending personnel action. The action has not been finalized to date because the IG investigation is ongoing and we are waiting to consider all evidence before taking final action.

I cannot overstate my disappointment and, frankly, outrage and shock at the actions of Southwest Airlines and the FAA PMI. I will not attempt to condone either. Every FAA safety official must be dedicated to ensuring that we have the safest aviation system in the world. Every FAA safety official must be dedicated to finding new ways to improve a system that has an already enviable safety record. To learn that this was not the case with respect to certain individuals at the Certificate Management Office (CMO) overseeing Southwest Airlines is beyond troubling. I applaud the persistence, dedication, and tenacity of FAA inspector Bobby Boutris in pursuing the identified deficiencies at Southwest Airlines, in spite of the unacceptable and inappropriate obstacles he faced due to the working environment at our CMO and the actions of his supervisor, the PMI. Frankly, it is the reaction I would hope all of my inspectors would have to a similar situation.

Let me state first that this is my workforce. I am ultimately responsible for their actions. I am here today to apologize to this Committee and, more importantly, to the travelling public for FAA's failures in this situation. We have taken this situation extremely seriously and have done a great deal of soul searching and analysis to determine how the problems developed, how FAA could have prevented them and, most crucial at this point, how we proceed from here.

FAA's inspector workforce is made up of 3859 individuals. It is impossible to expect in a workforce of this size and scope that there will not be instances of personality clashes or professional disagreements. Often, honest disagreements result in debate that is both healthy and productive if it is approached with respect and professionalism. It is a critical management challenge to understand when personality differences and reports of inadequate or nonconforming oversight rises to the level of requiring regional or headquarters intervention.

In the situation at hand, we now see that the management and interpersonal problems that existed in the CMO where the PMI overseeing Southwest Airlines worked contributed to the incident. Managers in the Southwest Region's Flight Standards office did counsel both the manager of the CMO* and the PMI, about reports of their inability to work cooperatively with each other in early 2006. Follow-ups to this counseling did occur. Both managers claimed the counseling had improved the situation. An FAA Work Environment Assessment Team, known as a "WEAT" was dispatched by the Southwest Region Flight Standards Office to the CMO for onsite evaluation. The team concluded that a "tense relationship" existed between the manager of the CMO and the PMI. The WEAT recommended that these individuals be put on notice that the conflicts in the workplace were unacceptable and would not be tolerated. The team further recommended that the office's management team participate in team building exercises facilitated by a regional representative. In addition, the manager of the CMO was

* There are 19 certificate management offices (CMOs) under the FAA's Southwest Region Flight Standards office supervision

directed to develop an action plan to address the WEAT findings. All the WEAT findings were addressed and the action plan completed by the end of 2006.

In fact, we now know that the actions taken did not result in an improvement in relations between the key individuals, despite their reports to the contrary. Things continued to spiral downward, culminating in the CMO personnel communicating, in part, through hotline complaints beginning in early 2007. This is ultimately how Mr. Boutris reported the improper acceptance of the voluntary disclosure of the noncompliance with the AD. In retrospect, it is clear that the dysfunctional relationship between the manager of the CMO and the PMI was sadly emblematic of dysfunction throughout the office. It thwarted the sort of open communication that should have prevented the continued operation of noncompliant aircraft. It set up the office to support either the PMI or the manager of the CMO. That such dysfunction should pose a threat to safety is unacceptable.

Although we all understand it is impossible to change the past, it is vitally important that we learn from it. Our analysis suggests that more effective intervention in late 2005 and 2006 was FAA's best opportunity to effect a change in the outcome of the events in March of 2007. Despite the assertions of the manager of the CMO and the PMI that the interventions of regional counseling and the WEAT were effective and that their interpersonal disagreements were reconciled, we now acknowledge that we should not have accepted these assertions at face value. The concerns of the workforce that, absent an ongoing regional presence, the cosmetic reconciliation would be revealed for what it was – a pretense – was an alarm bell that should have been listened to. Likewise, there should have been more visits by the Division Management Team (DMT) from the Southwest Region to the CMO, including conversations with front line inspectors asking for their view of how the office was functioning. This did not happen. The focus on the differences between the manager of the CMO and the PMI by the Region ignored the valuable information the frontline inspectors had to provide. The Region also did not recognize that the disputes they were aware of posed a risk to safety.

In a properly functioning CMO, if a voluntary disclosure was improperly accepted, there would have been dialogue, debate and, if necessary, elevation of the issue to the region or headquarters. Had this happened, the aircraft would have been grounded and the noncompliance would have been prevented before posing a threat to the flying public. Unfortunately, this did not occur at this facility. The Region became aware of this only after the office manager questioned the validity of the VDRP. The Region then began an investigation into the circumstances of the case. Mr. Boutris alerted the office manager who in turn alerted regional personnel later that month regarding other significant safety issues.

The investigation of the events surrounding this incident is ongoing, but it is clear FAA's failure to prevent Southwest from operating 1451 noncompliant operations was the result of a complete breakdown in adherence to FAA's procedures and policies. We are taking steps throughout the organization to emphasize to our workforce the need for managers to provide their inspectors with a forum to discuss professional disagreements. We want all of our inspectors to understand and appreciate their responsibility to make their concerns known and elevate them if they are not satisfied with their supervisors' reaction.

As I told this Committee, ultimately I am responsible for my workforce's actions, and I am personally taking steps to ensure that something of this nature does not happen again. In fact, on March 11, 2008, we held a Managers Conference with 88 of the AVS organizations top leaders, at which Acting Administrator Sturgell and I emphasized to our managers that our commitment to safety is paramount, that we need to fight against complacency, and that our policies and procedures must be followed to ensure the appropriate checks and balances to protect the traveling public.

Additionally, we communicated to the entire work force through a Town Hall meeting held on March 18, 2008 the importance of open dialogue and communication. I made it clear that I encourage this workforce to voice their opinions and concerns, and I wanted them to know that when they do so, they can be assured that their concerns will be welcomed in a culture that will not and does not tolerate repercussions. To support my

commitment in this area, I have ordered the development of a Safety Issues Reporting System that will afford employees with the opportunity to report safety concerns.

I fully appreciate the significance of this incident, but to use this to make broad assumptions about the overall state of FAA's oversight or the safety of the industry as a whole would be a mistake. The safety record simply does not support allegations that the system and FAA are broken. That having been said, we are always open to working with industry and Congress to discuss ways to make our safe system even safer and I would hope that is what we can do here today.

Mr. Chairman, that completes my prepared statement. Mr. Ballough, Mr. Stuckey, and I would be happy to answer any questions you and the Members may have.

JAMES L. OBERSTAR, CHAIRMAN

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

April 16, 2008

Mr. Nicholas Sabatini
Associate Administrator for Aviation Safety
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

Mr. James J. Ballough
Director
Flight Standards Service
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

Dear Mr. Sabatini and Mr. Ballough:

You testified before the Committee on Transportation and Infrastructure on April 3, 2008 regarding "Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory 'Partnership Programs.'" Enclosed you will find additional questions that I request you answer for the official hearing record.

I would appreciate your response by May 1, 2008. Please send your responses to: Ms. Laurie Bertenthal, 586 Ford House Office Building, Washington, DC, 20515. Due to delays in the receipt of mail in the mail screening process, I also request that you email your response to Laurie.Bertenthal@mail.house.gov or fax your response to (202) 226-6012. Should you have any questions or concerns, you may reach our Oversight and Investigations staff at (202) 226-4697.

Sincerely,

James L. Oberstar, M.C.
Chairman

Enclosure

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HEARING ON "CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY 'PARTNERSHIP PROGRAMS'"
APRIL 3, 2007
QUESTIONS FOR THE HEARING RECORD

NICHOLAS A. SABATINI, ASSOCIATE ADMINISTRATOR FOR AVIATION SAFETY, FAA
MR. JAMES J. BALLOUGH, DIRECTOR OF FLIGHT STANDARDS SERVICE, FAA

1. Recently, after FAA announced a national audit of AD compliance after this Committee's investigation broke in the press, we've seen hundreds of aircraft grounded in at least 6 major air carriers. Is it possible these types of compliance issues were routinely seen by inspectors in the past (which was an allegation by scores of inspectors interviewed by us), but they were suppressed by management and quietly self-disclosed, with airplanes continuing to fly? Why do you believe that all of these groundings are occurring now?

2. Doesn't this strongly suggest that the self-disclosure program was being abused in more places than just SWA in light of recent events associated with FAA's national audit?

3. Please comment on the 70 aircraft that overflew the stand-by rudder PCU leak check. SWA claims they had approval to increase the rudder PCU inspection interval from FAA. Is that true? Are you proceeding with a violation in that case as well? What is the status of enforcement on that case?

4. If these new programs and databases like ATOS are working so well, how is it that old-fashioned inspector feet-on-the-ground are finding AD compliance issues affecting many hundreds of aircraft?

5. Why didn't the ATOS methodology find the problems at SWA and other carriers that were exposed in our investigation? Is ATOS broken?

6. Is ATOS only as good as the data that is entered into it?

7. Does ATOS need to have fields which are more subjective and allow entries to include additional information and comments?

8. We've been told by numerous inspectors that they have been instructed by FAA management on occasion to not to enter something into the ATOS system, because if the "dashboard goes red" it causes the CMO problems. Please comment on this.

9. Is it possible that there is disincentive to entering accurate into ATOS? Data indicating non-compliance reflects badly on CMO and regional management, does it not?

10. FAA Order 8300.10 it is stated under inspector responsibility that "an inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act under the provisions of Section 605(b) of the FAA Act of 1958, as amended is in dereliction of duty . . ." Could you comment on whether you believe that happened in the case of SWA?

11. Why were the problems in the SWA CMO allowed to fester for a number of years prior to this complete breakdown?

12. Is it true that airlines can use the CSI to complain about the level of "customer service" they are receiving from their FAA overseers?

13. Shouldn't these "precautionary inspections" — ordered on March 13, 2008 — have been taking place all along?

14. Do you think that somewhere along the line FAA supervisors have become relaxed about the requirement that self-disclosure can only occur if the airline alone discovers a problem?

15. Don't you think it is important to maintain a balance between traditional regulatory enforcement mechanisms such as civil penalties, and relatively new techniques such as "partnership programs?" Is it possible that the balance has shifted too much in one direction?

16. Why did your staff initially refuse to cooperate with Committee investigators last September and October when they requested information on your internal investigation?

17. It is hard to believe that you had not heard of all the problems occurring at SWA and in the SWA CMO since the warning bells had been ringing for several years. How could you not know what was happening?

18. We also hear a lot of repeat offenders keep showing up protected by reports under the ASAP program. Some have charged that this program is too often used to issue "get out of jail free" cards. Don't you believe that at some point, that if the same individuals keep turning up over and over more drastic action should be taken and they should not be continually protected by an ASAP Event Review Team? How do we fix this?

19. What internal mechanisms do you have in place to ensure that when an FAA inspector begins a review of an airline, that the airline will not be "tipped off" to file a self-disclosure?

20. What internal checks does the FAA have to ensure that when an airline files a self-disclosure, that they are following the federal regulations for ASAP and VDRP?

21. Do you think that it might be worthwhile to regularly audit your regional offices and CMOs to see if the internal control mechanisms for oversight of airlines are working as intended?

22. What auditing measures are in place to ensure that when an airline or employee files a self-disclosure, that they do so according to FAA regulations and national policy guidance? And what auditing measures are in place to ensure that FAA employees, including management, are following the proper protocol when looking into a safety issue, and more specifically, that they don't "tip off" the airline? How could you catch an inappropriately filed VDRP or ASAP? What are the FAA's oversight control mechanisms?

23. We recently heard of a case at United Airlines that has recently undergone an AD Safety Attributes Inspection in which there were findings of non-compliance. We are told that the

airline was allowed to disclose all of these using VDRP, but since they were discovered by FAA oversight mechanisms, were they actually eligible for VDRP?

24. If an airline is not happy with the outcome of an inspection, or multiple inspections, it can file for reconsideration under the Customer Service Initiative (CSI).

    a. Please describe the process of filing for reconsideration.

    b. Do you think that this process could be abused by airlines to get an inspector who may issue a more favorable finding than the previous one? If this type of abuse was discovered, what action would the FAA take against the "customer"?

25. Are you aware of how much it cost the FAA to implement ISO 9000 series standards, including the cost of personnel? Do you believe that this was a worthy undertaking? What, if any, benefits has FAA realized from ISO implementation? Please provide additional data, documentation, and exhibits on the ISO 9000 series as it shows the benefits to AVS.

26. Please describe the Management Advisory Council (MAC) and how it works. Who are the members of the MAC? Are the meetings and records open to the public? Is the MAC assisting with recommendations for hiring (or firing) FAA positions or directing policy? Is it intended to be a secretive group?

27. At the hearing, you said that there are three unnamed airlines that have some AD problems. Please provide the names of those airlines, and others if there are more, and the specific ADs related to each.

28. Do Mr. Gawadzinski and Mr. Stuckey currently possess the 110A Form credentials (as listed in FAA Order 8000.38G)? If not, what was the date of surrender of those credentials?

29. Are starting the process of termination for Mr. Gawadzinski and Mr. Stuckey? If so, where are you in that process? Are there other employees involved that may be terminated?

30. Are you considering implementing any of the Inspector General's recommendations that he presented in his oral and written testimony at the hearing? If, so, which recommendations, and how do you plan to implement them?

31. Are you considering any modifications to the Safety Information Reporting System, as you had originally presented it at the hearing?

32. Please provide information on when Mr. Gawadzinski performed enroute inspections since 1/1/2007.

33. Please provide a list of all self disclosures filed under the ASAP and VDRP and include the name of the airline, the type of violation, and the date of violation.

34. Please provide the preliminary results of your national audit of AD compliance.

35. What criterion was used to determine that carriers were complying with 99% of 2400 audits of ADs? What was included in the audits? Did ATOS play a role?

36. Do you think that FAA inspectors have enough aircraft safety and quality knowledge as it relates to the systems and airlines they are responsible for inspecting? Do you think that the training programs need to be revamped?

37. Does the FAA have enough inspectors?

38. Do we need to develop a program that better trains FAA inspectors with aircraft maintenance practices for the CMOs they function under?

39. Is it unusual that a SPMI would not consult the program manager for a particular fleet before accepting a VDRP or taking any other action regarding that fleet?

40. Isn't the program manager for a particular aircraft type, the subject matter expert, who is in the best position to judge whether a VDRP and comprehensive fix are acceptable?

41. Do you intend to make any changes as a result of this investigation? Could you please outline those changes?

42. Why was Mr. Collamore allowed to "act" as the PMI as recently as February 2008? Given your own internal investigation, how did you view this as appropriate?

43. We've heard from a number of inspectors across the country who complain that airlines are frequently tipped off regarding on-going investigations and allowed to use self-disclosure. Isn't that specifically prohibited under the Advisory Circular outlining the self disclosure process. What do you believe you should do to ensure these programs aren't being abused?

Responses to Questions from the Committee on Transportation and Infrastructure
Received 4/16/08

Question 1. Recently, after FAA announced a national audit of AD compliance after this Committee's investigation broke in the press, we've seen hundreds of aircraft grounded in at least 6 major air carriers. Is it possible these types of compliance issues were routinely seen by inspectors in the past (which was an allegation by scores of inspectors interviewed by us), but they were suppressed by management and quietly self-disclosed, with airplanes continuing to fly? Why do you believe that all of these groundings are occurring now?

Answer: Airworthiness Directives (ADs) are safety tools that are understood by the workforce. The current findings serve to validate that although a number of groundings did occur, there were over 2,390 inspections accomplished without finding violations of the regulations. The vast majority of the recent groundings were related to one specific AD, which had only recently reached its compliance date.

The airlines themselves—not the FAA—initiated the recent groundings of aircraft after they discovered they may not have fully complied with ADs. This was the proper thing for the airlines to do if they determined that their aircraft may not be airworthy. Nevertheless, the consequences to the traveling public were severe.

Question 2. Doesn't this strongly suggest that the self-disclosure program was being abused in more places than just SWA in light of recent events associated with FAA's national audit?

Answer: While it is true that the recent event at Southwest Airlines involved a misuse of the Voluntary Disclosure Reporting Program (VDRP), the FAA does not believe, based on the information presently available, that other intentional abuses of the system have occurred. Nevertheless, we are putting in place additional safeguards by elevating the management levels that must be involved to make and accept voluntary disclosures. Involving higher-level managers will decrease the possibility of potential future abuse.

Question 3. Please comment on the 70 aircraft that overflew the stand-by rudder PCU leak check. SWA claims they had approval to increase the rudder PCU inspection interval from FAA. Is that true? Are you proceeding with a violation in that case as well? What is the status of enforcement on that case?

Answer: The Southwest Airlines Certificate Management Office (SWA CMO) has no record of SWA requesting escalation of the inspection intervals for the rudder PCU check; therefore, SWA had no means to escalate this task beyond the 12,500 flight hour requirement. The CMO has requested SWA to provide any documentation of a request to escalate the inspection times for the PCU and to date has not received any response and/or documentation reflecting escalation approved by the CMO. SWA CMO has opened an enforcement case (2008SW290062).

Question 4. If these new programs and databases like ATOS are working so well, how is it that old-fashioned inspector feet-on-the-ground are finding AD compliance issues affecting many hundreds of aircraft?

Answer: The Air Transportation Oversight System (ATOS) did not eliminate "feet-on-the-ground" inspections. ATOS organizes the accomplishment of these inspections in accordance with risk-based priorities. ATOS relies on the same inspection methodology FAA has always included in its surveillance program. ATOS provided extensively detailed checklists to do those inspections. These checklists cover every regulatory aspect of an air carrier's operating systems. The on-going review of AD compliance uses ATOS processes and checklists.

Question 5. Why didn't the ATOS methodology find the problems at SWA and other carriers that were exposed in our investigation? Is ATOS broken?

Answer: ATOS is not designed to replace an air carrier's quality control program. Airlines employ tens of thousands of mechanics and inspectors to perform quality control. Airlines have a regulatory obligation to perform quality control, and FAA cannot do this work for them. Using ATOS checklists, FAA principal inspectors ensure that each air carrier has systems in place to meet its regulatory obligations. Once assured that the systems are in place, FAA inspectors check the performance of the systems by sampling the product—including hands-on inspection of aircraft and direct observation of pilots and mechanics performing their jobs.

Question 6. Is ATOS only as good as the data that is entered into it?

Answer: The quality of data in ATOS is determined by FAA inspectors who use detailed inspection checklists to collect it. ATOS data are used by principal inspectors to make periodic decisions about the adequacy of their carrier's systems and performance. The quality of the principal inspector's decision is tied to the quality of data collected and entered into the system by inspectors assigned to the airline. For that reason, ATOS requires inspectors to follow explicit data-quality guidelines; ATOS software contains filters and controls; and inspection data are reviewed by Data Evaluation Program Managers or front-line managers before being saved in the ATOS database.

Question 7. Does ATOS need to have fields which are more subjective and allow entries to include additional information and comments?

Answer: The software for ATOS version 1.2—in use since the beginning of this fiscal year—contains the ability to supply additional information and make comments. The information and comments become part of the database and could trigger a "flag" for additional inspections. ATOS checklists require inspectors to answer specific questions as either "yes," "no," "not applicable," or "not observed." When entering a "no" ATOS requires the inspector to enter additional information and comments. For other entries, ATOS software provides a comment field that inspectors may use to document their related observations.

Question 8. We've been told by numerous inspectors that they have been instructed by FAA management on occasion to not enter something into the ATOS system, because if the "dashboard goes red" it causes the CMO problems. Please comment on this.

Answer: It is a common practice for managers to use "yellow" or "red" on the Dashboard to focus on an issue. Only then will executive level management become aware of a potential problem. We encourage mid-level managers to highlight Dashboard items as "yellow" when trends suggest the issue might go off track and "red" when failure is imminent or has occurred. We also require managers to be able to define solutions for "yellow" or "red" items so that executives can make decisions on appropriate courses of action. Regional management "dashboards" track completion of ATOS inspections. Failure to enter inspection data would cause the "dashboard to go red," and managers would have no incentive to instruct inspectors to the contrary.

Question 9. Is it possible that there is disincentive to entering accurate [data] into ATOS? Data indicating non-compliance reflects badly on CMO and regional management, does it not?

Answer: Non-compliance reflects badly on the operator, who understands the requirement to comply with the regulations. FAA Order 8900.1, volume 1, chapter 2, section 3, "Federal Aviation Administration (FAA) Regulatory Responsibility," states, per 49 U.S.C. § 44701: "To fulfill the FAA's regulatory responsibility, the Administrator gives full consideration to the obligation of air operators and air agencies to perform their services with the highest degree of safety in the public interest."

Entering data that reflects non-compliance creates additional work to follow up on corrective action and to pursue enforcement action when appropriate. It would create a disincentive only if you believe inspectors are unwilling to perform these additional responsibilities. This vulnerability exists with ATOS as it did before ATOS.

Question 10. [In] FAA Order 8300.10 it is stated under inspector responsibility that "an inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act under the provisions of Section 605(b) of the FAA Act of 1958, as amended is in dereliction of duty..." Could you comment on whether you believe that happened in the case of SWA?

Answer: FAA Order 8300.10, Airworthiness Inspectors Handbook—which only applied to airworthiness inspectors—has been superseded by new Order 8900.1, Flight Standards Information Management System. In volume 1, chapter 3, Inspector Responsibilities, Administration, Ethics, and Conduct, that order contains much more extensive information on inspector responsibilities, duties, and ethics, including the responsibility to "...[r]eport known or suspected violations of law, regulations, or policy through appropriate channels." Also in this chapter is the requirement for inspectors to "[o]bserve the various *laws, rules, regulations*, and other authoritative instructions" (emphasis added) related to their position as aviation safety professionals. We believe this is more descriptive of inspector responsibilities than the language in the previous FAA orders. Implicit in this FAA Order is that if inspectors do not fulfill their safety responsibilities they have neglected their duty to the public. Failure to follow published guidance is certainly grounds for disciplinary action. As acknowledged in the hearing, there was a management failure at the Southwest Airlines certificate management office and the Flight Standards southwest regional headquarters.

Question 11. Why were the problems in the SWA CMO allowed to fester for a number of years prior to this complete breakdown?

Answer: As acknowledged in the hearing, there was a management failure at the Southwest Airlines certificate management office (CMO) and the Flight Standards southwest regional headquarters. The regional management should not have allowed problems at the CMO to persist for several years. The performance of the supervisory principal maintenance inspector should have been corrected at the onset. We are addressing these management failures with personnel actions taken before and after the hearings.

Question 12. Is it true that airlines can use the CSI to complain about the level of "customer service" they are receiving from their FAA overseers?

Answer: The intent of the Customer Service Initiative is consistent with the intent of H.R. 404, Federal Customer Service Enhancement Act, passed by the House on July 23, 2007. The CSI is a voluntary method where operators, airmen, or the public who disagree with Flight Standards can raise issues, through progressively higher levels of management for resolution to mutual satisfaction.

Most CSI reports have dealt with mundane problems and in more than 80 percent management review upheld Flight Standards' original decision. In approximately 5 percent of CSIs received in Flight Standards, the complainants have requested the removal of an inspector from a certificate. We review any complaints carefully to ensure the appropriate outcome. With the exception of one certificate, which we transferred to another office, we have not removed any inspectors assigned to a certificate based on a request in a CSI. Even in that one case, all the inspectors moved with the certificate and only the unit supervisor did not transfer with the certificate. The unit supervisor retained his position as a unit supervisor.

The remaining 20 percent did not involve policy decisions but highlighted the need to update an advisory circular or other non-regulatory material. Additionally, in many cases, the operator or the individual filing the CSI gained a better understanding of FAA regulations or policy.

Question 13. Shouldn't these "precautionary inspections"—ordered on March 13, 2008—have been taking place all along?

Answer: The special-emphasis validation of FAA's AD oversight, ordered on March 13, is to validate our system for overseeing air carrier AD management. The audit consists of two phases. In their aggregate, the two phases include a broad sample of the air carrier's program to comply with ADs. The results of the audit will allow us to determine whether or not each air carrier's program is in compliance with our rules and whether or not our system for determining compliance is adequate or needs adjustment. Preliminary results of Phase 1 validated both the airlines AD management system and FAA oversight of that system.

Question 14. Do you think that somewhere along the line FAA supervisors have become relaxed about the requirement that self-disclosure can only occur if the airline alone discovers a problem?

Answer: The policy for the Voluntary Disclosure Reporting Program is clear and precludes inappropriate decisions if followed. The program provides invaluable safety information that we would otherwise not be able to attain. Nevertheless, we have put in place additional safeguards by elevating the management levels that must be involved to make and accept voluntary disclosures. Involving higher-level managers will decrease the possibility of potential abuse.

Question 15. Don't you think it is important to maintain a balance between traditional regulatory enforcement mechanisms such as civil penalties, and relatively new techniques such as "partnership programs?" Is it possible that the balance has shifted too much in one direction?

Answer: What is important is to ensure compliance. Both enforcement and newer methods such as voluntary programs are important tools to achieve that compliance. Enforcement is necessary for deterrence of negligent or incompetent acts by individuals or companies and, in the most severe cases, can lead to certificate revocation. Voluntary programs are necessary to provide a communication channel to reveal inadvertent, unsafe acts—not involving negligence or incompetence—with potential, systemic causes that need to be eliminated in order to prevent repetition of their consequences. These distinct objectives are not a matter of balance. Each needs to be exercised whenever the circumstances warrant.

Question 16. Why did your staff initially refuse to cooperate with Committee investigators last September and October when they requested information on your internal investigations?

Answer: We did not refuse to cooperate with the Committee's investigation. At the time of the request, during the first week of September 2007, the FAA's investigation was incomplete and in draft format. Additionally, since the initial request mentioned an open case with the Office of Special Counsel, we believed it was inappropriate to comment. The final report was not complete until October 2, 2007.

On October 5, 2007, Representatives Oberstar and Costello sent a letter to Acting Administrator Sturgell expressing concern with the lack of cooperation. The FAA released the completed report and hand-delivered it the House Committee investigator on or before October 18, 2007.

Question 17. It is hard to believe that you had not heard of all the problems occurring at SWA and in the SWA CMO since the warning bells had been ringing for several years. How could you not know what was happening?

Answer: As acknowledged at the hearing, the supervisory principal maintenance inspector and his immediate chain-of-command mishandled the problems at the Southwest Airlines CMO. Once known at the Service Director and Associate Administrator levels, we handled the problems appropriately in accordance with agency investigative and personnel policies and procedures.

Question 18. We also hear a lot of repeat offenders keep showing up protected by reports under the ASAP program. Some have charged that this program is too often used to issue "get out of jail free" cards. Don't you believe at some point, that if the same individuals keep turning up over and over more drastic action should be taken and they should not be continually protected by an ASAP Event Review Team? How do we fix this?

Answer: In order to be accepted for handling under the ASAP, the ASAP Event Review Committee (ERC) must determine through unanimous consensus that the employee's violation was inadvertent, and did not entail an intentional disregard for safety. The ERC is comprised of a company representative, an employee representative, and an FAA aviation safety inspector. If the inspector does not believe an ASAP report qualifies for inclusion under the program, FAA policy clearly states that he or she should vote to exclude the report. Similarly, the inspector must agree on the appropriate corrective action for all violations, including repeat violations. Further, if the other voting members of an ERC cannot agree, FAA policy states that the inspector will decide how the report will be handled. The rights and responsibilities of the FAA member of the ERC are documented in FAA published inspector policy.

All ASAP memoranda of understanding indicate that the ERC determines, on a case-by-case basis, the appropriate corrective action for repeat reporting by the same individual. If the ERC accepts repeated violations, the ERC can apply successively more aggressive corrective action to preclude recurrence. Detailed records are kept at a local level. Therefore, the determination that repeat violations have occurred is also at the local level.

Question 19. What internal mechanisms do you have in place to ensure that when an FAA inspector begins a review of an airline, that the airline will not be "tipped off" to file a self-disclosure?

Answer: FAA policy regarding the Voluntary Disclosure Reporting Program (VDRP) is clearly spelled out in FAA Order 8900.1, as well as in Advisory Circular (AC) 00-58A, Voluntary Disclosure Reporting Program. Order 8900.1, volume 11, chapter 1, entitled Voluntary Disclosure Reporting Program, describes in detail, phase by phase, exactly what the inspector is to do regarding a VDRP. This includes the five conditions that an operator must meet before the FAA accepts the VDRP, how the FAA responds to the request for a VDRP, and other guidance information on the program. Local office management is responsible for assuring aviation safety inspectors adhere to that policy. Nevertheless, we are putting in place additional safeguards by elevating the management levels that must be involved to make and accept voluntary disclosures. Involving higher-level managers will decrease the possibility of potential abuse.

Question 20. What internal checks does the FAA have to ensure that when an airline files a self-disclosure, that they are following the federal regulations for ASAP and VDRP?

Answer: ASAP and VDRP are both voluntary programs, and as such are not governed directly by Federal regulations. The FAA Headquarters program office for ASAP conducts detailed onsite program reviews for all ASAP at the end of their respective demonstration periods, and periodically thereafter. These reviews provide an FAA internal check on the extent to which individual programs are adhering to program policy. A written report of each such review is provided to the local office manager, and an annual report concerning these reviews is forwarded to the Air Transportation Division manager in the Flight Standards Service. The reports indicate that the majority, but not all, ASAP participants are abiding by FAA policy. When the onsite audit finds that they are not following policy, that information is conveyed in an out-briefing to the Event Review Committee (ERC), which is expected to make corrections. The ERC advises the Voluntary Safety Programs Branch, and that branch follows up to assure the completion of corrective actions. The results are also noted in the audit record and are followed up at the next audit.

VDRP reporting became automated by the end of December 2006, and the electronic system forces carriers to comply in a standardized fashion with the VDRP procedures. Still, it remains incumbent on the principal inspector who receives the report to judge whether the submission meets program acceptance criteria. The newly announced policy requiring office manager sign-off on acceptance and closure of disclosures should provide a needed level of quality control on the entire process.

Question 21. Do you think that it might be worthwhile to regularly audit your regional offices and CMOs to see if the internal control mechanisms for oversight of airlines are working as intended?

Answer: Yes, the FAA does consider regular audits valuable. That is why Flight Standards established the Flight Standards Evaluation Program (FSEP) in 1998 to assess whether offices operate according to national policy. Flight Standards field managers and supervisors make up 6 FSEP audit teams. Auditors cannot evaluate any offices within their region. The yearly audit schedule assigns audit teams to 30 offices throughout the Flight Standards organization. The Director of Flight Standards receives quarterly audit reports containing all findings and trends. All FSEP transmittals are entered as corrective action report into the quality management system automation. Through this process, we have realized specific improvements in the areas of operations specifications and designated pilot examiners.

Question 22. What auditing measures are in place to ensure that when an airline or employee files a self-disclosure, that they do so according to FAA regulations and national policy guidance? And what auditing measures are in place to ensure that FAA employees, including management, are following the proper protocol when looking into a safety issue, and more specifically, that they don't "tip off" the airline? How could you catch an inappropriately filed VDRP or ASAP? What are the FAA's oversight control mechanisms?

Answer: FAA policy regarding the criteria for acceptance under the Voluntary Disclosure Reporting Program (VDRP) is clearly spelled out in FAA Order 8900.1, as well as in Advisory Circular (AC) 00-58A, Voluntary Disclosure Reporting Program. It is incumbent on local office management to assure that local FAA personnel adhere to published VDRP policy, which states that (with certain explicit exceptions, described below), disclosures of violations of which the FAA already has knowledge cannot be accepted. In December 2006, the FAA implemented a web-based electronic system for airline submission and FAA review of disclosures. That system enables every supervisor, local office manager, and regional Flight Standards Division office to access, review, and track all disclosures from initial submission through implementation of the comprehensive fix and closure of the case. Nevertheless, we are putting in place additional safeguards by elevating the management levels that must be involved to make and accept voluntary disclosures. Involving higher-level managers will decrease the possibility of potential abuse. In addition, the FAA will require that all inspector recurrent training programs include a specific review and re-emphasis concerning adherence to VDRP policy.

With regard to the question of FAA mechanisms for oversight and prevention of inappropriate ASAP submissions, the first line of defense is the FAA inspector's membership on the ASAP Event Review Committee (ERC) that determines whether reports meet the program's acceptance criteria. The ERC must determine through consensus whether a reported violation was inadvertent and does not entail an intentional disregard for safety. If the ERC cannot agree, all ASAP Memoranda of Understanding between companies and the FAA explicitly state that in such a case, the FAA member will decide how the report will be handled. The FAA requires that all inspectors serving as ERC members attend an FAA-conducted formal training course on the inspector's roles and responsibilities under ASAP, and that information is also contained in our inspector's handbook guidance. In addition, FAA Headquarters conducts on-site program reviews of all ASAPs at the end of their 18 month demonstration period, and periodically thereafter. The results of these reviews are documented in a report sent to the local manager of the FAA office having regulatory jurisdiction over the company, as well as to the associated principal inspector and FAA ERC member. In addition an annual report is sent the Air Transportation Division manager in the Flight Standards Service. When the onsite audit finds that they are not following policy, that information is conveyed in an out-briefing to the ERC, which is expected to make corrections. The results are noted in the audit record and are followed up at the next audit.

Question 23. We recently heard of a case at United Airlines that has recently undergone an AD Safety Attributes Inspection in which there were findings of non-compliance. We are told that the airline was allowed to disclose all of these using VDRP, but since they were discovered by FAA oversight mechanisms, were they actually eligible for VDRP?

Answer: When inspectors completed SAI 1.3.6, Airworthiness Directive Management, in March 2007, employees from United Airlines (UAL) were not part of the assessment team.

Out of 58 questions in SAI 1.3.6, inspectors indicated there were negative findings in 27 areas. In each case, inspectors briefed UAL on the findings and documented them in writing to the airline. We have confirmed with UAL's principal maintenance inspector that we accepted no VDRP from UAL on any of the findings.

Question 24. If an airline is not happy with the outcome of an inspection, or multiple inspections, it can file for reconsideration under the Customer Service Initiative (CSI).

a. Please describe the process of filing for reconsideration.

Answer: Our primary purpose in establishing the Customer Service Initiative was to provide all certificate holders with a consistent, standardized way to elevate their concerns for a definitive resolution.

If an airline, manufacturer, or other certificate holder or applicant disagrees with a decision, they can present their side of the issue, based on regulations and policy. The FAA reviews the input and determines if an inspector, engineer, or any other employee made a decision based on the correct regulation and current policy. The basic process is this: an operator or individual disagrees with an inspector's decision—not necessarily about an inspection—and the inspector's supervisor or office manager reviews the decision. If the operator or individual disagrees with the outcome of that review, he or she can request a regional review. The ultimate level of review is at headquarters, by a policy division, and endorsed by the Service Director.

b. Do you think that this process could be abused by airlines to get an inspector who may issue a more favorable finding than the previous one? If this type of abuse was discovered, what action would the FAA take against the "customer?"

Answer: The multiple users of CSI have been individuals, not airlines. One individual has sent 4 CSIs concerning the denial of his application to be a designated examiner in an aircraft he is not qualified in. In that case, we responded each time reiterating our policy in the matter. Because CSI is voluntary and not regulatory, there is no action we can take against someone who wants to make multiple complaints, other than to refuse a repeated CSI on the same issue, which our offices have done.

Question 25. Are you aware of how much it cost the FAA to implement ISO 9000 series standards, including the cost of personnel? Do you believe that this was a worthy undertaking? What, if any, benefits has FAA realized from ISO implementation? Please provide additional data, documentation, and exhibits on the ISO 9000 series as it shows the benefits to AVS.

Answer: The cost to implement ISO 9001:2000 was approximately $18.5M ($15 million in labor and $3.5 million in contracts). We believe the ISO 9001:2000 initiative is a worthy undertaking. Implementation of a Quality Management System (QMS) using the ISO standard has provided AVS with a tool to standardize the documentation and measurement of processes throughout AVS. ISO helps us provide consistent implementation of our processes across our geographically dispersed workforce – which in turn provides consistent implementation to industry, no matter where they seek decisions.

Adherence to the ISO standard within AVS is audited by a third party vendor at least twice a year. Below are a few examples of processes that have improved as a result of our implementation of a QMS:

- The number of operators with missing Operational Specifications paragraphs has decreased from almost 3,000 to less than 300 in three years.
- We are rewriting orders so that all designee types (15+) overseen by the FAA have the same methods and standards for hiring, training, renewal and termination. Previously, every designee type was independent.
- The time to draft response letters to NTSB has significantly decreased. Prior to ISO 9001:2000, less than 56 percent of response letters made it to the Administrator in 70 days or less. Today, 100 percent of response letters make it to the Administrator's office within 70 days.
- By identifying a discrepancy charge of fees in Europe during an audit, we were able to save the government $3 million.
- 272 Designated Pilot Examiners (DPEs) have been renewed through an automated work flow that identifies all the criteria stated in the handbooks have been met. Four of these examiners have been terminated.
- 97 Repair Stations Certifications have been identified and tracked through an automated workflow.

Question 26. Please describe the Management Advisory Council (MAC) and how it works. Who are the members of the MAC? Are the meetings and records open to the public? Is the MAC assisting with recommendations for hiring (or firing) FAA positions or directly policy? Is it intended to be a secretive group?

Answer: Public Law 104-264, The Federal Aviation Reauthorization Act of 1996, Section 230, directed the FAA Administrator to establish an advisory council to be known as the FAA Management Advisory Council. Public Law 106-181, the "Wendell H. Ford Aviation Investment and Reform Act for the 21st Century," further amended this law. The MAC provides the FAA Administrator general advice from a broad spectrum of aviation interests. A list of the members is attached. The Council functions as an oversight resource for management, policy, spending and regulatory matters under the jurisdiction of the Administrator. Over time, the MAC has focused on issues directly tied to the performance of the non-air traffic services functions of the FAA and has assisted with recommendations for filling high-level FAA positions. The MAC is not intended to be a secretive group. However, Section 106(p)(5) of Title 49, exempts the MAC from the Federal Advisory Committee Act which requires Federal advisory committees to be open to the public.

MAC MEMBERSHIP

Russ Meyer	Chairman and CEO Emeritus, Cessna Aircraft Company
Randy Babbitt	Director, Oliver Wyman
Charles Bolden	Senior Vice President, Tech Trans International, Inc
Bob Crandall	Retired CEO, American Airlines Corporation
Angela Gittens	Vice President, Director General, Airports Council International World
David Neeleman	Chairman, JetBlue
Jim Smith (Chair)	Executive Director, Newport News/Williamsburg International Airport
Phil Trenary	President and CEO, Pinnacle Airlines
Fred Pease, Jr.	DOD title - Executive Director, DOD Policy Board on Federal Aviation AF Title - Associate Director for Airspace, Ranges and Airfield Ops
Thomas Barrett	Deputy Secretary of Transportation

Vacant	(Formerly Nicole Piasecki, Executive Vice President, Boeing)
Vacant	(Formerly Paul Schoellhamer, Retired Director of Government Affairs, Zuckert, Scoutt & Rasenberger)

Question 27. At the hearing, you said that there are three unnamed airlines that have some AD problems. Please provide the names of those airlines, and others if there are more, and the specific ADs related to each.

Answer: Our inspectors are investigating TEM (AD 2002-07-08), Spirit (AD 2007-06-02), Allegiant Air (AD 2006-15-15), and Midwest Airlines (AD 2006-15-15) for noncompliance with the referenced ADs as a result of the Special-Emphasis Validation of Air Carrier Airworthiness Directives Oversight, Phase 1. We knew of three airlines at the time of our testimony and learned of a fourth since providing our testimony.

Question 28. Do Mr. Gawadzinski and Mr. Stuckey currently possess the 110A Form credentials (as listed in FAA Order 8000.38G)? If not, what was the date of surrender of those credentials?

Answer: Mr. Gawadzinski and Mr. Stuckey have surrendered their FAA Form 110A credentials. Mr. Stuckey surrendered his on April 18, 2008, and Mr. Gawadzinski surrendered his on April 21, 2008.

Question 29. Are [you] starting the process of termination for Mr. Gawadzinski and Mr. Stuckey? If so, where are you in that process? Are there other employees involved that may be terminated?

Answer: Until we finish our ongoing investigations and reviews, and coordinate with the Office of Special Counsel and the Office of the Inspector General, we cannot discuss any potential personnel actions for Mr. Gawadzinski, Mr. Stuckey, or any other FAA employees.

Question 30. Are you considering implementing any of the Inspector General's recommendations that he presented in his oral and written testimony at the hearing? If so, which recommendations, and how do you plan to implement them?

Answer: We intend to take action on 6 of the Inspector General's 7 recommendations, as follows:

1. Ensure that our Voluntary Disclosure Reporting Program (VDRP) guidance requires inspectors to (a) verify that air carriers take comprehensive actions to correct the underlying causes of violations identified through self-disclosure programs, and (b) evaluate, before accepting a new report of a previously disclosed violation, whether the carrier developed and implemented a comprehensive solution.

Our existing VDRP policy specifies inspector verification concerning the comprehensive carriers' actions, and we will augment our published guidance to emphasize the requirement to evaluate the carrier's comprehensive solution and its implementation. Our updated guidance clarifies the inspector's responsibility in ascertaining whether a repeat of a given regulatory violation resulted from circumstances that the operator should have addressed in a previously accepted comprehensive fix but did not. In such a case, it would be appropriate for the FAA to reject a disclosure of a repeated violation. We issued a notice containing the updated guidance on April 30, 2008.

2. Implement a process for second level supervisory review of self-disclosures before they are accepted and closed—acceptance should not rest solely with one inspector.

We included this as part of the change to the VDRP guidance, issued April 30, 2008. This will apply to all disclosures submitted under the Voluntary Disclosure Reporting Program.

3. Periodically rotate supervisory inspectors to ensure reliable and objective air carrier oversight.

We do not intend to take action on this recommendation. The expense of relocating personnel from one office or region to another is cost prohibitive and may not yield the intended results. Additionally, it takes a period of time for a supervisor or manager to learn the specifics of a particular operator, and we would lose valuable knowledge and experience with an operator by rigidly moving personnel without specific cause.

4. Revise our post-employment guidance to require a "cooling-off" period before an FAA inspector is hired at an air carrier he or she previously inspected.

By June 30, 2008, we will have developed the proposal and schedule for publishing the notice of proposed rulemaking. We propose restrictions similar to those in place for executives leaving the FAA. There is no prohibition from going to work for a company in industry, including an airline, as long as the duties at the company do not involve working with the FAA. Therefore, it is not a complete prohibition from being hired, but rather a restriction on the duties that the former FAA inspector can perform.

5. Implement a process to track field office inspections and alert the local, Regional, and Headquarters offices to overdue inspections.

The Air Transport Oversight System (ATOS) contains the status of inspections. We will compile data from ATOS and issue alerts to each office to advise them of inspections due within 30 days and periodically until the inspection is complete. We will also alert offices to overdue inspections. All levels of management will be notified of the status of inspections, and executives and managers will review the status of inspections at least monthly.

6. Establish an independent organization to investigate safety issues identified by FAA employees.

Though the FAA is not implementing the Inspector General's specific recommendation, in addition to the existing FAA Safety Recommendation Program, we will initiate the Safety Information Reporting System.

7. Develop a national review team that conducts periodic reviews of FAA's oversight of air carriers.

Three separate programs will address this recommendation:

- We will accomplish this as part of the Air Carrier Evaluation Program, currently in place as part of the ATOS system. We will change our guidance to have these audits on a regular basis. Also, the Flight Standards Service Director will periodically convene a team of FAA executive-level safety professionals to determine ACEP focus areas based on analysis of current conditions, such as trends in surveillance, outsourcing, or financial conditions. We will analyze results of focused ACEP campaigns to direct corrective measures, such as new or amended regulations and improved guidance to industry and the FAA workforce.

- Flight Standards established the Flight Standards Evaluation Program (FSEP) in 1998. Flight Standards field managers and supervisors make up 6 FSEP audit teams. Auditors cannot evaluate any offices within their region. The yearly audit schedule assigns audit teams to 30 offices throughout the Flight Standards organization. AFS management receives quarterly audit reports containing all findings and trends.

- We revised the ATOS job aid because of the roll-out of ATOS version 1.2. Audit teams will begin using the revised job-aid on all appropriate audits beginning May 12, 2008.

Question 31. Are you considering any modifications to the Safety Information Reporting System, as you had originally presented it at the hearing?

Answer: The Safety Issues Reporting System (SIRS) was deployed April 30, 2008. SIRS is open only to employees of the FAA Aviation Safety organization, and provides a means for employees who are not satisfied with a decision relating to safety at their office level to submit the issue for review, without fear of repercussion. If the issue is not resolved to the employee's satisfaction at the office level, it is ultimately decided at the Service Director Level, (i.e. the Director of Flight Standards or Aircraft Certification). When issues are closed, the original issue and final resolution will be documented in a searchable database. To assure objective review, SIRS will be managed by the Office of Accident Investigation, which also manages similar systems and processes (e.g., NTSB recommendations). We believe that this system will not only provide an effective means of review, it will further raise the level of consistency in decision making across the Aviation Safety organization.

Question 32. Please provide information on when Mr. Gawadzinski performed enroute inspections since 1/1/2007.

Answer: Mr. Gawadzinski performed enroute inspections on the following days:

April 26, 2007
July 11, 2007
August 29, 2007
August 30, 2007
October 24, 2007

Question 33. Please provide a list of all self disclosures filed under the ASAP and VDRP and include the name of the airline, the type of violation, and the date of violation.

Answer: FAA does not maintain all disclosures filed under ASAP. Those reports are maintained by the airlines. Many ASAP disclosures involve internal airline procedures and not necessarily anything to do with the regulations, e.g., they could involve action taken to enhance training for an employee that had nothing to do with regulatory training requirements. There are currently 155 ASAP Programs for 68 operators. These programs produce more than 50,000 ASAP reports per year. Consistent with 49 U.S.C. § 40123 and 14 CFR Part 193, any ASAP data provided to the FAA is protected from public disclosure.

A list of VDRP disclosures by regulation and date of the event since implementation of a centralized VDRP database in December 2006 is attached. We have not included airline identity on this list due to the restrictions regarding release of that information in 49 U.S.C. § 40123 and 14 CFR Part 193.

Question 34. Please provide the preliminary results of your national audit of AD compliance.

Answer:

Phase I:

- Accomplished 2,392 audits of airworthiness directives
- Approximately 99% of the audits confirmed compliance
- Approximately 8% of the audits involved a visual inspection
- Approximately 1.4% of the audits (34 out of 2,392) revealed discrepancies that ranged from minor record keeping errors to seven instances, involving four airlines, where we could not confirm compliance. These four airlines are under investigation.
- The discrepancies included the following:
    - Failure to submit a required plan for doing the inspection
    - Missing or incorrect records that were later provided or otherwise rectified by the operator
    - A need for the airline to obtain an approved alternate means of compliance after-the-fact. In these cases, the intent of the AD was met, but technical data needed to be approved by FAA.
    - Errors in FAA technical documentation.

Phase II:

The following results include data collected through April 29, 2008. Because we took these data from the database before their review by Data Evaluation Program Managers, they are subject to change if they do not meet ATOS Data Quality Guidelines.

- Accomplished 454 activities in accordance with Phase II instructions for determining AD compliance.
- 448 activities included a check of carrier records. Of these, 444 activities (99%) indicated AD compliance. Four activities indicated noncompliance with the AD.
- 132 activities involved a visual inspection. Of these, 126 (95%) indicated AD compliance. Six activities indicated noncompliance with the AD.
- A total of 10 activities indicated noncompliance with the AD. The reports of those activities indicated the following discrepancies:
    - The operator had not completed the AD before placing the aircraft in short-term storage before the AD compliance date (2/28/08). We advised the operator to complete the AD before operating the aircraft.
    - Part numbers recorded in AD records did not agree with part numbers on aircraft.
    - Incomplete records to support AD accomplishment.
    - Configuration Deviation List not maintained in accordance with AD instructions.
    - Repairs or work to address an AD either incorrect or incomplete.

Question 35. What criterion was used to determine that carriers were complying with 99% of 2400 audits of ADs? What was included in the audits? Did ATOS play a role?

Answer: The basic criteria are that the airline has complied with all requirements in the AD or approved Alternative Means of Compliance.

Instructions for the audit said:

"Validate the air carrier's work instructions (e.g., task cards, engineering authorizations, engineering orders, engineering change orders) to accomplish the AD by verifying that the instructions correctly describe the method of compliance contained within the AD and any referenced service information (e.g., service bulletins, service letters) or any related alternative methods of compliance; and

"Validate the proper performance of the AD by reviewing the complete work instructions 'package' on at least one aircraft."

Phase 1 of the audit required a sample of 10 ADs for each of the air carriers' fleets, including AD-2002-07-08 and AD-2004-18-06 for the Boeing 737 aircraft, if applicable. Phase 2 of the audit requires a sample of additional ADs to total 10 percent of the ADs applicable to the air carriers' fleets.

Inspectors conducting the audits used ATOS processes, procedures, and detailed checklists.

A copy of Notice N 8900.36, Special Emphasis Validation of Air Carrier Airworthiness Directives Oversight, is available at http://fsims.faa.gov.

Question 36. Do you think FAA inspectors have enough aircraft safety and quality knowledge as it relates to the systems and airlines they are responsible for inspecting? Do you think that the training programs need to be revamped?

Answer: Our training programs provide extensive knowledge about aircraft safety and quality. We use a systematic process to keep inspector training profiles current. A steering committee of Flight Standards executives and senior managers oversees the process. Line inspectors, who serve as subject matter experts, continuously review and update courses.

Question 37. Does the FAA have enough inspectors?

Answer: Flight Standards ended FY 2007 with an overall staff of 4,825 which included 3,780 Aviation Safety Inspectors (ASIs). The FY 2008 budget provides additional resources for a projected end of year total of 3,880 ASIs. This increase will support FAA efforts to increase the effectiveness of safety oversight. This includes initial certification program approvals/acceptance; approval/acceptance of new programs and program changes and periodic program reviews. In addition, these ASIs will support requests for new certifications, while maintaining surveillance of air carriers in bankruptcy protection in accordance with FAA regulations.

Recent increases in ASI staffing have enabled the FAA to meet the requirements of the existing system safety oversight process. However, any changes to FAA's system safety oversight process could require additional safety critical resources.

Question 38. Do we need to develop a program that better trains FAA inspectors with aircraft maintenance practices for the CMOs they function under?

Answer: There is sufficient FAA inspector specific maintenance technical training, air carrier maintenance programs training, and "on the job" training to perform the necessary oversight of air carriers for the certificate management offices. Air carrier inspector training is currently managed through the DOT's electronic learning system (eLMS). It ensures that Inspectors receive and document all mandatory, enhanced performance, developmental, and recurrent training courses that provide the specific knowledge and training to accomplish air carrier oversight. There are 45 air carrier systems courses and 39 aircraft specific technical training courses in addition to formal "on the job" training conducted by the CMO to which they are assigned. However, we continue to monitor the specific training requests and assess when changes need to be made, such as adding new courses due to changes in technology.

Question 39. Is it unusual that a SPMI would not consult the program manager for a particular fleet before accepting a VDRP or taking any other action regarding that fleet?

Answer: We have put in place additional safeguards by elevating the management levels that must be involved to make and accept voluntary disclosures. Involving higher-level managers will decrease the possibility of potential abuse. An individual named as a supervisory principal inspector has the training and experience and has achieved a grade level where independent action and decision-making are expected. However, we expect the SPMI to communicate with the program manager of a particular fleet, as well as others in the office when taking such an action.

Question 40. Isn't the program manager for a particular aircraft type, the subject matter expert, who is in the best position to judge whether a VDRP and comprehensive fix are acceptable?

Answer: Certainly FAA personnel who have the most knowledge regarding a particular aircraft are likely to be among the best qualified to judge whether a VDRP and comprehensive fix are acceptable. It is essential that the FAA inspector responsible for oversight of a given fleet for a particular airline not only be knowledgeable concerning the aircraft itself, but also in the airline's flight operations or aircraft maintenance procedures, as applicable.

The program manager for a particular aircraft type should play a key role in determining the adequacy of an air carrier's comprehensive fix for self-disclosed regulatory noncompliance. However, the principal inspector is ultimately responsible for the approval or acceptance of an air carrier's programs and is held accountable for determining, from available evidence, whether these programs comply with regulations. The planned changes to VDRP policy will not affect any consultation with the aircraft's program manager.

Question 41. Do you intend to make any changes as a result of this investigation? Could you please outline those changes?

Answer: We will take the following actions:

- Development of the Safety Issues Reporting System (SIRS), implemented as of April 30, 2008, which will provide employees an additional mechanism to raise safety concerns if they feel they are not receiving the necessary airing or response from supervisory and management personnel. This is in addition to existing channels, including the FAA Safety Recommendations Program, the Administrator's Hotline, and the Safety Hotline;
- By June 30, 2008, the FAA will initiate a rulemaking project to address ethics policies that enhance inspector post-employment restrictions, bringing them in line with or exceeding existing restrictions for other federal employees. Currently, FAA prohibits new inspectors who are hired from an airline from overseeing that airline for a period of two years;
- The Aviation Safety organization is working with the manufacturers and air carriers to develop a system to improve the clarity of ADs to ensure effective implementation by the industry;
- Requiring that reports under the Voluntary Disclosure Reporting Program are submitted by senior airline officials to ensure there is awareness and sensitivity at the highest level; FAA management will review and accept VDRP reports;
- AFS-900 will do quarterly roll-ups of the status of system design inspections and notify the region 30 days before the inspection is due and if the inspection becomes overdue;
- Accelerating the expansion of the Aviation Safety and Analysis Sharing Program. With all 117 carriers participating in the Air Transportation Oversight System (ATOS), the expansion will provide a new blend of data that will afford an additional look at nationwide trends; and
- We will emphasize in all our national policy documents that employees must follow published policy.

Question 42. Why was Mr. Collamore allowed to "act" as the PMI as recently as February 2008? Given your own internal investigation, how did you view this as appropriate?

Answer: Mr. Collamore acted in this position only in sporadic periods while the PMI was out of the office. This was a task that was shared by other senior journeyman inspectors. The expectations were that the person acting for the PMI would keep the paperwork flowing through the unit. There were no personnel actions cut and no promotion was granted in pay status. As far as Mr. Collamore acting as PMI as late as February 2008, this was during the time when the only other senior inspector was out on extended sick leave for medical treatment.

Question 43. We've heard from a number of inspectors across the country who complain that airlines are frequently tipped off regarding on-going investigations and allowed to use self-disclosure. Isn't that specifically prohibited under the Advisory Circular outlining the self disclosure process[?] What do you believe you should do to ensure these programs aren't being abused?

Answer: It is indeed specific FAA policy, as stated in AC 00-58, that, with the two significant exceptions described in paragraph 7c of AC 00-58 (part of an ASAP report or discovered during a joint audit), the FAA must not already be aware of a violation in order for it to be accepted for handling under the VDRP. Clearly, if an FAA investigation was already on-going concerning a violation, the violation involved would not meet VDRP acceptance criteria, even in the case of the two exceptions previously cited. Nevertheless, we have put in place additional safeguards by elevating the management levels that must be involved to make and accept voluntary disclosures. Involving higher-level managers will decrease the possibility of potential abuse.

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

James L. Oberstar
Chairman

David Heymsfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

John L. Mica
Ranking Republican Member

James W. Coon II, Republican Chief of Staff

April 23, 2008

Mr. Nicholas Sabatini
Associate Administrator for Aviation Safety
Federal Aviation Administration

Mr. James J. Ballough
Director of Flight Standards Service
Federal Aviation Administration

Dear Mr. Sabatini and Mr. Ballough:

During the April 3, 2008 hearing on "Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory 'Partnership Programs'" you were asked to provide information to the Committee on the Customer Service Initiative (CSI) by Chairman Peter A. DeFazio. I ask that you address his questions by providing the aggregate numbers on who has used the CSI, delineated by categories, such as airlines, repair stations, individual airmen, etc. Please provide any additional information that you believe will enhance the Committee's understanding of the CSI and how it has been used by various demographics.

Additionally, I said that I will institute a periodic six week review – along with Ranking Member Mica, Chairman Costello, and Ranking Member Petri – to discuss the FAA's actions and progress on addressing that issues that were examined at the hearing. I am informing you that I would like to commence the first review on May 22, 2008.

Please also find supplementary questions enclosed that I would like you to answer for the official hearing record, in addition to the questions that I sent you on April 16, 2008. Please provide a response to these questions by May 6, 2008 to: Ford House Office Building, Washington, DC, 20515 and email a copy to @mail.house.gov. Should you have any questions, please contact of the Committee's staff at (202) 226-4697.

Sincerely,

James L. Oberstar, M.C.
Chairman

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HEARING ON "CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY 'PARTNERSHIP PROGRAMS'"
APRIL 3, 2007
QUESTIONS FOR THE HEARING RECORD (SUPPLEMENT)

1. What is the status of your rulemaking regarding post-employment ethics issues?

2. Please provide to the Committee an in-depth plan of action on what changes you will make as result of what you have learned on the issues discussed at the hearing and subsequent events.

3. What steps are you taking to implement a plan so that senior airline leadership are made aware when a self disclosure has been made to the FAA?

4. What steps are you taking to implement a plan that will require the CMO office manager to sign off on every self disclosure?

5. What is the status of your analysis of the VDRP and ASAP? What tools are you/will you be using to conduct this analysis?

6. What are your plans to clarify the intent of the Customer Service Initiative?

7. Since the April 3 hearing, have you received any new evidence to indicate that the abuses of the self disclosure program in the Southwest Airlines case are, in fact, systemic?

8. Is the FAA equipped with the appropriate resources for your inspector workforce? I ask that you assess your inspector workforce and develop a list of needs to enhance the inspectors' operation, including staffing, funding, etc.

Responses to Questions from the Committee on Transportation and Infrastructure
Received 4/23/08

Question 1: What is the status of your rulemaking regarding post-employment ethics issues?

Answer: By June 30, 2008, we will have developed the proposal and schedule for publishing the notice of proposed rulemaking. We propose restrictions similar to those in place for executives leaving the FAA. There is no prohibition from going to work for a company in industry, including an airline, as long as the duties at the company do not involve working with the FAA. Therefore, it is not a complete prohibition from being hired, but rather a restriction on the duties that the former FAA inspector can perform.

On April 22, 2008, we distributed to all regions and to headquarters copies of a 1996 memo to all Flight Standards employees concerning government and agency conflict of interest requirements and an April 9, 2008, memo reiterating those requirements.

Question 2: Please provide to the Committee an in-depth plan of action on what changes you will make as a result of what you have learned on the issues discussed at the hearing and subsequent events.

Answer: We will take the following actions:

- Development of the Safety Issues Reporting System (SIRS), implemented on April 30, 2008, which will provide employees an additional mechanism to raise safety concerns if they feel they are not receiving the necessary airing or response from supervisory and management personnel. This is in addition to existing channels, including the FAA Safety Recommendations Program, the Administrator's Hotline, and the Safety Hotline;
- By June 30, 2008, the FAA will initiate a rulemaking project to address ethics policies that enhance inspector post-employment restrictions, bringing them in line with or exceeding existing restrictions for other federal employees. Currently, FAA prohibits new inspectors who are hired from an airline from overseeing that airline for a period of two years;
- The Aviation Safety organization is working with the manufacturers and air carriers to develop a system to improve the clarity of ADs to ensure effective implementation by the industry;
- Requiring that reports under the Voluntary Disclosure Reporting Program are submitted by senior airline officials identified in the regulations, to ensure there is awareness and sensitivity at the highest level; FAA management will review and accept VDRP reports;
- AFS-900 will do quarterly roll-ups of the status of system design inspections and notify the region 30 days before the inspection is due and if the inspection becomes overdue;
- Accelerating the expansion of the Aviation Safety and Analysis Information Sharing system (ASIAS). ASIAS will be expanded to include data from the Air Transportation Oversight System (ATOS). With all air carriers participating in the ATOS, the expansion will provide a new blend of data that will afford an additional look at nationwide trends; and
- We will emphasize in all our national policy documents that employees must follow published policy.

Question 3: What steps are you taking to implement a plan so that senior airline leadership are made aware when a self-disclosure has been made to the FAA?

Answer: FAA issued a directive on April 30, 2008, explaining to inspectors that specific management officials (as described in 14 CFR Part 119) must sign off on a self-disclosure. We advised operators of this change in policy using an Information to Operators (InFO) (issued May 2, 2008) until we change Advisory Circular 00-58, Voluntary Disclosure Reporting Program, to reflect this requirement.

Question 4: What steps are you taking to implement a plan that will require the CMO office manager to sign off on every self disclosure?

Answer: FAA issued a notice April 30, 2008, containing the requirement for office managers to 1) sign off that the VDRP meets FAA criteria for acceptance and 2) confirm that the operator accomplished the comprehensive fix as indicated.

Question 5: What is the status of your analysis of the VDRP and ASAP? What tools are you/will you be using to conduct this analysis?

Answer: We have reassessed VDRP and ASAP since the hearing and believe these two programs are viable tools in our data-driven system safety approach to aviation safety. The change we will make to VDRP policy requiring management level sign-offs at both the operator and the FAA, as well as policy changes and training components emphasizing adherence to FAA policy, including for VDRP and ASAP, will address any previous issues of abuse of these programs.

Question 6: What are your plans to clarify the intent of the Customer Service Initiative?

Answer: We are currently developing communications to clarify the intent of the Customer Service Initiative (CSI) to employees and stakeholders. The CSI is a valuable tool that helps us apply AVS rules and policies in a standard, consistent manner by:

- Giving stakeholders the right to ask for review of any decision made in the regulatory or certification process without fear of retribution;
- Applying rules and regulations consistently;
- Promoting early resolution of disagreements at the lowest possible level; and
- Improving the process of documenting decisions.

Question 7: Since the April 3 hearing, have you received any new evidence to indicate that the abuses of the self-disclosure program in the Southwest Airlines case are, in fact, systemic?

Answer: We acknowledge failures by the supervisory principal maintenance inspector for Southwest Airlines; however, we have no evidence that these failures are systemic.

Question 8: Is the FAA equipped with the appropriate resources for your inspector workforce? I ask that you assess your inspector workforce and develop a list of needs to enhance the inspectors' operation, including staffing, funding, etc.

Answer: AFS ended FY 2007 with 4,825 employees, which included 3,780 Aviation Safety Inspectors (ASIs). The FY 2008 budget provides additional resources for a projected end of year total of 3,880 ASIs. Recent increases in ASI staffing have enabled the FAA to meet the requirements of the existing system safety oversight process. However, any changes to the existing oversight process could require additional safety critical resources.

The AFS staffing level continues to be an area for research and development. In 2007, The National Research Council of the National Academies conducted a congressionally mandated study of the current staffing model on behalf of AFS. The study's findings suggested that the current method of establishing staffing levels is deficient in various areas. Some areas of concern with the current system include the imperfect modeling of inspector workload, the issue of future trends in retirement, the inability to predict the consequences of understaffing, and the heavy reliance on expert opinion for many of the basic assumptions the method uses to develop recommended staffing levels.

AFS currently has a project to develop a new method for determining staffing. The current project plan is to deliver a trial model by September 2009. The result of this project will be a greater ability to specifically say how many and what types of employees are required—as well as any additional resources needed to support those levels of employees—to meet the mission and to provide for the organizational flexibility to deal with new internal and external challenges.

Response to Question from Representative DeFazio
From April 3, 2008 Hearing and April 23, 2008 letter

Question: Requested to provide the aggregate numbers on who has used the CSI, delineated by categories, such as airlines, repair stations, individual airmen, etc. Please provide any additional information that you believe will enhance the Committee's understanding of the CSI and how it has been used by the various demographics.

Answer: The following tables and charts show who has used CSI, what the issues were and the results of the CSI process. Among the findings:

- Most issues related to the clarification of policy or a method of compliance. FAA regulations contain the standard, but are not always explicit on exactly how to meet the standard.
- As shown in the bar charts, in the majority of the cases, the original decisions made by FAA employees were upheld in the review process. In those cases where the decision was changed, it was mainly related to the availability of the FAA to support an applicant's schedule or a case where the inspector was determined to not be following published policy or guidance.

Who Initiated CSI Complaints?

Flight Standards (AFS)		Aircraft Certification (AIR)	
Stakeholder	**Total**	**Stakeholder**	**Total**
Air Operators	**139**		
Air Agencies	**48**	**Aircraft Manufacturers**	**3**
Airmen	**59**	**Other Aviation Manufacturers**	**29**
Members of Public	**19***	**Members of Public**	**3***
Total	**265****	**Total**	**35*****

*For AFS, members of the public mostly include complaints about low flying aircraft over homes. FAA resolved these complaints at the Flight Standards District Office (FSDO) level. Three individual complaints were for lost luggage, and were referred to DOT's Aviation Consumer Protection Division. For AIR, members of the public includes individuals who are not manufacturers seeking certification or approval – and all were resolved within the CSI process.

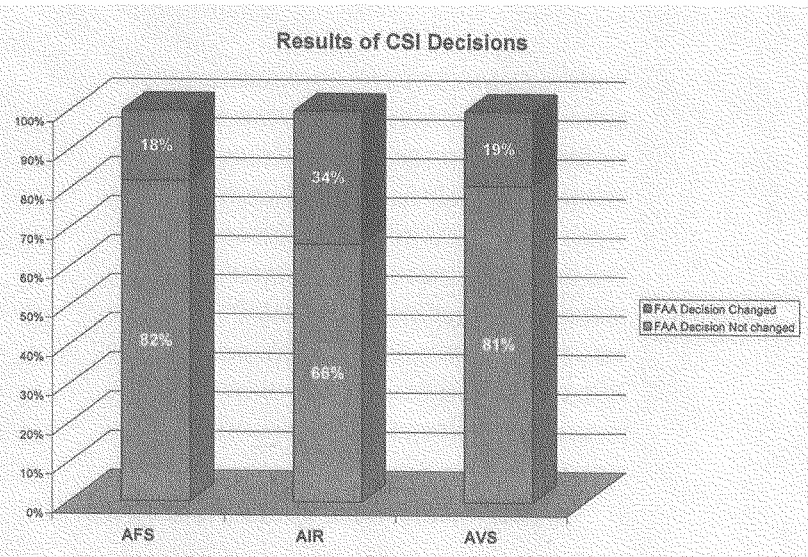
** Nine of these AFS cases remain open.

** *Six of these AIR cases remain open.

What Were the Complaints?

Issue	Flight Standards	Aircraft Certification	Changed from original FAA decision	
			AFS	AIR
Clarification of Policy/Approved Means to Comply with FAA Regulations	**217**	**33**	**27******	**10**
Scheduling	**34**	**1**	**18**	**0**
Relationship with Inspector/Office	**14**	**1**	**0**	**0**
Total	**265**	**35**	**45**	**10**

****Note: Supervisor review in FSDO or Regional review showed inspectors not following published policy or guidance.



Note: AFS has nine cases pending resolution. AIR has six cases pending resolution. Percentages do not include the pending cases in the calculations.

You also requested information on the CSI process.

In November 2002, AVS (then AVR) faced two issues: (1) employees were not always consistent in how they interpreted regulations; and (2) AVS had no consistent process for stakeholders to appeal decisions. Often, stakeholders bypassed the FAA chain of command and appealed directly to the Administrator, the Associate Administrator for Aviation Safety, or their Congressional representative.

AVS developed the Customer Service Initiative to formalize the process of applying AVS rules and policies in a standard, consistent manner by:

- Giving stakeholders the right to ask for review of any decision made in the regulatory or certification process without fear of retribution;
- Promoting early resolution of disagreements at the lowest possible level; and
- Improving the process of documenting decisions—by both employees and stakeholders.

The CSI laid out specific expectations for the stakeholders as well. Stakeholders who initiate a customer service issue must document and provide all needed information in a timely manner. The stakeholder is required to provide written documentation on why they disagree with the decision, citing references, not just opinion. If the matter is not resolved at the local office, it is elevated to the region or directorate with responsibility for the offices or policy issue. Ultimately the issue can be elevated to the service or office director in Washington and to the Associate Administrator for Aviation Safety, if needed.

Like stakeholders, AVS employees are expected to document responses based on the standards and regulations. In addition, we expect our employees to act with professionalism. Stakeholders should receive timely and professional service from our employees, who will maintain the highest levels of integrity, competence, and accountability.

Before the Committee on Transportation and Infrastructure
United States House of Representatives

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Actions Needed To Strengthen FAA's Safety Oversight and Use of Partnership Programs

Statement of
The Honorable Calvin L. Scovel III
Inspector General
U.S. Department of Transportation

Mr. Chairman, Ranking Member Mica, and Members of the Committee:

We appreciate the opportunity to testify today on the Federal Aviation Administration's (FAA) oversight of airlines and the effectiveness of the Agency's regulatory partnership programs. As this Committee is aware, safety is a shared responsibility among FAA, aircraft manufacturers, and airlines. Together, all three form a series of overlapping controls to keep the system safe. FAA safety inspectors are on the front lines and play a critical role by ensuring compliance with FAA rules and regulations.

At the request of this Committee, we are reviewing FAA's handling of whistleblower concerns regarding Southwest Airlines' (SWA) failure to follow a critical FAA airworthiness directive (AD). Our testimony today is based on our ongoing work and prior audits of related issues at other carriers. Today, we will note breakdowns in three areas of FAA oversight that contributed to this event and illustrate the potential for system-wide weaknesses. Specifically, FAA's: (1) partnership programs with air carriers, (2) national program for risk-based oversight, and (3) internal reviews and handling of employees who report safety concerns. We have identified key changes that FAA must make to its oversight programs to address these areas. Before I discuss these issues further, it is important to note the events that led to today's hearing.

The FAA directive[1] in this case required SWA to inspect the fuselages of its Boeing 737s for potential cracks. FAA issued this directive after an Aloha Airlines 737 lost a major portion of its hull while in flight at 24,000 feet in 1988, resulting in one fatality and multiple injuries. According to FAA, when an air carrier determines that it has not implemented an AD, it is required to immediately ground all non-compliant aircraft. FAA inspectors share this responsibility—if an inspector becomes aware that an air carrier has violated the terms of an AD, the inspector is required to ensure that the aircraft are grounded.

To meet this requirement, air carriers need a system to help them perform repetitive inspections of aircraft fuselages in a timely manner. However, we found that SWA did not have an adequate system to ensure it completed these inspections. As a result, SWA operated 46 aircraft that were not inspected for fuselage cracks. These aircraft flew in violation of the AD on over 60,000 flights for up to 9 months (see exhibit A). We estimate that these aircraft carried 6 million passengers during this period.

According to SWA, it discovered it had violated this directive on March 14, 2007. SWA notified an FAA principal maintenance inspector (PMI) the following day. However, the inspector did not direct SWA to ground the affected planes, and SWA

[1] FAA Airworthiness Directive 2004-18-06 requires that Boeing 737s (series 200, 300, 400, and 500) be inspected for fuselage cracks every 4,500 cycles (1 cycle equals 1 take-off and landing) after they reach 35,000 cycles.

continued to operate them on 1,451 flights for 9 more days, carrying an estimated 145,000 passengers.

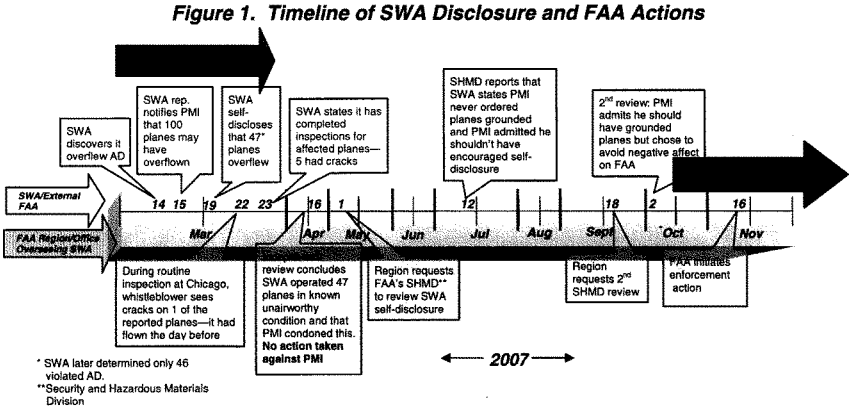
The PMI permitted—and encouraged—SWA to formally self-disclose the AD violation through its Voluntary Disclosure Reporting Program (VDRP), which would allow the airline to avoid any penalties. FAA accepted the self-disclosure, even though it had already accepted multiple disclosures on AD violations—this should have prompted concerns regarding whether underlying problems were corrected.

Once it formally self-disclosed the violation on March 19, SWA stated that it was in compliance with the AD, meaning it had inspected or grounded all affected aircraft. However, two FAA inspectors (the whistleblowers in this case) reported that their supervisor, the PMI, had knowingly permitted SWA to continue flying the identified aircraft even after SWA's self-disclosure. SWA officials confirmed this and stated that the PMI gave them verbal permission to continue flying the aircraft.

During our review, we found that—after SWA self-disclosed the overflight—several of these aircraft flew into airports multiple times where they could have received the required inspections. When SWA finally inspected the aircraft, it found fuselage cracks in five of them. The AD specifies that these cracks could potentially lead to fuselage separation and rapid aircraft depressurization if left in disrepair.

While these critical safety lapses indicate problems with SWA's ability to comply with safety directives, they are symptomatic of much deeper problems with FAA's oversight (the timeline below shows the events of the SWA disclosure and FAA actions).

Figure 1. Timeline of SWA Disclosure and FAA Actions



We found that FAA's Southwest inspection office developed an overly collaborative relationship with the air carrier, which allowed repeated self-disclosures of AD violations through its partnership program. Partnership programs are intended to facilitate collaboration between FAA and air carriers to identify and address safety issues. Yet, FAA allowed SWA to repeatedly self-disclose AD violations without ensuring that SWA had developed a comprehensive solution for reported safety problems—which is required for FAA to accept the disclosure and absolve the carrier of any penalty.

However, SWA's proposed solutions, which FAA has repeatedly accepted, have failed to solve AD compliance issues, as it has violated four different ADs eight times since December 2006, including five in 2008. FAA's oversight in this case appears to allow, rather than mitigate, recurring safety violations.

FAA maintains that disclosure programs are valuable, as they can help to identify and correct safety issues that might not otherwise be obtainable. However, we are concerned that FAA relies too heavily on self-disclosures and promotes a pattern of excessive leniency at the expense of effective oversight and appropriate enforcement. Further, a partnership program that does not ensure carriers correct underlying problems is less likely to achieve safety benefits.

Our ongoing work at another carrier has identified concerns with employees using disclosures to avoid penalties for safety violations. FAA must take steps to maintain the safety objective of these programs by actively discouraging improper relationships between inspection offices and carriers so that these programs do not lapse into an easy amnesty path for perpetual safety violators.

We also found that the events of SWA demonstrate weaknesses in FAA's national program for risk-based oversight—the Air Transportation Oversight System (ATOS). This allowed AD compliance issues in SWA's maintenance program to go undetected for several years. As early as 2003, one of the whistleblowers expressed concerns to FAA about SWA's compliance with ADs. In 2006, he began urging FAA to conduct system-wide reviews, but FAA did not begin these reviews until after the details of the March 2007 disclosure became public.

In fact, FAA inspectors had not reviewed SWA's system for compliance with ADs since 1999. At the time of the SWA disclosure, 21 key inspections were overdue for at least 5 years. As of March 25, 2008, five of these were overdue for nearly 8 years.

We have previously identified system-wide problems with ATOS. For example, in 2002,[2] we found inconsistent inspection methods across FAA field offices for various carriers. As a result, FAA inspectors were confused over how to conduct ATOS

[2] OIG Report Number AV-2002-088, "Air Transportation Oversight System," April 8, 2002. OIG reports and testimonies are available on our website: www.oig.dot.gov.

inspections and assess risks. In 2005,[3] we found that inspectors did not complete 26 percent of planned ATOS inspections—half of these were in identified risk areas. We recommended, among other things, that FAA strengthen its national oversight and accountability to ensure consistent and timely ATOS inspections. However, FAA still has not fully addressed our recommendations.

Further, our ongoing work and 2005 audit[4] at Northwest Airlines have identified weaknesses in FAA's processes for conducting internal reviews, ensuring corrective actions, and handling employees who report safety concerns. In the SWA case, FAA's internal reviews found as early as April 2007 that the PMI was complicit in allowing SWA to continue flying aircraft in violation of the AD. Yet, FAA did not attempt to determine the root cause of the safety issue, nor initiate enforcement action against the carrier until November 2007. At Northwest, FAA's reviews of an inspector's safety concerns were limited and overlooked key findings identified by other inspectors. Although some of the inspector's safety concerns were valid, FAA informed him that all of his concerns lacked merit.

We also have concerns regarding FAA's failure to protect employees who report safety issues from retaliation by other FAA employees. For example, in the SWA case, after one whistleblower voiced his concerns to FAA, an anonymous hotline complaint was lodged against him. According to the inspection office manager, the PMI indicated that a SWA representative submitted the complaint. The complaint was non-specific and never substantiated, but the whistleblower was removed from his oversight duties for 5 months while he was being investigated. Yet, FAA did not suspend other inspectors who were subjects of similar complaints, including the PMI, who admitted that he allowed SWA to continue flying in violation of the AD.

Our work at Northwest Airlines found the same problem with FAA's handling of the inspector who reported safety concerns. As with the inspector in the SWA case, FAA managers reassigned an experienced inspector to office duties, after a complaint from the airline, and restricted him from performing oversight on the carrier's premises. Both the SWA and Northwest cases demonstrate that FAA must pursue a more reliable internal review process and protect employees that bring important safety issues to light.

Recently, FAA announced several actions to address the SWA safety directive violation. These include initiating a review of AD compliance at SWA and other air carriers. FAA also proposed to fine SWA over $10 million.

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[3] OIG Report Number AV-2005-062, "FAA Safety Oversight of an Air Carrier Industry in Transition," June 3, 2005.
[4] OIG Report Number AV-2007-080, "FAA's Actions Taken To Address Allegations of Unsafe Maintenance Practices at Northwest Airlines," September 28, 2007.

While FAA's actions are necessary, albeit long overdue, the issues we have identified will require immediate and comprehensive changes in FAA's air carrier oversight programs. These actions include the following:

- Establishing an independent organization to investigate safety issues identified by its employees.
- Periodically rotating supervisory inspectors to ensure reliable and objective air carrier oversight.
- Revising its VDRP guidance to require inspectors to (a) verify that air carriers take comprehensive actions to correct the underlying causes of violations identified through self-disclosure programs and (b) evaluate, before accepting a new report of a previously disclosed violation, whether the carrier developed and implemented a comprehensive solution.
- Implementing a process for secondary review of self-disclosures before they are accepted and closed—acceptance should not rest solely with one inspector.
- Revising its post-employment guidance to require a "cooling-off" period when an FAA inspector is hired at an air carrier that he or she previously inspected.
- Implementing a process to track field office inspections and alert the local, regional, and Headquarters offices to overdue inspections.
- Developing a national review team that conducts periodic reviews of FAA's oversight of air carriers.

I would now like to discuss these issues in further detail.

Repeated Acceptance of Self-Disclosures Involving AD Violations Demonstrates Problems With FAA's Implementation of Partnership Programs

Safety partnership programs, such as the Voluntary Disclosure Reporting Program used by SWA to report the AD non-compliance, are intended to permit FAA and air carriers to collaboratively identify and address safety issues. The Aviation Safety Action Program (ASAP) is another partnership program that FAA uses to obtain safety data from aviation employees. We are reviewing FAA's implementation of this program at various carriers and have identified problems that FAA will need to address to strengthen this program. Such programs, if properly implemented, can add value by identifying issues that might not otherwise come to light.

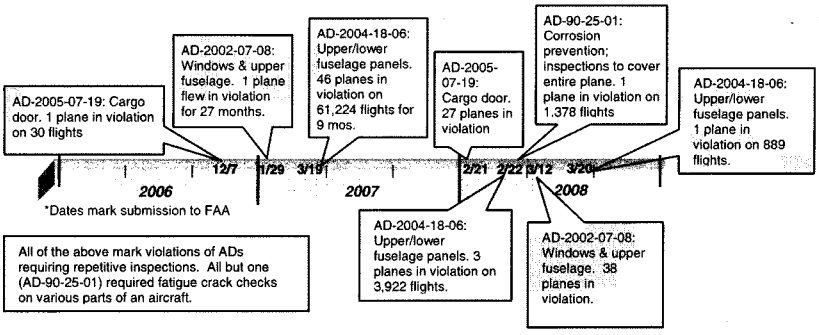
A fundamental principle of these partnership programs is that the company or person submitting the disclosure receives immunity from enforcement action. However, FAA guidance states that, in order for an inspector to accept a self-disclosure from a carrier, the carrier must propose and implement comprehensive fixes to correct the root causes of identified safety problems and prevent recurrence. We support the concept of self-disclosure programs and recognize the challenge they present to FAA—carefully balancing a collaborative relationship with effective oversight and appropriate enforcement actions.

In this case, we found that FAA's inspection office for SWA (the Certificate Management Office, or CMO) developed an overly collaborative relationship with the air carrier, which allowed repeated self-disclosures of AD violations. FAA accepted these without requiring the carrier to correct the underlying deficiencies in its AD management program. These actions contradict FAA's guidance and illustrate that a partnership program that does not ensure underlying problems are corrected is less likely to achieve the objective of improving the margin of safety.

As shown in figure 2, we found that SWA had violated and self-disclosed at least four different ADs eight times since December 2006. Data were not readily available to us to analyze self-disclosures before December 2006.

On March 20, 2008—less than 2 weeks ago and over a year after SWA disclosed the AD overflight—SWA discovered that another aircraft had violated the same AD (2004-18-06) that it reported as overflown in March 2007. SWA discovered this because we requested that it validate its previously provided information on the overflight. This discovery further demonstrates deficiencies in SWA's system for monitoring inspection requirements. It also illustrates that FAA's review of the March 2007 AD violation was incomplete.

Figure 2. Eight SWA Aging Aircraft AD Violations



FAA accepted *five of the eight* violations shown above into the VDRP—including the March 19, 2007, violation. FAA did recently reject two self-disclosures (February 22, 2008, and March 12, 2008) since they were related to the highly publicized AD on fuselage cracks that it had already accepted. FAA has not provided information on how it will address the most recent AD violation (see exhibit B).

In addition to the ADs referenced above, on March 20, 2007, the PMI accepted a self-disclosure from SWA indicating the carrier overflew a maintenance inspection on the stand-by rudder system for 70 Boeing 737 aircraft. This overflight is yet another example of the critical need for FAA to ensure that SWA corrects shortcomings in its maintenance program.

FAA Did Not Follow Its Own Criteria for Self-Disclosures

FAA requires air carriers to have a system in place to ensure compliance with ADs. Repeated AD violations demonstrated that, at best, SWA needs to strengthen its maintenance system to meet FAA requirements and provide reasonable assurance of compliance with FAA safety directives. Even though FAA requires that self-disclosures be accompanied by a plan to correct the root cause of the problem, it accepted proposed actions by SWA that clearly did not demonstrate this capability.

Under the VDRP, a carrier—not individual employees—can self-disclose safety violations. When a carrier reports a violation, FAA addresses it with an administrative action, such as a Letter of Correction, instead of a civil penalty.

- For a violation to be accepted in the VDRP, it must not appear intentional or indicate a lack of air carrier qualifications.
- Further, upon finding the violation, the air carrier must immediately terminate the improper conduct and notify FAA—before FAA learns about it by other means. Specifically, air carrier representatives provide preliminary information on the

apparent violation and direct the report to the applicable FAA principal inspector (e.g., PMI) for review.

- Most importantly, the carrier must also develop a comprehensive solution to the problem, schedule of implementation, and a follow-up audit.
- The principal inspector can accept the report and close it without management approval.

We found several areas in which FAA did not adhere to these criteria:

- **FAA encouraged and formally accepted the March 19, 2007, self-disclosure, even though SWA did not immediately terminate the improper conduct.** While SWA indicated in the self-disclosure that it ceased the non-compliance (i.e., grounded the affected aircraft), it actually continued flying the affected aircraft as late as March 23, 2007, without the fuselage skin inspections.

  In addition, FAA did not take steps to make sure SWA had completed all required inspections, even after it determined that SWA did not ground the aircraft. SWA operates 141 aircraft that would be impacted by this AD. Initially, SWA reported that 100 aircraft had overflown the AD and then changed the number to 47[5] aircraft when it submitted the formal voluntary disclosure. Despite this, FAA's Certificate Management Office did not obtain the tail numbers of the reported aircraft until November 2007—8 months after the self-disclosure.

  Without the specific tail numbers, FAA had no way to determine if SWA had reported all affected aircraft and, ultimately, whether all aircraft were in compliance with the AD. Yet, the PMI accepted the report and closed it a few weeks later.

- **The PMI should have immediately grounded the aircraft and notified his management of the seriousness of the situation.** Even after the PMI knew that the carrier had not ceased the violating conduct, he did not take actions to ground the affected aircraft. The CMO manager was not aware of the significance of the violation because the program does not require management review of the report at any point in the process.

  On March 22, 2007, while at Chicago-Midway Airport, one of the whistleblowers saw a mechanic repairing a crack on an aircraft that he believed had been reported in the disclosure. He went to the FAA inspector in charge of overseeing that particular fleet (Boeing 737-300). The inspector confirmed that the aircraft should have been grounded after SWA's self-disclosure but said that the PMI had given SWA permission to keep flying those aircraft.

[5] SWA later determined that only 46 aircraft overflew this AD.

In fact, the PMI subsequently confirmed that he knew that SWA's statements on the self-disclosure that the aircraft had been grounded were inaccurate, and yet he allowed SWA to continue flying the aircraft. Separate FAA inspector guidance[6] regarding grounding an operator's aircraft states:

> An inspector who becomes aware of an unsafe condition in an aircraft that is being operated or about to be operated and fails to act...is in dereliction of duty. This duty is placed specifically by Congress upon the inspector rather than on the Administrator. If the inspector, after due consideration, still has any doubts regarding whether or not to ground the aircraft, the grounding notice should be issued.

FAA needs to implement a process for secondary review of self-disclosures before they are accepted and closed—acceptance should not rest solely with one inspector.

- **FAA accepted SWA's proposed "comprehensive fix"; yet, this solution did not address the root cause of the problem.** In its disclosure, SWA stated its solution for the violation as follows: "all AD compliance personnel have been counseled on the importance of performing adequate reviews of AD documents." SWA also stated it planned to add another employee to the AD compliance group to ensure adequate reviews. The PMI accepted SWA's proposed solution but did not indicate that he had reviewed the solution before accepting it (April 2007).

  FAA should have questioned how counseling personnel and adding one employee would mitigate system-wide problems.

- **FAA accepted assertions in SWA's follow-up audit that its comprehensive fix "had proven" to be effective in preventing recurrence; but more violations occurred.** In the audit, SWA cited "individual human error" as the reason for the missed fuselage inspections required by the AD. However, SWA's solution did not correct the problem, as SWA has reported AD violations five times since FAA accepted the proposed solution. The violations include missing the same inspections (overflying the same AD) on three more aircraft on February 22, 2008. Further, SWA missed inspections for a different but related AD on fuselage cracks on March 12, 2008. This time, 38 aircraft overflew the directive.

  On March 20, 2008, SWA determined that another aircraft had overflown the same AD that it reported as overflown in March 2007. SWA discovered this because we requested that it validate its previously provided information on the overflight. Had FAA attempted to validate the information provide by SWA, it would have identified this violation over a year ago.

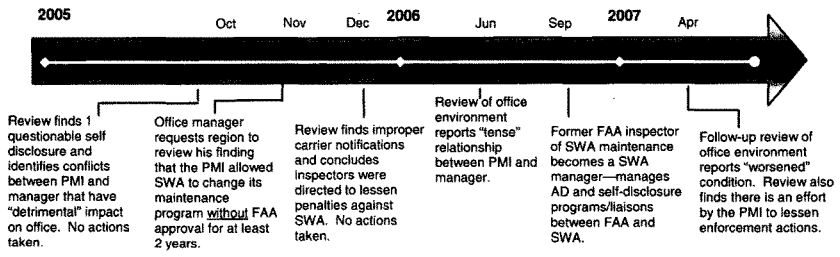
[6] 8300.10 CHG 7, "Ground Operator Aircraft," July 17, 1992.

FAA's guidance for self-disclosure programs should require its inspectors to fully review the carrier's proposed solution for the reported problem and document that review. FAA should also require that the official who approves and closes the VDRP is not the same official that accepted it from the air carrier. This would help to ensure that the relationship between the carrier and the inspection office does not hamper safety oversight, as happened in this case.

Breakdowns in FAA's Oversight of Its Self-Disclosure Program Point to an Overly Collaborative Relationship With SWA

Partnership programs, when properly implemented, can be a valuable safety tool. However, the success of these programs depends on the integrity of the people using them. In the SWA case, the actions of the CMO tipped heavily in favor of collaboration and partnership rather than oversight and enforcement. Figure 3 shows a timeline of key events that illustrate concerns about FAA's relationship with the air carrier. According to the whistleblowers, the favoritism that this inspection office tended to show toward SWA ultimately divided the entire office into two camps. The division in the office became so bad it affected inspectors' abilities to perform their jobs.

Figure 3. Key Reviews and Events at CMO for SWA Showing Overly Collaborative Relationship



Concerns that the PMI was too close to the air carrier surfaced as early as 2005.

- In September 2005, FAA's Southwest regional manager requested an internal review into allegations that the PMI was inappropriately accepting self-disclosures from the carrier. The investigation was prompted by the CMO manager's concerns that an FAA inspector found a violation and that the PMI still allowed the carrier to submit it as a self-disclosure—a clear violation of FAA's criteria for self-disclosures, which require that FAA have no prior knowledge of the violation.

  The report for this review, issued in October 2005, concluded that, while there was one questionable self-disclosure, there was no systemic problem with self-

disclosures at this office. This review also noted several issues between the PMI and office manager that had a "detrimental" impact on the inspection office.

- In November 2005, the CMO manager requested assistance from the Southwest regional manager to conduct an independent, in-depth review of the PMI's handling of SWA manual approvals. Specifically, the CMO manager determined that the PMI had permitted SWA to make changes to its maintenance program without FAA approval for at least 2 years. The manager expressed concerns that a possible safety risk existed. There is no evidence that the region assisted the CMO manager in this effort.

- In December 2005, the CMO manager requested a second independent review of air carrier notifications issued by his office (this review was conducted by an FAA inspector from another inspection office within the Southwest region). This review found that the PMI at the SWA office had issued five carrier notifications that should have been issued as enforcement actions. A carrier notification, or Letter of Concern, merely notes or documents a non-regulatory finding to a carrier—it does not require corrective action and is not tracked to ensure the problem was resolved. We found no evidence that FAA took any action to address these findings.

- In June 2006, the Southwest regional office requested that the Work Environment Advisory Team review reasons for ongoing personality conflicts that appeared to be adversely affecting the effectiveness of the office. The review team found that there was a tense relationship between the CMO manager and the PMI. One employee indicated that "SWA was using these relationship tensions to its advantage." The team recommended that the CMO manager develop an action plan to correct these problems and that the managers participate in team building exercises. The CMO manager subsequently developed an action plan, but since the problems within the office continued, the action plan was ineffective.

- In September 2006, the appearance of impropriety between the air carrier and FAA resurfaced when a former FAA inspector—who was responsible for overseeing SWA maintenance operations—went to work for SWA as its Regulatory Compliance Manager. When this employee worked for FAA, he reported directly to the PMI.

  The employee was able to transition from being an FAA inspector to a SWA manager in just 2 weeks. In his new job, he serves as the liaison between the carrier and FAA and manages Southwest's AD Compliance Program and its Voluntary Disclosure Reporting Program. FAA should revise its post-employment guidance to require a "cooling off" period when an FAA inspector is hired at an air carrier that he or she previously inspected.

- In April 2007, the Southwest regional office requested that the Work Environment Advisory Team conduct a follow-up review to determine if the office environment had improved. The team determined that the environment had actually worsened, in part, because of concerns related to the PMI's handling of a self-disclosure. Specifically, the report stated "there was an effort by the PMI to minimize enforcement initiatives" in favor of pursuing collaborative solutions with the air carrier.

Had FAA taken timely action to address the results of these reviews, it may have realized that the relationship between its inspection office and SWA was adversely affecting safety oversight—long before the AD overflight occurred. We have seen problems with FAA's implementation of other partnership programs, which if not corrected, could put the benefits of such programs in jeopardy.

Problems With Other FAA Partnership Programs

As part of an ongoing review of a hotline complaint from an FAA inspector for Continental Airlines, we identified problems with FAA's implementation of the Aviation Safety Action Program. ASAP is a joint FAA and industry program intended to generate safety information through voluntary disclosure that may not be otherwise obtainable. The program allows individual aviation employees—not the air carrier—to disclose possible safety violations to air carriers and FAA, without fear that the information will be used to take enforcement or disciplinary action against them.

The FAA inspector who submitted the complaint was concerned because a fatal accident was accepted into an ASAP program. In this incident, a mechanic was ingested into an engine as pilots performed an engine maintenance procedure. The pilots then self-disclosed the accident through ASAP.

The complainant believed that the pilots acted carelessly and questioned whether a fatal accident should be included in ASAP. A fatal accident is investigated by the National Transportation Safety Board, and the results of that investigation would be available to FAA. The complainant asserted that this should render the incident ineligible for ASAP, since its acceptance would contradict the program's intent—obtaining voluntarily reported safety information that would not be otherwise obtainable. We agree but found that FAA's current guidance on ASAP does not specifically prohibit fatal accidents from being accepted into the program. We will report the results of our review later this year.

We are not advocating a return to past practices where FAA relied primarily on penalties and fines when airlines or aviation employees commit safety violations. FAA believes these programs are important in forming valuable collaborative relationships with air carriers. Used properly, these programs can indeed be important tools for FAA and the aviation industry. However, safety partnership programs must

be balanced with a strong commitment to oversight. FAA must ensure these programs do not lapse into automatic amnesty for violators or become influenced by improper relationships that may exist between an FAA inspection office and an air carrier.

Multiple Missed ATOS Inspections at SWA Point to Longstanding Weaknesses in FAA's National Oversight

FAA oversight lapses at the local and national level allowed weaknesses in SWA's maintenance program to go undetected for years. Specifically, FAA did not ensure that its inspectors carried out critical safety inspections required by FAA's risk-based oversight system, ATOS. ATOS inspectors should examine airlines' systems for ensuring compliance with ADs every 5 years; yet we found that FAA inspectors had not examined SWA's system since 1999. We have always supported the concept of risk-based oversight as the only way FAA will be able to effectively oversee a large and rapidly changing aviation industry. However, this case and our work at other carriers show that FAA still needs to improve its management of ATOS—which we called for in 2002 and again in 2005.

A pattern of events dating back to 2003 should have raised concerns at the CMO with FAA's oversight approach, particularly with respect to AD compliance. For example, in 2003, one of the whistleblowers in the SWA case identified problems with how SWA handled compliance with safety directives for aircraft engines. However, his efforts to undertake a systematic, fleet-wide review of how the airline managed compliance with safety directives were blocked by his supervisor, the PMI.

At the time of the SWA disclosure, the CMO responsible for overseeing SWA had 21 key maintenance-related ATOS inspections overdue for at least 5 years (see table 1).

Table 1. Safety Inspection Activity - October 1, 2000 to March 15, 2007

(Note: 21 inspections not completed as of March 15, 2007—the date that SWA verbally notified FAA of potential AD overflight.

No.	Element	Date of Last Inspection*	Date Inspection Was Due	No. of Months Past Due as of March 15, 2007
1	**AD Management**	**10/1/1999****	**9/30/2004**	**90**
2	General Maintenance Manual/Equivalent	6/4/01	6/3/06	69
3	Continuous Analysis and Surveillance (CAS)	11/23/01	11/22/06	64
4	Engineering/Major Repairs and Alterations	1/18/02	1/17/07	62
5	Maintenance Log/Recording Requirements	1/25/02	1/24/07	62
6	Reliability Program	2/1/02	1/31/07	61
7	Airworthiness Release/Logbook Entry	3/4/02	3/3/07	60
8	RII Training Requirements	none	9/30/05	80
9	Appropriate Operational Equipment	none	9/30/05	80
10	Major Repairs and Alterations Records	none	9/30/05	80
11	Maintenance Facility/Main Base	none	9/30/05	80
12	Weight and Balance	none	9/30/05	80
13	Manual Currency	none	9/30/05	80
14	Distribution (Manuals)	none	9/30/05	80
15	Availability (Manuals)	none	9/30/05	80
16	Supplemental Operations Manual Requirements	none	9/30/05	80
17	Content Consistency Across Manual	none	9/30/05	80
18	Maintenance Certificate Requirements	none	9/30/05	80
19	Privileges Airframe and Powerplant	none	9/30/05	80
20	RVSM Authorization	none	9/30/05	80
21	Director of Safety	none	9/30/05	80

Source: FAA's database for ATOS
Inspection is considered overdue if not completed within 5 years from last inspection date.
*If no date was available, then October 1, 2000, was used to determine inspection status.
**Actual month/day unknown

While FAA has subsequently completed some of these inspections, as of March 25, 2008, 5 of these 21 inspections were still incomplete and overdue for nearly 8 years.

ATOS is designed to focus inspection activities on high-risk areas. We found that inspectors were performing inspections on areas with little or no risk, such as the carrier's system for distributing inspection manuals. Inspections should prioritize high-risk areas, such as the systems SWA uses to ensure it complies with ADs or to monitor the effectiveness of its maintenance programs.

The fact that FAA Headquarters did not know that its inspection office for SWA had not completed required ATOS inspections underscores weaknesses we previously reported about ATOS. Since introducing the system nearly 10 years ago, FAA has made significant strides in its implementation; however, our work has shown that a

range of actions is still needed to improve ATOS, particularly in terms of national oversight of the program.

In April 2002, we reviewed nine air carriers and reported that FAA needed to improve how it holds field managers accountable for consistently implementing ATOS. Although FAA had an ATOS program office, the office merely provided administrative support and general guidance for field offices. Consequently, field offices were left on their own to implement ATOS, and this led to inconsistent ATOS inspection methods across FAA field offices.

We found FAA inspectors were confused over how to conduct ATOS inspections, unclear on the concepts of system safety and risk analysis, frustrated by a perceived lack of management direction and support, and concerned that ATOS did not give sufficient inspection coverage of air carrier operations. For example:

- Seventy-one percent of the inspectors we interviewed considered ATOS training to be inadequate. This lack of training for the inspector workforce had adversely affected the quality of important data collected from ATOS inspections.
- Eighty-three percent of the principal inspectors we interviewed considered ATOS data inadequate for shifting inspector resources to highest risk areas, a key goal of risk-based oversight.
- Over 50 percent of the inspectors stated they did not understand ATOS inspection checklist questions.

We recommended that FAA strengthen national oversight and accountability to ensure consistent field implementation of ATOS. FAA responded that it did not need a separate national oversight function, because the newly appointed director of Flight Standards (at Headquarters) would serve in that role and hold field offices accountable for implementing ATOS effectively. However, this action still did not improve consistency with ATOS inspections at field offices.

In June 2005, we again recommended that FAA strengthen its national oversight and monitoring of ATOS—this time, through a data-centered approach. In this review, we identified problems with the Agency's ability to use the system to monitor the changing aviation industry.

For example, FAA inspectors did not complete 26 percent of their planned inspections. Over 50 percent of these were in areas where inspectors had identified risks, as shown in table 2.

Table 2. Inspectors Did Not Complete All Planned Inspections of Identified Risk Areas

FAA Office	Inspections		
	Number Planned	**Total Number (%) Not Completed**	**Number (%) Not Completed That Were in Identified Risk Areas**
United	617	259 (42%)	151 (58%)
Delta	582	234 (40%)	49 (21%)
American	614	168 (27%)	78 (46%)
Northwest	834	147 (18%)	108 (74%)
US Airways	894	130 (15%)	130 (100%)
Total	**3,541**	**938 (26%)**	**516 (55%)**

Our recommendations to FAA included establishing policies and procedures to ensure that national analyses and support groups provide stronger assistance to field offices. This will help FAA to ensure that inspectors consistently assess risks and conduct inspections at air carriers in a timely manner. However, FAA has not fully addressed this recommendation.

Had FAA implemented our recommendations, it may have identified overdue inspections at carriers, such as SWA, before serious safety problems developed. We continue to believe that FAA should significantly strengthen its national ATOS oversight, including a process to track field office inspections to ensure they are conducted in a timely manner. By periodically checking ATOS data at each field office, this process would serve as a "trigger" system to alert inspectors of overdue inspections.

FAA Has Recently Begun a Review at SWA for AD Compliance

The events surrounding SWA underscore the need for FAA to make immediate and comprehensive changes to its oversight of air carriers. On March 12, 2008, FAA began an Air Carrier Evaluation Program (ACEP) review at SWA. ACEP is a team review process for air carriers at the national, regional, and district office levels. This is the first time FAA has used this evaluation process. This review uses the same ATOS checklists that inspectors should have used to perform surveillance at SWA. FAA has assigned 12 team members, independent of the CMO, to conduct the review at SWA.

The objective of this evaluation is to:

- Determine how SWA documents and tracks AD and maintenance inspections.
- Evaluate SWA's Continuous Analysis and Surveillance System (CASS) to determine if there are proper controls on all processes (CASS is the system air carriers use to monitor the effectiveness of their aircraft maintenance and inspection programs).
- Verify that the air carrier complies with applicable regulations.

The ACEP team members were tasked with reviewing three key maintenance programs at SWA: AD management, the Continuous Analysis and Surveillance System, and the Maintenance Inspection Program. FAA selected these three programs due to their interdependence in forming an effective maintenance program.

Early indications are that the local FAA office will have to work closely with the air carrier to revamp its procedures in the areas being audited, as proper maintenance procedures have never been documented in its manual system. The ACEP team was tasked with completing this review by March 28, 2008.

After the SWA Events, FAA Initiated AD Reviews at Other Carriers

Because of SWA's highly publicized AD non-compliances, FAA issued a notice on March 13, 2008, requiring FAA inspectors to conduct a detailed review of AD compliance at their respective air carriers. This review is scheduled to be completed in two phases. During the first phase, FAA inspectors must review a sample of 10 ADs applicable to their air carriers' fleets—this sample must include the AD that SWA overflew, if appropriate. This phase was scheduled for completion on March 28, 2008.

During the second phase, FAA inspectors must sample additional ADs in order to review a total of 10 percent of all ADs applicable to the air carriers' fleets. For example, if an air carrier has 200 ADs applicable to its fleet, inspectors must determine compliance with 20 ADs. The second phase of the review must be completed by June 30, 2008.

FAA's Internal Reviews Identified Problems, but FAA Did Not Take Timely Corrective Actions

Our ongoing work at SWA and previous audit work at Northwest Airlines has identified weaknesses in FAA's processes for conducting internal reviews of safety issues and ensuring appropriate corrective actions.

Although repeated reviews and investigations by other FAA offices identified questionable practices by the PMI, they focused on the relationship between the PMI and his manager rather than corrective actions.

- On April 16, 2007, the regional office sent an independent review team (comprised of inspectors assigned to another carrier, but still within the region) to investigate the AD overflight. The team reported that SWA had operated the 47 planes in a known unairworthy condition and that the PMI condoned this operation. However, after this review, the region did not take disciplinary action against the PMI; he was merely reassigned to another office.

- On May 1, 2007, the regional office requested another review of the disclosure—this time by FAA's Security and Hazardous Materials Division (SHMD). On July 12, 2007, the SHMD reported that SWA never ordered the planes grounded and that the PMI admitted he should not have encouraged the self-disclosure. FAA still did not use these results as basis for action against the PMI or to take action to review SWA's self-disclosure to determine whether it was valid or if enforcement actions should be initiated.

- On September 18, 2007, the regional office requested another review to supplement SHMD's original review. FAA believed the first review did not provide enough information. The supplemental review provided a confession from the PMI that he did in fact knowingly permit SWA to continue flying the 47 aircraft, which should have been grounded due to their non-compliance with the AD. The PMI stated to the review team,

  > I should have grounded the affected aircraft and informed [regional management] for further guidance. I permitted unairworthy SWA aircraft to operate in revenue service, and I was wrong to do so. However, politically, I felt that grounding the SWA aircraft would have negative consequences for the FAA.

- On October 10, 2007, the regional office examined the CMO's record to determine if it had performed a follow up inspection of SWA's self-disclosure and AD management. The review determined that the CMO had not performed inspections to ensure AD compliance or to ensure that the carrier was following its own AD compliance procedures.

- On October 31, 2007, an inspector from another FAA office within that region did a records review and determined that SWA had completed the required inspections for all affected aircraft. However, his review only examined documents provided by SWA. According to documents we reviewed, he did not examine the maintenance records to verify that these inspections were actually completed. We question why this review was not more thorough and why none of the previous FAA reviews attempted to verify the inspections, since SWA had reported the violation 7 months earlier.

FAA's series of internal reviews found, as early as April 2007, that the PMI was complicit in allowing SWA to continue flying aircraft in violation of the AD. Yet, FAA did not attempt to determine the root cause of the safety issue, take action against the PMI, nor take enforcement against the carrier until November 2007. This is in stark contrast to the treatment of one of the whistleblowers and the CMO manager who attempted to report the issues with the PMI's overly collaborative relationship with the air carrier.

The whistleblower was subjected to an FAA investigation based on a vague hotline complaint shortly after he began reporting his concerns to management. According to the CMO manager, he received the complaint from the PMI, who stated that a SWA representative had submitted the complaint. The inspector was removed from his oversight duties for 5 months while he was being investigated.

According to FAA officials, it is customary to remove an inspector from oversight activities during an investigation. However, we noted that the PMI that had knowingly permitted the overflight was never completely relieved of his duties. He was merely transferred to another FAA office. The CMO manager was also transferred to another FAA office, which was effectively a downgrade, and given minimal responsibility because, according to FAA, he was not successfully dealing with the issues occurring in the office.

While the whistleblowers in the SWA case are principally responsible for bringing the egregious activities at the CMO to light, FAA failed to protect them from retaliation by other FAA employees. For example, we found that one of the whistleblowers was subjected to several instances of harassment, beginning in June 2007, in which his papers and personal belongings were strewn about his desk and onto the floor, insulting signs posted near or on his work space, and items on his desk and in his cube were moved or rearranged. In February 2008, an implied death threat was delivered to his home.

We have previously reported on incidents at another carrier where FAA focused on discounting the validity of an inspector's concerns rather than determining whether there were safety issues that needed correction. In this case, the safety concerns were valid, and FAA should have immediately acted to correct the problems.

Problems With FAA's Internal Safety Reviews at Another Carrier

Our 2005 audit at Northwest Airlines identified weaknesses in FAA's processes for conducting internal reviews, ensuring appropriate corrective actions, and handling employees who report safety concerns. At the request of former Senator Mark Dayton, we conducted a review in 2005 of FAA's handling of safety concerns at Northwest Airlines. An FAA inspector for the carrier raised these concerns at the start of a mechanics strike. Specifically, Northwest replaced approximately 4,400 mechanics on strike with 1,400 temporary mechanics and increased the use of contract mechanics. The inspector was concerned that Northwest had not adequately trained its replacement mechanics for their new responsibilities.

The inspector submitted his concerns to FAA in the form of a safety recommendation. Northwest officials then complained to FAA that the complainant's conduct was interfering with Northwest operations. As with the whistleblower in the SWA case, FAA managers reassigned the complainant to office duties and restricted him from performing oversight on Northwest's premises.

In response to the inspector's concerns, FAA initiated an internal review to assess the complainant's allegations. However, the review team was not independent and did not thoroughly investigate the complaints or ensure that the problems they identified within FAA and at Northwest were corrected. Despite concerns expressed by the complainant and our office, FAA's review team included two representatives from the regional office where the complainant was based, thus giving the appearance of bias.

Once on site, the team performed a very limited review. For example, in the first 2 months of the strike, FAA inspectors had identified 121 findings related to replacement mechanics' lack of knowledge or ability to properly complete maintenance tasks and maintenance documentation. Even though the review team was aware of these findings, they only reviewed mechanics' training files. The team did not observe replacement mechanics performing maintenance or examine the 121 findings.

FAA agreed to initiate a second review in response to our concerns about its first review. This review was performed by a more independent team and validated some of the complainant's concerns regarding replacement mechanic training. Yet, FAA did not use the results to ensure that the CMO for Northwest took action to resolve identified problems. FAA instead informed the complainant that his concerns lacked merit.

Even after FAA finalized its second report, we found no evidence that the report was issued to the CMO or that FAA's Office of Flight Standards Service planned to verify that the findings and other inspector concerns would be addressed. In fact, even though one of the findings in the second team's report was that the CMO had not

acted on issues identified early in the strike, the team left it to the CMO to further investigate and resolve these issues.

We recommended that FAA establish better internal review procedures to ensure comprehensive, independent investigations of safety allegations and recommendations. FAA agreed to establish a new internal review capability that would allow it to perform independent assessments of safety allegations. FAA plans to implement this capability by September 30, 2008. As currently proposed by FAA, the reviews would be under the direction of FAA's Flight Standards organization. However, in light of the recent events at SWA—where, again, we have seen evidence of poor FAA reviews of inspectors' safety concerns—FAA should develop an independent body outside of the FAA Aviation Safety organization to conduct these reviews.

FAA Needs To Make Immediate and Comprehensive Changes to Its Air Carrier Oversight Programs

The events surrounding SWA underscore the need for FAA to make immediate and comprehensive changes to its oversight of air carriers. After the SWA events became public last month, FAA proposed to fine SWA over $10 million. FAA has also initiated reviews for AD compliance at SWA and other carriers. Our ongoing work will examine the effectiveness of these reviews. Given the magnitude of problems identified, FAA needs to take several critical actions to improve its oversight of all air carriers and its use of regulatory partnership programs. We are recommending that FAA:

- establish an independent organization that can conduct thorough and timely investigations of safety issues identified by its inspector workforce.

- periodically rotate its supervisory inspectors, such as the Principal Maintenance Inspector, to ensure reliable and objective oversight of air carriers.

- revise current VDRP guidance to require FAA inspectors to (a) verify that air carriers take comprehensive actions to correct the underlying causes of violations identified through self-disclosure programs and (b) evaluate, before accepting a new report of a previously disclosed violation, whether the carrier developed and implemented a comprehensive solution.

- implement a process for secondary review of airline self-disclosures before they are accepted and closed—these steps should not rest solely with one inspector.

- revise its post-employment guidance to require a "cooling-off" period when an FAA inspector is hired at an air carrier he or she previously inspected.

- implement a process to track field office inspections and alert the local, regional and Headquarters offices to overdue ATOS inspections.

- develop a national review team that conducts periodic reviews of FAA's oversight of air carriers.

We will continue to examine FAA's oversight approach from a national perspective, as requested by this Committee. We must ensure that these problems are not repeated and that corrective actions are properly implemented. We will keep the Committee apprised of our progress with this review, as well as other actions FAA can take to enhance safety.

That concludes my statement, Mr. Chairman. I would be happy to address any questions you or other Members of the Subcommittee may have.

EXHIBIT A. AIRCRAFT THAT OVERFLEW AD-2004-18-06

Aircraft	No. of Cycles Past Due	Inspection Due	Inspection Completed	No. of Months Overdue	Crack Found
1	1,821	12-Jul-06	18-Mar-07	9	1" left, 1/4 " right
2	1,623	5-Jul-06	19-Mar-07	9	
3	1,658	24-Jul-06	19-Mar-07	8	
4	1,561	14-Jul-06	17-Mar-07	9	
5	1,379	13-Jul-06	16-Mar-07	9	
6	1,765	21-Jun-06	19-Mar-07	9	
7	1,878	18-Jun-06	19-Mar-07	9	
8	1,453	30-Jun-06	16-Mar-07	9	
9	1,187	26-Jun-06	18-Mar-07	9	
10	1,347	8-Sep-06	19-Mar-07	7	
11	1,494	16-Aug-06	23-Mar-07	8	
12	1,248	31-Aug-06	19-Mar-07	7	Length not recorded
13	120	28-Feb-07	17-Mar-07	1	
14	1,435	29-Aug-06	20-Mar-07	7	
15	1,520	20-Aug-06	19-Mar-07	7	
16	1,517	13-Aug-06	16-Mar-07	8	
17	1,444	26-Aug-06	18-Mar-07	7	
18	1,601	27-Jun-06	15-Mar-07	9	
19	1,315	18-Jun-06	17-Mar-07	9	
20	1,585	25-Jun-06	16-Mar-07	9	
21	720	11-Dec-06	18-Mar-07	4	4", 1" and 2"
22	1,081	27-Oct-06	20-Mar-07	5	
23	1,753	2-Jul-06	19-Mar-07	9	2" right, 1" left
24	1,682	1-Dec-06	27-Apr-07	5	Length not recorded
25	1,501	9-Nov-06	16-Mar-07	5	
26	289	21-Jan-07	18-Mar-07	2	
27	131	8-Feb-07	15-Mar-07	2	
28	229	21-Feb-07	23-Mar-07	1	
29	945	6-Nov-06	20-Mar-07	5	
30	726	7-Dec-06	16-Mar-07	4	
31	1,532	6-Jul-06	16-Mar-07	9	
32	1,765	27-Jun-06	23-Mar-07	9	
33	1,768	17-Jun-06	18-Mar-07	9	
34	1,796	7-Jul-06	16-Mar-07	9	
35	1,688	2-Jul-06	18-Mar-07	9	
36	45	12-Mar-07	21-Mar-07	1	
37	1,844	10-Jul-06	18-Mar-07	9	
38	1,831	12-Jul-06	21-Mar-07	9	

39	1,742	25-Jul-06	20-Mar-07	8
40	1,434	3-Sep-06	21-Mar-07	7
41	718	11-Oct-06	18-Mar-07	6
42	1,455	7-Sep-06	19-Mar-07	7
43	1,666	2-Aug-06	19-Mar-07	8
44	1,552	1-Aug-06	17-Mar-07	8
45	634	17-Dec-06	20-Mar-07	4
46	1,746	19-Jun-06	17-Mar-07	9
Total:	**61,224**		**Average:**	**7**

EXHIBIT B. MULTIPLE AD VIOLATIONS AT SWA

Southwest Airlines has been in non-compliance with **four** different Airworthiness Directives **eight** times since December 2006. Each of the ADs apply to Boeing 737 aircraft. The ADs also specify that if any cracking is found during inspection of the aircraft, repairs must be made prior to returning the aircraft to service. (All ADs were self-disclosed by Southwest).

- **December 7, 2006**—AD 2005-07-19: Southwest Airlines failed to complete an inspection on the Cargo Doorway frame as required by an AD. This AD non-compliance affected one aircraft. The aircraft flew 30 flights while in non-compliance with the AD.

- **January 29, 2007**—AD 2002-07-08: During a maintenance check, Southwest Airlines maintenance personnel discovered six fuselage skin cracks on an aircraft. The aircraft was sent to a repair station for repair. Repair station personnel identified additional skin cracks and ultimately determined that the repetitive inspections on window frames and upper fuselage as required by the AD were not accomplished in October 2004, when they should have been. This AD non-compliance went undetected for 27 months.

- **March 14, 2007**—AD 2004-18-06: Southwest Airlines failed to complete repetitive inspections on upper and lower fuselage panels as required by AD. The carrier operated 46 aircraft in non-compliance with the AD for up to 9 months. SWA operated these aircraft for 61,224 flights in noncompliance with the AD.

- **February 21, 2008**—AD 2005-07-19: Southwest Airlines failed to complete inspections on cargo doorway frames as required by the AD. The carrier operated 27 aircraft in non-compliance with the AD. The investigation is ongoing on these aircraft, so SWA has not yet determined how many flights were operated.

- **February 22, 2008**—AD 90-25-01: Southwest Airlines failed to accomplish required inspections for corrosion prevention covering the entire aircraft. The carrier operated one aircraft in non-compliance with the AD on 1,378 flights.

- **February 22, 2008**—AD 2004-18-06: Southwest Airlines failed to accomplish repetitive inspections on the upper and lower fuselage skin for three aircraft as required by the AD. These three aircraft flew 3,922 flights while in non-compliance with the AD. ***This self disclosure was rejected by FAA.***

- **March 12, 2008**—AD 2002-07-08: Southwest Airlines failed to accomplish repetitive inspections on the window frames and upper fuselage for 38 aircraft as required by the AD. Six of these aircraft flew seven flights while in non-compliance with this AD. ***This self disclosure was rejected by FAA.***

- **March 20, 2008**—AD-2004-18-06: Southwest Airlines discovered it failed to accomplish the required inspections for one aircraft. This aircraft flew in violation of the directive for 889 flights.

Details of Multiple ADs Overflown—Southwest Airlines

The following Airworthiness Directives (AD) were overflown by Southwest Airlines.

AD 2002-07-08 Lap Joints of the Fuselage

The AD specifies inspection and repair procedures for aircraft where cracking of certain fuselage lap joints were found, which could cause sudden decompression of the airplane.

Requires repetitive inspections at prescribed cycle intervals depending on the aircraft's line number:

- Low-frequency eddy current inspections of the fuselage crown area
- High-frequency eddy current inspections of the aircraft window corners

AD 2004-18-06 Upper and Lower Skin Panels of the Fuselage

The AD specifies inspection and repair procedures for aircraft where cracking of certain upper and lower skin panels of the fuselage, which could result in sudden fracture and failure of the skin panels and consequent rapid decompression of the airplane.

Requires repetitive inspections at prescribed cycle intervals depending on the aircraft's line number:

- External detailed visual inspections and eddy current inspections of the aircraft crown area and lower lobe areas as well as other known areas of fuselage skin cracking

AD 2005-07-19 Cracks in the Fuselage Skin, Doubler, Bearstrap, and Frames

The AD was prompted by reports of multiple fatigue cracks in the fuselage skin and bonded skin doubler, bearstrap, and doorway frames surrounding the forward and aft cargo doors.

Requires repetitive inspections at prescribed cycle intervals on certain series of Boeing 737 aircraft:

- Detailed and general visual inspections
- Low, mid, and high-frequency eddy current inspections for cracks in the fuselage skin, bonded skin doubler, bearstrap, and doorway frames

Potential safety factors

- Loss of structural integrity of the frames is likely if left unrepaired
- Possible loss of cargo doors and consequent rapid decompression of the fuselage

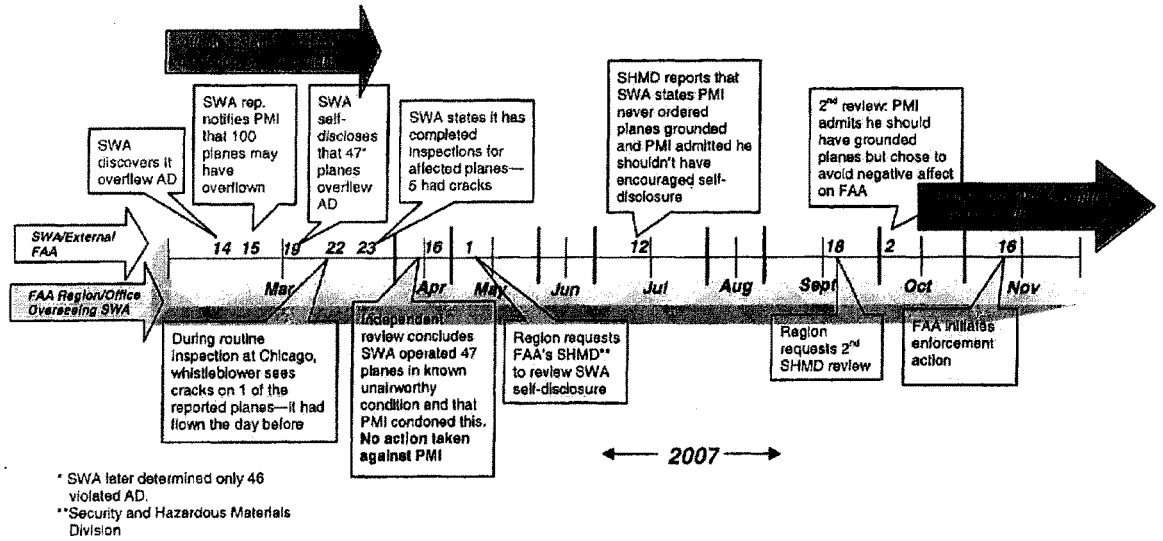
AD 90-25-01 Corrosion Control
The AD requires inspection of B-737 aircraft in support of Aging Aircraft Corrosion Prevention and Control Program

Supplement to the Department of Transportation Office of Inspector General Statement:

"Actions Needed To Strengthen FAA's Safety Oversight and Use of Partnership Programs"

April 3, 2008

Timeline of SWA Disclosure and FAA Actions



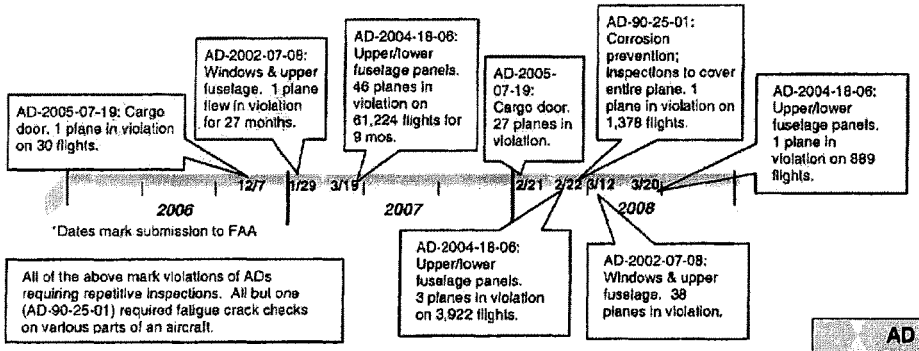
* SWA later determined only 46 violated AD.
**Security and Hazardous Materials Division

Supplement to the Department of Transportation Office of Inspector General Statement:

"Actions Needed To Strengthen FAA's Safety Oversight and Use of Partnership Programs"

April 3, 2008

Eight SWA Aging Aircraft AD Violations



AD	No. of Violations
AD-2005-07-19	*2*
AD-2004-18-06	*3*
AD-2002-07-08	*2*
AD-90-25-01	*1*

Testimony of Joseph Phil Thrash To:

The House of Representatives of The Congress of The United States Of America, Before The Committee on Transportation and Infrastructure on April 03, 2008, in Washington, DC, United States of America.

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

I. Executive Summary: Oral Testimony.

II. Introduction: BIO, OPM Form 50B, FAA Letter, SW Regional Administrator to Thrash, Copy of U.S. DOT, FAA Certificate of Service from Acting FAA Administrator, Merriam Webster's Definitions of Opinion and Fact, Copy of USC Title 18, Part I, Chapter 47 ~1001.

III. AFS-1, FAA Director of Flight Standards, Ballough's December 17, 2001 Memo, Aviation Safety Action Program (ASAP) this empowers FAA ERC Representative with total autonomy in accepting events into ASAP.

IV. Documentary Evidence to Support Enforcement Investigative Reports (EIRs) into alleged violations of Federal Aviation Regulations committed by the flight crew members of CALA1515, January 16, 2006, at El Paso, Texas. National Transportation Safety Board's Order No. EA-4135, April 12, 1994, adjudicated decision by NTSB ordering, affirming and upholding, the FAA Administrator's Order to suspend an Air Line Transport Pilot's license for violation of then FAR 91.9, now 91.13 for careless operation of an aircraft by excessive use of jet thrust which injured a ground crewman.

V. FAA Aircrew Program Manager, Joseph Phil Thrash's, February 14, 2006, FAA e-mail to FAA Administrator Blakey, with preliminary official record of professional disagreement that CALA1515 fatal accident had been accepted into FAA's Aviation Safety Action Program. E-mail includes APM Thrash's concerns, and flight interview questions requested to be asked of CALA1515 flight crew by FAA Manager Bernie Mullins, and FAA Principal Operations Inspector John Merrifield.

VI. FAA Internal Records of Conversation, and official inspection records of APM Thrash to Mullins, Merrifield expressing concerns regarding various Continental Airlines' Pilot Bulletins allowing the continuation of "non-FAA approved" maintenance engine runs by its pilot group.

VII. AFS-2, FAA Deputy Director of Flight Standards, Allen's Official FAA response to FAA Administrator's Hotline Concern No.#20060215001 generated by my February 14, 2006 FAA e-mail to FAA Administrator expressing my preliminary concerns regarding the CALA 1515 Fatal Accident being accepted into ASAP.

VIII. FAA Memorandum dated July 24, 2006, from APM Thrash to FAA Administrator, DOT-OIG, FAA Associate Administrator of Aviation Safety, AVS-1, Nick Sabatini, and the NTSB,

which provided FAA APM Thrash's official response as a "Memo for the Record," of FAA's acceptance of the CALA 1515 accident into ASAP. This memo provides the following counterpoints of factual nature to Allen's Memo of April 18, 2006, to the FAA Administrator Blakey:

(1) AFS-2, Allen, fictionalizes my position in the COA CMO in Houston, TX as "assistant partial program manager," when in fact I was then the "COA CMO B-737 Aircrew Program Manager."

(2) AFS-2, Allen, makes false statements that the interview questions were asked either by the ERC, or the FAA Investigator in Charge, or the NTSB. There are no records, tapes, written transcripts to substantiate this statement.

(3) AFS-2 uses term "deviation" to describe alleged violations by the CALA1515 flight crew. Deviation is an FAA term which allows a "one" time deviation from a FAR for some justified purpose; whereas, a violation is when one does not follow a FAR either by omission or commission of some act contrary to the FAR. This seems to be a device to obfuscate the facts of the serious nature of the alleged violations and questionable aircrew decision making at El Paso.

(4) AFS-2, Allen, characterized me as to have "become emotionally impassioned" by the nature of the accident. This is a materially false representation, trick, scheme, and device to cover up my concerns which were factual as transmitted to the FAA Administrator. These statements were defamatory with no basis in fact.

IX. Official FAA Letters, dated July 24th and 25th of 2006, from APM Thrash to Honorable United States Senators John Cornyn, Kay Bailey Hutchison, and Department of Transportation Inspector General Todd J. Zinser, expressing APM Thrash's concerns about CALA1515 fatal accident being accepted into ASAP.

X. Copies of letters dated September 28th and 29th from the Honorable Senators Cornyn, and Hutchison to FAA APM Thrash closing out their congressional inquiries into the CALA 1515 ASAP fatal accident matter. The Honorable Senator's letters included copies of AFS-1, Ballough's September 21, 2006, the official FAA letters to U. S Senators Cornyn and Hutchison with AFS-2's April 18, 2006 FAA Memo as the FAA's Flight Standards Service official records to close out the Congressional Inquiries into the CALA 1515 fatal aircraft accident being accepted into ASAP.

XI. FAA Memo, October 17, 2006, FAA ASI Thrash to DOT OIG, Tina Nysted, describing Public Law 103-272 USC 44 ~ 44709, Reexamination of Airmen and transmitting allegation of abuse of power by AFS-1 and AFS-2 to sustain the CALA1515 fatal accident being accepted into ASAP.

XII. FAA Letter of Reprimand, October 18, 2006 from COA CMO POI John Merrifield to FAA COA CMO B737 APM Thrash; includes counter point Memos from ASI Thrash, and final sustained POI letter of reprimand to ASI Thrash.

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

I. Executive Summary: Oral Testimony.

EXECUTIVE SUMMARY OF THRASH'S TESTIMONY

A Continental Airlines, Inc. (CALA) contract mechanic was killed during ground operations of a Continental Airlines B737 on January 16, 2006 at El Paso, Texas. This was a fatal aircraft accident and the flight crew's actions were accepted into the FAA's ASAP program during the week following the accident.

As the FAA's B-737 Aircrew Program Manager (APM) in the Continental Airlines Certificate Management Office (COA CMO) I sent a February 14, 2006 e-mail of my professional disagreement with the ASAP's decision to FAA Administrator Blakey.

On February 27, 2006 I was interviewed by the Assistant Manager of the FAA's American Airlines CMO, Mr. Don Klos, regarding my e-mail concerns at the request of Mr. Thomas Stuckey who is the FAA's Southwest Regional Division Manager of Flight Standards, ASW-200. During the interview, Mr. Klos stated that the previous week he had visited Thomas Stuckey, ASW-200, who indicated that the FAA Administrator Blakey and FAA's Associate Administrator for Safety, AVS-1, Mr. Sabatini, had told Mr. Stuckey to investigate "how the El Paso matter had been accepted into ASAP." Mr. Klos stated during the February 27, 2006 interview that he and Thomas Stuckey agreed that the accident should not have been accepted into ASAP, but that "Washington FAA" would have the final call. I advised Mr. Klos that the COA CMO Manager, Bernie Mullins and POI, John Merrifield, had stated in previous meetings with me that ASAP had not provided any precursors to the El Paso accident.

A December 17, 2001 memo written by AFS-1, FAA Director of Flight Standards Service, Mr. Ballough, gives the FAA ASAP Event Review Committee member autonomy in his/her decision to accept or reject a crewmember's ASAP report. The COA CMO's FAA's ASAP representative from 2001 until early summer of 2006 was a retired Continental Airlines Captain who was not type rated on any of Continental Airlines fleet of all Boeing manufactured aircraft. After the El Paso accident, another CALA B737 safety related incident occurred which was accepted into ASAP. The COA Manager then removed the ASAP representative from the ASAP ERC. During this FAA ASAP representative's tenure, 2001 to 2006, I was never contacted regarding any ASAP reports. The Manager, POI, and APMs could not access the ASAP data repository to gather risk indicators, accident precursors, on which to focus our limited inspector resources. From summer 2006 until my retirement, I conducted two Enforcement Investigative Reports regarding FAR violations, and four reexaminations of airmen under 47 USC 44709, which was after the former ASAP representative, the ex Continental Airline's captain, was removed from his FAA ASAP ERC position, and replaced with a FAA Aviation Safety Inspector who was rated on the Boeing B-737.

AFS-2, FAA Deputy Director of Flight Standards Service, John Allen wrote a FAA Memo dated April 28, 2006 to Administrator Blakey as FAA's Flight Standards Service official position to my February 14, 2006 e-mail. Allen's memo appears to obfuscate the facts that happened at El Paso to "cover up" those facts to support FAA's highest level of management in the FAA's Flight Standards Service, AFS-1's, and AFS-2's, decisions to sustain the El Paso matter acceptance into ASAP. The memo has fictionalizations, false statements, innuendoes, and

unfounded conclusions. I welcome your questions to me in that regard. If Mr. Allen's official memo of record was an intentional obfuscation of the facts, he maybe in violation of Federal Laws. If Mr. Allen's official record contains unintentional mistakes and misstatements of facts, he might be seen as incompetent.

On September 21, 2006, Mr. Ballough, AFS-1 sent an official FAA letter of response to the Honorable Texas Senators Hutchison and Cornyn to close their Congressional inquiries into the El Paso ASAP matter. He included Allen's aforementioned memo to corroborate FAA Flight Standards' official position on the acceptance of the El Paso ASAP matter. If Ballough intentionally forwarded to United States Senators known fictionalizations, false statements, inaccuracies, and obfuscations of facts, he may have violated some federal laws, if unintentional, his competency may be in question.

I was unable to accomplish my duties as Aircrew Program Manager to inspect, investigate this aircrew's actions due to policies and decisions made by James Ballough, AFS-1, FAA Director of Flight Standards Service and James Allen, AFS-2, FAA Deputy Director of Flight Standards Service. They sustained the acceptance of the fatal accident into the FAA's Voluntary Disclosure Program known as ASAP, Aviation Safety Action Program.

The DOT OIG has had my files since October 17, 2006, with my position that AFS-1, Ballough, and AFS-2, Allen, abused power by sustaining the acceptance of the El Paso fatal aircraft accident into ASAP. Twice, I made my self available to discuss the matter with the FAA Administrator, Blakey, AVS-1, Sabatini, AFS-1, Ballough, and AFS-2, Allen which did not happen.

FAA Associate Administrator for Safety, AVS-1, Mr. Nicholas A. Sabatini signed FAA Regulation 14 CFR Part 193, under provisions of 49 USC 40123, to essentially prohibit the release of ASAP, and other certain FAA accepted "voluntary disclosure" aviation safety information on January 26, 2005.

This regulation essentially protects ASAP, a non-regulatory, voluntary program created by a FAA Advisory Circular, from the public's right and freedom for information regarding their safety.

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

II. Introduction: BIO, OPM Form 50B, FAA Letter, SW Regional Administrator to Thrash, Copy of U.S. DOT, FAA Certificate of Service from Acting FAA Administrator, Merriam Webster's Definitions of Opinion and Fact, Copy of USC Title 18, Part I, Chapter 47 ~1001.

BIO: Joseph Phil Thrash
Born: Lufkin, Texas, June 1945.

Education:

- B.B.A. University of Texas at Austin, TX, 1967.
- Stephen F. Austin State University, Nacogdoches, TX (Under Grad Summer School).
- Arizona State University, Tempe, AZ (Under Grad Summer School).
- M.A. Humanities, University of Houston at Clear Lake, TX, 2007, 3.86 GPA.

Memberships:

- Veterans of Foreign Wars, Life Time Member, Post 1836, Lufkin, TX.
- AARP.

Work History: 1967-2007: 40 years operational aviation pilot experience: Military, Part 121 Air Carrier, and FAA.

- USAF: C-130E Instructor Pilot, T-38 Instructor Pilot, Flight Examiner, Viet Nam Veteran, Honorable Discharge, USAF ResAF October 31, 1978. 1967-1978.
- FAR Part 121 Airline Pilot: Frontier Airlines, Inc., Denver, CO, 1979-1985.
- Federal Aviation Administration: 1985-2007.

FAA Airman Certificates and recent FAA Job History:

- Airline Transport Pilot: Multi Engine and Single Engine Land. Type Ratings: ATP MEL include: McDonald Douglas DC-10, Lockheed L-382(C-130), Boeing B-727, and B-737. Flight Engineer Certificate: Turbojet Powered.
- Retired from FAA December 31, 2007: Last Position was FG-1825, Aviation Safety Inspector, FAA ASI (Air Carrier Operations). Served as FAA ASI 20 years in FAA Flight Standards Operations Unit that conducted FAA regulatory oversight of Continental Airlines, Inc, in Houston, TX. Last Job Description from 1998-2007: FAA Aircrew Program Manager, (APM) B-737. Duties included: (a) Oversight of Continental's Aircrew Program Designated Examiners (APDs) Examining Airmen for Initial Certification and continuing competence, (b) evaluating airman training programs, equipment, and facilities, (c) evaluating the operational aspects of programs of the air carrier for adequacy of facilities, equipment, procedures, and ***overall management to ensure safe operation of the B-737 aircraft thru compliance with FARs, FAA approved operational programs, manuals, and standardized operating procedures and practices.***

Current Projects/Interests:

- Continue Granddaughter's swimming lessons, reading, and flora/fauna identification.
- Surf Fishing in Gulf of Mexico, feral hog hunting in East Texas, repair a fishing camp.
- Gardening, specializing in tomatoes, cucumbers, peppers, and onions.
- Learn Spanish.
- Have been accepted into MA English program at SFASU, Nacocogdoches, TX, Fall'08.

U.S. Office of Personnel Management
Ensuring the Federal Government has an effective civilian workforce

Constitution Initiative

- Main
- Training Materials
  - Constitution's Link to the Oath of Office
  - Constitution History
  - Constitution Questions and Answers
  - The Constitution
- Speech by Honorable John Charles Thomas

The Oath of Office and the Constitution

Oath

I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

5 U.S.C. §3331

As Federal civil servants, we take an oath of office by which we swear to support and defend the Constitution of the United States of America. The Constitution not only establishes our system of government, it actually defines the work role for Federal employees - "to establish Justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty."

The history of the Oath for Federal employees can be traced to the Constitution, where Article II includes the specific oath the President takes - to "preserve, protect, and defend the Constitution of the United States." Article VI requires an oath by all other government officials from all three branches, the military, and the States. It simply states that they "shall be bound by oath of affirmation to support the Constitution." The very first law passed by the very first Congress implemented Article VI by setting out this simple oath in law: "I do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States."

The wording we use today as Executive Branch employees is now set out in chapter 33 of title 5, United States Code. The wording dates to the Civil War and what was called the Ironclad Test Oath. Starting in 1862, Congress required a two-part oath. The first part, referred to as a "background check," affirmed that you were not supporting and had not supported the Confederacy. The second part addressed future performance, that is, what you would swear to do in the future. It established a clear, publicly sworn accountability. In 1873, Congress dropped the first part of the Ironclad Test Oath, and in 1884 adopted the wording we use today.

Standard Form 50-B
Rev. 7/91
U.S. Office of Personnel Management
FPM Supp. 296-33, Subch 4

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle)	2. Social Security Number	3. Date of Birth	4. Effective Date
THRASH, JOSEPH P	[redacted]	06/22/45	12/31/07

FIRST ACTION

5-A. Code	5-B. Nature of Action
302	RETIREMENT-VOLUNTARY
5-C. Code	5-D. Legal Authority
USM	PL 99-335
5-E. Code	5-F. Legal Authority

SECOND ACTION

6-A. Code	6-B. Nature of Action
6-C. Code	6-D. Legal Authority
6-E. Code	6-F. Legal Authority

7. FROM: Position Title and Number	15. TO: Position Title and Number
AVIATION SAFETY INSPECTOR (OPS) SWCM28B K9749--	

8. Pay Plan	9. Occ. Code	10. Grade/Level	11. Step/Rate	12. Total Salary	13. Pay Basis
FG	1825	14	09	[redacted]	PA

16. Pay Plan	17. Occ. Code	18. Grade/Level	19. Step/Rate	20. Total Salary/Award	21. Pay Basis

12A. Basic Pay	12B. Locality Adj.	12C. Adj. Basic Pay	12D. Other Pay
[redacted]	[redacted]	[redacted]	$ 0

20A. Basic Pay	20B. Locality Adj.	20C. Adj. Basic Pay	20D. Other Pay

14. Name and Location of Position's Organization	22. Name and Location of Position's Organization
SOUTHWEST REGION FLIGHT STANDARDS DIVISION CONTINENTAL AIRLINES CERT MGMT OFFICE CONTINENTAL AIRLINES OPERATIONS UNIT HOUSTON,TEXAS	

EMPLOYEE DATA

23. Veterans Preference	24. Tenure	25. Agency Use	26. Veterans Preference for RIF
2 (1 – None; 2 – 5-Point; 3 – 10-Point/Disability; 4 – 10-Point/Compensable; 5 – 10-Point/Other; 6 – 10-Point/Compensable/30%)	1 (0 – None; 1 – Permanent; 2 – Conditional; 3 – Indefinite)		X YES / NO

27. FEGLI	28. Annuitant Indicator	29. Pay Rate Determinant
C0 BASIC ONLY	9 NOT APPLICABLE	0

30. Retirement Plan	31. Service Comp. Date (Leave)	32. Work Schedule	33. Part-Time Hours Per Biweekly Pay Period
K FERS & FICA	01/17/72	F FULL-TIME	

POSITION DATA

34. Position Occupied	35. FLSA Category	36. Appropriation Code	37. Bargaining Unit Status
2 (1 – Competitive Service; 2 – Excepted Service; 3 – SES General; 4 – SES Career Reserved)	E (E – Exempt; N – Nonexempt)	0004596	0073

38. Duty Station Code	39. Duty Station (City – County – State or Overseas Location)
48-3280-201	HOUSTON,HARRIS,TEXAS

40. AGENCY DATA FUNC	41. VET-STAT	42. EDUC LVL	43. SUPV LVL	44. POSITION SENSITIVITY
CLS 00	N	13	8	MODERATE RISK

45. Remarks

FORWARDING ADDRESS: 75904
REASON FOR RETIREMENT: NORMAL RETIREMENT COB 12/31/2007
LUMP-SUM PAYMENT TO BE MADE FOR ANY UNUSED ANNUAL LEAVE.

46. Employing Department or Agency	47. Agency Code	48. Personnel Office ID	49. Approval Date	50. Signature/Authentication and Title of Approving Official
TD - FAA	TD03	1824	12/21/07	CHRISTY A NIX PERSONNEL ASSISTANT 072028034

Employee Copy

Aviation Safety Inspectors

Aviation Safety Inspectors (ASIs) are the FAA's on-site detectives. Inspectors develop, administer, investigate and enforce safety regulations and standards for the production, operation, maintenance and modification of all aircraft flying today. There are many different types of ASIs. The four key disciplines are:

Avionics

Evaluate avionics technicians, training programs and repair facilities. They investigate violations involving incidents/accidents of the Federal Aviation Regulations, including both general and air carrier industries. They are also responsible for inspecting aircraft and all related equipment.

Maintenance

Evaluate aviation mechanics, their facilities and training programs as well as inspect aircraft and related equipment for airworthiness. They investigate violations involving incidents/accidents of the Federal Aviation Regulations, including both general and air carrier industries.

Operations

Evaluate airmen, their training programs, equipment and facilities. They investigate violations involving incidents/accidents of the Federal Aviation Regulations, including both general and air carrier industries.

Manufacturing

Inspect aircraft, aircraft parts, avionics equipment and monitor manufacturing facilities as well as issue production and original airworthiness certifications

Qualifications

Qualifications vary according to job position. U.S. citizenship and pre-employment drug screening are required for some positions. A complete list of qualification requirements for ASI positions is available in Vacancy Announcement FAA-ASI-99-001-27152M.

Manufacturing Inspector qualification requirements are available at FAA-AIR-99-MFG-37247M.

Avionics Safety Inspectors For Air Carriers or General Aviation

Avionics Safety Inspectors evaluate avionics technicians, training programs and repair facilities. They investigate violations involving incidents/accidents of the Federal Aviation Regulations, including both

-CITE-
49 USC CHAPTER 447 - SAFETY REGULATION 01/02/2006

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE VII - AVIATION PROGRAMS
PART A - AIR COMMERCE AND SAFETY
subpart iii - safety
CHAPTER 447 - SAFETY REGULATION

-HEAD-
CHAPTER 447 - SAFETY REGULATION

-MISC1-
Sec.
44701. General requirements.
44702. Issuance of certificates.
44703. Airman certificates.
44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.
44705. Air carrier operating certificates.
44706. Airport operating certificates.
44707. Examining and rating air agencies.
44708. Inspecting and rating air navigation facilities.
44709. Amendments, modifications, suspensions, and revocations of certificates.
44710. Revocations of airman certificates for controlled substance violations.
44711. Prohibitions and exemption.
44712. Emergency locator transmitters.
44713. Inspection and maintenance.
44714. Aviation fuel standards.
44715. Controlling aircraft noise and sonic boom.
44716. Collision avoidance systems.
44717. Aging aircraft.
44718. Structures interfering with air commerce.
44719. Standards for navigational aids.
44720. Meteorological services.
44721. Aeronautical charts and related products and services.
44722. Aircraft operations in winter conditions.
44723. Annual report.
44724. Manipulation of flight controls.
44725. Life-limited aircraft parts.
44726. Denial and revocation of certificate for counterfeit parts violations.
44727. Runway safety areas.
44728. Flight attendant certification.

AMENDMENTS

2003 - Pub. L. 108-176, title II, Sec. 227(e)(2), title V, Sec. 502(b), title VIII, Sec. 814(b), Dec. 12, 2003, 117 Stat. 2532, 2557, 2592, substituted "Type certificates, production certificates, airworthiness certificates, and design organization certificates" for "Type certificates, production certificates, and airworthiness certificates" in item 44704 and added items 44727 and 44728.

2000 - Pub. L. 106-181, title V, Secs. 504(c), 505(a)(2), title VI, Sec. 603(b), Apr. 5, 2000, 114 Stat. 134, 136, 152, substituted "Aeronautical charts and related products and services" for

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

Southwest Region
Arkansas, Louisiana,
New Mexico, Oklahoma,
Texas, Mississippi

Fort Worth, Texas 76193

December 31, 2007

Mr. Joseph P. Thrash
P.O. Box 891403
Houston, TX 77289-1403

Dear Phil:

On the occasion of your retirement, I wish to express, on behalf of your many friends and associates in the Federal Aviation Administration (FAA), our appreciation of your faithful and dedicated service during the past 35 years.

You can reflect with pride upon your contributions to the FAA. Your professionalism has been evidenced by the highly effective and efficient manner in which you have performed your job. Your efforts and accomplishments have earned you the admiration and respect of all the people within the FAA with whom you have come in contact. You will certainly be missed.

Congratulations and best wishes from all of us for a long and happy retirement.

Sincerely,

Teresa A. Bruner
Regional Administrator,
Southwest Region

FYI:
Honorable Representatives
and Staff Members,
The additional scratchings
are additional comments
from my beloved
granddaughter "A.B."
JPT

U.S. Department of Transportation

Federal Aviation Administration

Certificate of Service

presented to

Joseph P. Thrash

on the occasion of retirement after 35 years and 9 months of service to the people of the United States of America.

December 31, 2007

Date

Acting Administrator

JAMES L. OBERSTAR, CHAIRMAN

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

February 7, 2008

Mr. Phil Thrash
900 Mockingbird
Lufkin, TX 75904

Dear Mr. Thrash:

As we have discussed, the Oversight and Investigations staff of the U.S. House of Representatives Committee on Transportation and Infrastructure has been investigating lapses in Federal Aviation Administration (FAA) safety oversight of airlines and repair stations. Chairman Oberstar has scheduled a full committee hearing on this matter on March 12, 2008, and the hearing announcement is attached.

It has come to our attention that while you were a FAA safety inspector in the Continental Airlines Certificate Management Office, you were involved in the investigation of a mechanic's death during the inspection of a Continental Airlines 737 in 2006, and that you supplied substantial records on this matter to the Department of Transportation Office of Inspector General.

I am formally requesting that you supply those materials to my office at your earliest convenience. Since the Committee has jurisdiction over all matters pertaining to the FAA, we have the power of subpoena for any and all records pertaining to FAA matters. However, we hope you will supply these records voluntarily.

Thank you in advance for consideting our request. I look forward to hearing from you soon.

Sincerely,

H. Clayton Foushee
Senior Professional Staff
Oversight and Investigations

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Mr. Joseph Phillip Thrash, Retired Aviation Safety Inspector, Continental Airlines Certificate Management Office

You are hereby commanded to be and appear before the Committee on Transportation and Infrastructure

of the House of Representatives of the United States at the place, date and time specified below.

☑ **to testify** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: 2167 Rayburn House Office Building, Washington, DC 20515

Date: April 3, 2008 Time: 10:00a.m.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

To Tracy G. Mosebey, Clerk, House Committee on Transportation and Infrastructure

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 13 day of March, 2008.

Attest: Lorraine C. Miller
Clerk

Jim Oberstar
Chairman or Authorized Member

PROOF OF SERVICE

Subpoena for Mr. Joseph Phillip Thrash, Retired Aviation Safety Inspector, Continental Airlines Certificate Management Office

Address 900 Mockingbird Lane, Lufkin, TX 75904

before the Committee on Transportation and Infrastructure

U.S. House of Representatives
110th Congress

Served by (print name) Tracy G. Mosebey

Title Clerk, House Committee on Transportation and Infrastructure

Manner of service By certified mail, by agreement

Date March 13, 2008

Signature of Server

Address B-329 Rayburn House Office Building, Washington, DC 20515

Merriam-Webster OnLine

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Also Visit: Unabridged | Encyclopedia Britannica | Visual NEW | ESL: | Learner's for

Dictionary Thesaurus Spanish/English Medical

fact

6 entries found.

fact
fact-check
fact finder
fact of life
matter[1,noun]
matter-of-fact

Main Entry: **fact**
Pronunciation: \'fakt\
Function: *noun*
Etymology: Latin *factum*, from neuter of *factus*, past participle of *facere*
Date: 15th century

1 : a thing done: as **a** *obsolete* : FEAT **b** : CRIME <accessory after the *fact*> **c** *archaic* : ACTION
2 *archaic* : PERFORMANCE, DOING
3 : the quality of being actual : ACTUALITY <a question of *fact* hinges on evidence>
4 a : something that has actual existence <space exploration is now a *fact*> **b** : an actual occurrence <prove the *fact* of damage>
5 : a piece of information presented as having objective reality
— in fact : in truth

Learn more about "fact" and related topics at Britannica.com

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Pronunciation Symbols

Merriam-Webster Online


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opinion

2 entries found.

opinion
self-opinion

Main Entry: **opin·ion**
Pronunciation: \ə-'pin-yən\
Function: *noun*
Etymology: Middle English, from Anglo-French, from Latin *opinion-, opinio,* from *opinari*
Date: 14th century

1 a : a view, judgment, or appraisal formed in the mind about a particular matter **b :** APPROVAL, ESTEEM
2 a : belief stronger than impression and less strong than positive knowledge **b :** a generally held view
3 a : a formal expression of judgment or advice by an expert **b :** the formal expression (as by a judge, court, or referee) of the legal reasons and principles upon which a legal decision is based
— **opin·ioned** \-yənd\ *adjective*

synonyms OPINION, VIEW, BELIEF, CONVICTION, PERSUASION, SENTIMENT mean a judgment one holds as true. OPINION implies a conclusion thought out yet open to dispute <each expert seemed to have a different *opinion*>. VIEW suggests a subjective opinion <very assertive in stating his *views*>. BELIEF implies often deliberate acceptance and intellectual assent <a firm *belief* in her party's platform> CONVICTION applies to a firmly and seriously held belief <the *conviction* that animal life is as sacred as human>. PERSUASION suggests a belief grounded on assurance (as by evidence) of its truth <was of the *persuasion* that everything changes>. SENTIMENT suggests a settled opinion reflective of one's feelings <her feminist *sentiments* are well-known>.

Learn more about "opinion" and related topics at Britannica.com

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U.S. Code collection

TITLE 18 > PART I > CHAPTER 47 > § 1001

§ 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

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TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

III. AFS-1, FAA Director of Flight Standards, Ballough's December 17, 2001 Memo, Aviation Safety Action Program (ASAP) this empowers FAA ERC Representative with total autonomy in accepting events into ASAP.

U.S. Department of Transportation
Federal Aviation Administration

RECEIVED
JAN 7 - 2002
Southwest Region
Flight Standards Divs

Memorandum

Subject: ACTION: Aviation Safety Action Program (ASAP)

Date: DEC 17 2001

From: Director, Flight Standards Service, AFS-1

Reply to Attn. of:

200
201A
201B
202
210
230

To: All Certificate Holding District Offices

I would like each office manager to know that I am deeply committed to the success of the Aviation Safety Action Program (ASAP), and I would appreciate the continued support of our certificate holding district offices (CHDO) for this important safety program. I believe that ASAP not only provides the Federal Aviation Administration (FAA) and airline management with otherwise unavailable information concerning flight operations and aircraft maintenance events, the program enables corrective action to be taken in those areas that would otherwise never occur. ASAP is, therefore, an invaluable supplement to our surveillance and enforcement tools for the enhancement of public safety.

With nearly 20 programs in place to date, participation in ASAP continues to grow steadily. As the FAA and industry gain experience with the program, it can be expected that FAA ASAP policy will be refined to reflect lessons learned. An advisory group comprised of airline, labor, and FAA representatives has been established by the Administrator to help us determine if policy changes for ASAP are needed. A Flight Standards Service Web page is now in place to provide the most current information on ASAP policy, pending publication of a handbook chapter on ASAP, and a revision to the current ASAP advisory circular (AC 120-66A). If changes are made to ASAP policy, they should be expected to appear first on the ASAP Web page prior to publication elsewhere. The Web page also contains an automated template to facilitate the generation of an ASAP Memorandum of Understanding (MOU) by airlines and repair stations interested in starting new programs. We strongly encourage the use of the automated template, because MOUs that use the standard language from that program can be quickly accepted. The template will always reflect the most current FAA policy on ASAP.

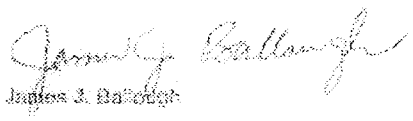
I would like to call your attention to the concept of Event Review Committee (ERC) consensus that appears in paragraph 5B(2) of the Handbook Bulletin for Air Transportation (HBAT) 00-08/ Handbook for Airworthiness (HBAW) 00-07, Establishment of Aviation Safety Action Programs. It states:

> The success of ASAP is built on the ability of the ERC to achieve consensus on each event that is reported. Under ASAP, the term "consensus" is defined as the voluntary agreement of all ERC representatives. The ERC must reach a

> consensus when deciding on corrective action recommendations arising from the event, including any FAA enforcement action. It does not require that all members believe that a particular decision or recommendation is the most desirable solution, but that the result falls within each member's range of acceptable solutions for that event in the best interest of safety.

In order for this concept to work effectively, the FAA member must be empowered to call it as he/she sees it within the context of the ERC discussions on a given report. Office managers should ordinarily not preempt the FAA ERC representative's decisionmaking discretion for an event reported under ASAP. If the parties to an ASAP MOU do not permit their respective ERC representatives to exercise this discretion, the capacity of the ERC to achieve consensus will be undermined, and the program will ultimately fail.

Only inspectors who have received formal training on ASAP should be selected to be the FAA representative to an ERC. I strongly encourage CHDO managers to attend this training as well.



TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

IV. Documentary Evidence to Support Enforcement Investigative Reports (EIRs) into alleged violations of Federal Aviation Regulations committed by the flight crew members of CALA1515, January 16, 2006, at El Paso, Texas. National Transportation Safety Board's Order No. EA-4135, April 12, 1994, adjudicated decision by NTSB ordering, affirming and upholding, the FAA Administrator's Order to suspend an Air Line Transport Pilot's license for violation of then FAR 91.9, now 91.13, for careless operation of an aircraft by excessive use of jet thrust which injured a ground crewman.

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	4938
CONNECTION TEL	97133248538
SUBADDRESS	
CONNECTION ID	
ST. TIME	01/18 13:47
USAGE T	00'19
PGS. SENT	1
RESULT	OK

REQUEST FOR DOCUMENTARY INFORMATION

To: Continental Airlines, Inc. Attn: Safety & Regulatory Compliance Dept. / /

FAX Number 713-324-8538

The information indicated below is requested in conjunction with the following incident/occurrence:

Date of Occurrence: 01-16-96 Time: _____ Registration Number: _____ Flight Number: 1515

Location: ELP Type AC FT: 3737 Nature of Occurrence: _____

DEATH OF CONTRACT MAINTENANCE PERSON.

- ✓ Full Name of Flight Crewmembers - 5 working days.
- ✓ Mailing Address of Flight Crewmembers - 5 working days.
- ✓ Mailing Address of Flight Attendants - 5 working days.
- ✓ Certificate Numbers of Flight Crewmembers - 5 working days.
- ✓ Aircraft Registration Number/Make & Model - 5 working days.
- ✓ Crew History - 15 working day.
- ✓ Copy of Aircraft log Page(s) - 15 working days.
- ✓ Copy of Dispatch Release/Flight Plan/ Weather Package - 15 working days.
- _____ Copy of Load Manifest - 15 working days.
- ✓ Flight Crew members Irregularity Report(s) - 15 working days. ** REQUEST ASAP
- ✓ Flight Attendant Irregularity Report(s) - 15 working days.

Other Information: TOBY — BERNIE MULLINS COA CMO MANAGER HAS ASK ME TO INTERVIEW CREW. a FRIDAY 01-26-96 WOULD BE AVAILABLE EARLIEST

REQUEST FOR DOCUMENTARY INFORMATION

To: Continental Airlines, Inc. Attn: Safety & Regulatory Compliance Dept. ____/____/____

FAX Number 713-324-8538

The information indicated below is requested in conjunction with the following incident/occurrence:

Date of Occurrence: 01-16-96 Time: _____ Registration Number: _____ Flight Number: 1515

Location: ELP Type AC FT: B737 Nature of Occurrence: _____

DEATH OF CONTRACT MAINTENANCE PERSON.

- ✓ Full Name of Flight Crewmembers - 5 working days.
- ✓ Mailing Address of Flight Crewmembers - 5 working days.
- _____ Mailing Address of Flight Attendants - 5 working days.
- ✓ Certificate Numbers of Flight Crewmembers - 5 working days.
- ✓ Aircraft Registration Number/Make & Model - 5 working days.
- ✓ Crew History - 15 working day.
- ✓ Copy of Aircraft log Page(s) - 15 working days.
- ✓ Copy of Dispatch Release/Flight Plan/ Weather Package - 15 working days.
- _____ Copy of Load Manifest - 15 working days.
- ✓ Flight Crew members Irregularity Report(s) - 15 working days. ** REQUEST ASAP
- ✓ Flight Attendant Irregularity Report(s) - 15 working days.

Other Information: TOBY — BERNIE MULLINS COACMO MANAGER HAS ASKED ME TO INTERVIEW CREW. A FRIDAY 01-26-96 WOULD BE AVAILABLE EARLIEST THIS WEEK NEXT WEEK DAN McLUCAS COULD BE BACK UP.

** ~~WE WOULD LIKE DIRECTORY REPORTS ASAP.~~

THANK YOU

DAN McLUCAS 281-461-2465

COA CMO Inspector: PHIL THRASHER Phone 281-461-2448

Continental



January 27, 2006

Mr. Phil Thrash
Aviation Safety Inspector
Federal Aviation Administration
Flight Standards District Office
2625 Bay Area Blvd., Suite #400
Houston, Texas 77058

RE: CO 1515 ELP/IAH January 16, 2006

Dear Mr. Thrash,

Enclosed is some of the information you requested on the above mentioned flight:

- **Crew Names and Addresses & History:**
  - See Attachment
- **Aircraft Registration:** Boeing 737-500;N32626
- **Copy of Dispatch Release (see Attachment)**
- **Captain's Irregularity Report was previously sent to you by Toby Carroll**
- **Flight Attendant Statements**
- **Log Page**

If you need any additional information, please contact this office.

Sincerely,
Colin Anderson

Colin Anderson
Manager Flight Operations Evaluation
Safety and Regulatory Department
CONTINENTAL AIRLINES, INC.
713-324-8559

Enclosures

Continental



FAX TRANSMITTAL

DATE: **January 27, 2006**

TO: **Mr. Phil Thrash**
Aviation Safety Inspector
Federal Aviation Administration
Flight Standards District Office
2625 Bay Area Blvd., Suite #400
Houston, Texas 77058

FROM: **Colin Anderson**
Continental Airlines
Safety and Regulatory Compliance Dept.
713-324-8559 (FAX: 713-324-8822)

RE: **CO 1515 ELP/IAH on January 16, 2006**

NOTE: I will send the original copy through the US mail so that you can have clean copies

Please call if you have questions.

Federal Aviation Regulation

Sec. 121.315

Part 121 OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS
Subpart K--Instrument and Equipment Requirements

Sec. 121.315

Cockpit check procedure.

(a) Each certificate holder shall provide an approved cockpit check procedure for each type of aircraft.
(b) The approved procedures must include each item necessary for flight crewmembers to check for safety before starting engines, taking off, or landing, and in engine and systems emergencies. The procedures must be designed so that a flight crewmember will not need to rely upon his memory for items to be checked.
(c) The approved procedures must be readily usable in the cockpit of each aircraft and the flight crew shall follow them when operating the aircraft.

Comments

Document History

Notice of Proposed Rulemaking Actions:

Final Rule Actions:

BEFORE START

The BEFORE START flow will be initiated when the Captain calls for the checklist.

The Captain will call for the checklist after all carry-on baggage is properly stowed, all exterior doors have been closed, and the ground crew is ready for pushback.

Prior to aircraft movement, the Captain will verify that all passengers are seated.

If a pushback is required, the checklist will be completed prior to aircraft movement. In the event a pushback is not required, the checklist will be completed prior to engine start.

When engine start clearance is received, the Captain will call for the appropriate engine to be started.

F/O CHALLENGE	BEFORE START	CAPT. RESPOND
Flight Deck Windows		LOCKED (F, C)
Seat Belt Sign		ON
Door Lights		OUT
Beacon		ON
CDU		SET
Reference Speeds		___ SET (F, C)
Fuel	___ REL, ___	ON BOARD, PUMPS ON
Speedbrake Lever		DOWN DETENT (F, C)
Trim		___ UNITS, ZERO

F/O Challenge — **Capt. Respond**

Flight Deck Windows ..... **LOCKED (F, C)**

Verify the lock levers are in the locked (forward) position.

Seat Belt Sign ..... **ON**

Door Lights ..... **OUT**

Verify door lights are extinguished prior to pushback and/or engine start. Cargo door may be opened for loading late baggage prior to starting engine #2.

Beacon ..... **ON**

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CDU..... SET

Verify all required entries to the FMC are set.

- V_1, V_R, and V_2 should be set on the TAKEOFF REF page.
- Insure the departure runway has been selected on the ROUTE page.
- If VNAV is the pitch mode desired for departure insure entry of appropriate climb restrictions and speed.
- Reduced thrust temperature if appropriate is entered on the N1 LIMIT page.
- Verify that the TAKEOFF REF page shows **PREFLIGHT COMPLETE**.

Reference Speeds..... ____ SET (F, C)

③5 External / Internal Reference Speeds

If not already accomplished, position reference speeds. Both pilots will verbally state numerical values for V_1, V_R and V_2.

7 8 9 Reference Speeds

If not already accomplished, select AUTO on the speed reference selector and enter reference speeds on CDU. The ZFW and V-speeds associated with the gross weight will uplink if ACARS is operational. Both pilots will verbally state numerical values for V_1, V_R, and V_2 as displayed on the MASI.

If the FMC is inoperative, enter the V-speeds manually using the speed reference selector.

Airspeed Cursor

Set the airspeed cursor at V_2 using the speed selector on the mode control panel.

Fuel..... _____REL, _____ON BOARD, PUMPS ON

Example: "16.4 Release, 16.4 On Board, Pumps ON."
Check the fuel on board against the dispatch release GATE FUEL, fuel slip, and weight and balance for agreement. (If the value is less than GATE FUEL, ensure at least MIN FUEL plus TAXI onboard.) Any irregular load / distribution of fuel should be investigated. Ensure the wing fuel tanks are balanced. Check that all required fuel documentation is onboard.

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1/17/06
1:5pm The Right side engine was opened up by the two mechanics Don, and Frank, about to do a maintence check. The engine was on and both Frank and don went back to the push back to ask the pilot to crank up the engine and the was running full speed. Frank and Don then went back to sit next to the engine to check for oil spill, Don being on the right side of the engine, Frank on the left. they sat back for about 1minute as a herd something got trough the engine that sounded like a loud pop, as I herd the pop I saw don quickly getting up as if he was going to reach for his hat when the turbine quickly absorbed him and trew him back out, this all happened while I was standing in back of the push back in the left side of it.

Jesus Brito
RAMP AGENT
OBSERVATION POINT WAS
A/C RIGHT STANDING ON
LEFT SIDE OF PUSH TRACTOR

31 553 7373
TRAINING CENTER 281 553 7373 01/23 '06 11:35 NO.520 01/03

Nancy Jean Morris 68357 1/20/06

After boarding our aircraft, I was working and standing in first class in the small, modified galley. I heard a loud, scraping noise as the engines were powered up. The plane shook. It sounded as if there was something very wrong with the engine.

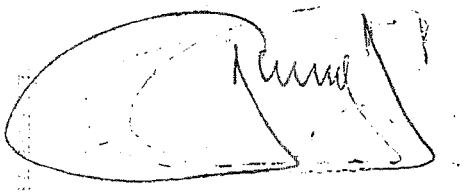
I asked the flight deck what had happened and the captain said we had just ingested someone into our engine (on aircraft Right).

We (the flight attendants) told the flight deck we needed stairs back ASAP so we could get the customers off the plane. There was a catering truck parked at our door to board a wheelchair passenger. The stairs were brought back and we had everyone exit the plane, advising them to please keep their legs forward as they walked across the ramp. Nancy Jean Morris

TRAINING CENTER 281 553 7373 01/23 11:36 NO.520 02/03

1/20/06 JEFFREY TANNIN

I WAS THE FA02 FLIGHT ATTENDANT AND WAS AT THE OVERWING EXITS WHEN THE INCIDENT OCCURED. I HEARD THE LARGE BANG AND FELT THE A/C SHAKE. AFTER I UNDERSTOOD WHAT THIS HAD HAPPENED I INSTRUCTED THE PAX ON A/C RIGHT TO CLOSE THE WINDOW SHADES.



TRAINING CENTER 281 553 7373 01/23 /6 11:36 NO.520 03/03

1-20-06

At the time of the accident I was between the seat row & the bulkhead closing overhead bins. When the accident occured I looked down & saw the engine with the cowling open.

Larry Lackey
FA A54S6

To: Whom It May Concern
From: J. Chris Burtz
Date: January 16, 2006
Re: Flight 1515 Accident

I was working Operations. After the Captain of Flight 1515 had signed his flight release and had taken his weather and flight papers, I happened to notice the First Officer speaking to him at the bottom of the stairs. The Captain checked the number 2 engine and went on board. I then went on board to ask the flight attendants if they were ready for boarding, and at this point the captain advised me that he wanted a leak checked on the number 2 engine.

As I was returning to Operations, I saw and advised Rose, the lead agent, that I had to return to Ops to call maintenance control due to a possible leak. I then called maintenance control and advised them of the situation. They told me to call Julie's, the contract maintenance, and I did. I spoke with Frank and he said that mechanics from Julie's would be right over.

The flight was already being boarded, and since we had a wheelchair customer, I helped Rose board her onto the PAL lift truck at Gate # B8. I noticed that the number 2 engine was spooling up and the cowling was opened. Two mechanics were checking the engine, and Frank was in front of the aircraft.

All customers, with the exception of the wheelchair customer, were on board. I went into Ops to run final weight sheets, and then I returned to the plane to assist in the boarding of the wheelchair customer from the PAL lift to the aircraft. The engine was still running at this point.

I was standing on the left side of the aircraft by the nose wheel waiting to assist with the wheelchair customer and to give the final weight papers to the crew when I heard a loud bang. A mass of debris was blowing around so I assumed that they had shelled the engine. I asked Frank what had happened and he said that it was Don. I instructed the ramp personnel to move the PAL lift back to the gate and to put the air stairs up. I returned to Ops to call Warren and advised him that he was needed in Ops and explained why. I called Airport Ops and advised them of the situation; they told me that a crash crew and EMS were already en route. SOCC was also contacted.

We deplaned the customers back to the gate area and I returned to Ops where I manned the phones and helped set up Warren's office as a crew area.

Chris Burtz
#01269

▼Sec. 121.563

Part 121 OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

Subpart T--Flight Operations

Sec. 121.563

Reporting mechanical irregularities.

The pilot in command shall ensure that all mechanical irregularities occurring during flight time are entered in the maintenance log of the airplane at the end of that flight time. Before each flight the pilot in command shall ascertain the status of each irregularity entered in the log at the end of the preceding flight.

Amdt. 121-179, Eff. 10/1/82

▶ **Comments**

▼**Document History**

Notice of Proposed Rulemaking Actions:

Final Rule Actions:

Expiration Of Dispatch Release

Release authority must be renewed after the expiration of these times.



One hour at an intermediate stop specified in the release. The one hour time period is determined from block-in to block-out.



Six hours at an intermediate stop specified in the release. The six hour time period is determined from block-in to block-out.

Preflight Aircraft Maintenance Procedures

General

CHANGE MAKE ENTRY

The captain must review the Aircraft Maintenance Logbook to ensure all prior discrepancies have been corrected or deferred by maintenance personnel. The logbook should also be checked to ensure sufficient blank pages are available for the intended series of flights away from a station where replacements can be obtained.

Refusal of an Aircraft by the Captain

In the event that a captain questions the acceptability of an aircraft to conduct a flight operation, the captain should immediately contact the Operations Director in SOCC. The captain, dispatcher, Maintenance Control and Operations Director will consult to assess the captain's objection and evaluate corrective measures or alternative courses of action. The captain has the authority to defer a flight when the condition of the aircraft is unsuitable for starting or continuing an operation.

C5

Corrective Action or Deferral

A maintenance corrective action is required any time a discrepancy has been entered by a flight crewmember or maintenance. This will be in the form of a description of the action maintenance personnel used to correct the discrepancy or deferral of the item allowing the flight to continue in accordance with the MEL.

Company maintenance employees taking corrective action will place their signature and employee number in the maintenance action section of the logbook (Block 24 titled "Airworthiness Release Signature"). Contract maintenance employees will utilize their signature followed by their certificate or repair station number.

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Pilot Controlled Lighting

If the tower is closed and control of the lighting is not available through the FSS, runway lighting may be turned on by keying your microphone on the frequency designated on the "Additional Runway Information" section of your approach chart. As a generalization, keying 7 times, 5 times or 3 times in 5 seconds will give you all the lights at the highest, medium lowest intensity settings respectively for 15 minutes. Key groups will turn on or turn off, the approach lights, runway lights, REILs and VASIs.

Post-flight Aircraft Maintenance Procedures

Discrepancies

The captain will ensure that all mechanical irregularities occurring during a flight as well as any irregularities noted during preflight inspections and checks are entered into the aircraft's maintenance log. Although verbal discussions with maintenance personnel are encouraged, verbal reporting of maintenance irregularities is not acceptable. The date placed in the logbook should be the local date at the location where the entry is being written. The [redacted] is required to sign each entry in the maintenance logbook. The [redacted]'s signature shall be placed in the signature box. All entries should be written in ink. Black ink is preferred. Red ink should not be used.

Maintenance discrepancies should be as detailed as possible to aid maintenance in correcting the problem as quickly as possible. Limit discrepancies to one per page. Do not remove a page if a mistake is made write "VOID" or similar, leave the page in the logbook and utilize the next page in sequence. The following list provides information which may be helpful to maintenance in many situations:

- Time of occurrence
- Phase of flight
- Altitude
- Airspeed
- Valve positions for A/C and pressurization problems

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- The flight crew will cycle the "No Smoking" sign prior to passing 10,000 ft. in the descent as a signal to the cabin crew to prepare the cabin for landing. The flight attendants will make the appropriate PA announcements, stow galley and inflight equipment, perform their safety checks, and take their stations for landing.
- The flight crew will make an automated or direct PA at the appropriate time during the approach to seat the flight attendants. "FLIGHT ATTENDANTS, PLEASE BE SEATED FOR ARRIVAL."

Gate Delays

At all stations, the flight deck crew will advise the gate agent of any known delays and update the agent if the status of the delay changes. At IAH, CLE and EWR, the flight deck will also notify operations of this delay.

At all stations, a gate agent will check with the captain at departure time just prior to closing the main cabin door. The captain will advise if the flight is delayed, why and the approximate length of the delay. The gate agent will coordinate boarding last minute passengers, late connections or clear additional standby passengers.

Maintenance Action at the Gate

A mechanic will advise the captain of his / her presence on the aircraft. The mechanic will remove the logbook alerting the captain the aircraft is not available for departure until the logbook is returned. The captain will communicate with the gate agent if a mechanic is on board or the logbook is off the aircraft.

On minor mechanical problems under five minutes, the gate agent will stay with the aircraft unless time permits the accommodation of last minute passengers.

Aircraft Acceptability Because Of A Maintenance Issue

In the event that a captain questions the acceptability of an aircraft to conduct a flight operation, the captain should immediately contact the dispatcher in the SOCC. The captain and dispatcher should consult on the captain's objection and evaluate corrective measures or alternative courses of action. If necessary, the captain, dispatcher, Maintenance Control and Operations Director may conference to assess the alternatives, options available and potential impact to the operation. As a reminder, the captain has the authority to defer a flight when the condition of the aircraft is unsuitable for starting or continuing an operation.

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```
SC1WRALC 27 JAN 06 08:25   DISPLAY DISCREPANCY HISTORIES          PAGING =
                                                                  PAGE 0001

A/C #:  0626  LOG: 9088963     TOTAL NUMBER OF DAYS:      ATA SYSTEM:

. . 0626  CLOSED   LOG 9088963 FLT/CHK 1515 NON ROUTINE CHECK
DELAYED 05:11  DI   16/JAN/06
REPORTED BY  CHAVEZ          40337 STA ELP  16 JAN 06 ATA 07100
#2 ENGINE F.O.D.
CORRECTED BY CHAVEZ          40337 STA ELP  16 JAN 06 ATA 07100
A/C O/S W/ETR INGO 1300/17TH.
"FOR EVENT REPORTING ONLY"
**************************************************************

 RETURN-TO-IUV                                          NEXT COMMAND
GCS100I *** END OF PROGRAM ***
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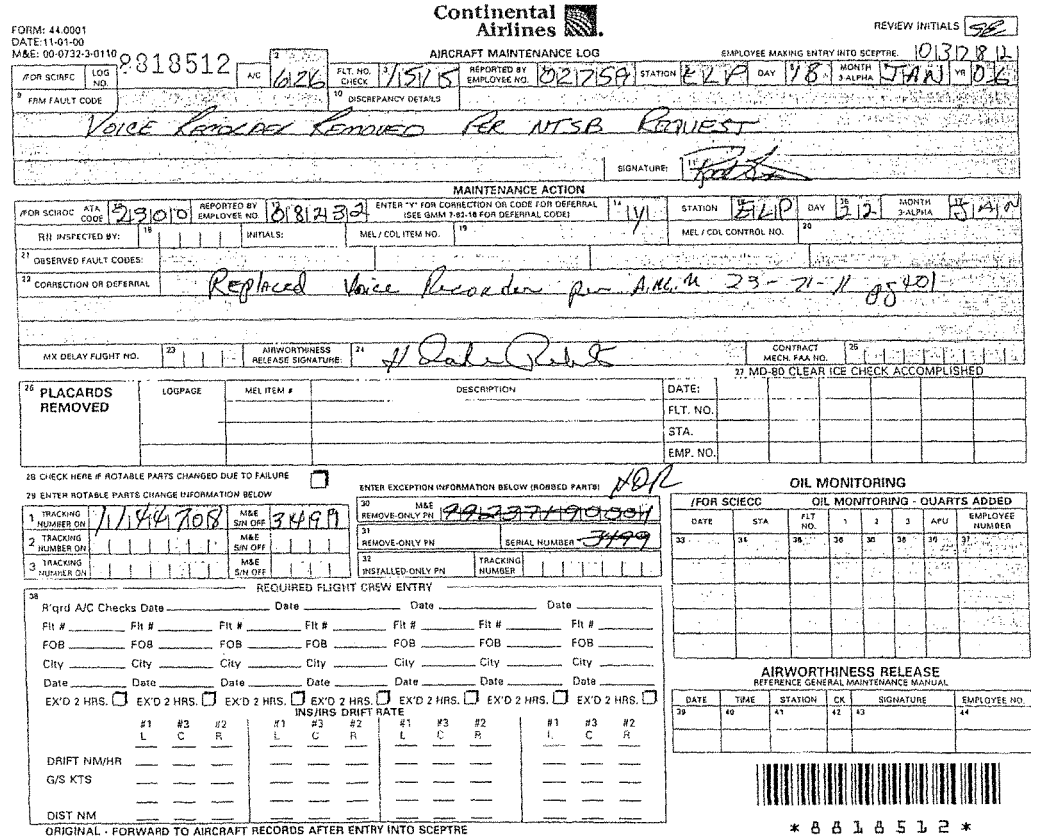


FORM: 44.0001
DATE: 11-01-00
M&E: 00-0732-3-0110

Continental Airlines

REVIEW INITIALS: SE

AIRCRAFT MAINTENANCE LOG

EMPLOYEE MAKING ENTRY INTO SCEPTRE: 03782

/FOR SCIRFC	LOG NO.	A/C	FLT. NO. CHECK	REPORTED BY EMPLOYEE NO.	STATION	DAY	MONTH 3-ALPHA	YR
	8818512	626	1515	02759	ELP	18	JAN	06

9 FRM FAULT CODE

10 DISCREPANCY DETAILS: VOICE RECORDER REMOVED PER NTSB REQUEST

SIGNATURE: 11 [signature]

MAINTENANCE ACTION

/FOR SCIROC ATA CODE	REPORTED BY EMPLOYEE NO.	ENTER "Y" FOR CORRECTION OR CODE FOR DEFERRAL (SEE GMM 7-82-18 FOR DEFERRAL CODE)	STATION	DAY	MONTH 3-ALPHA
2300	08232	14 Y	ELP	22	JAN

RII INSPECTED BY: 18 INITIALS: MEL / CDL ITEM NO. 19 MEL / CDL CONTROL NO. 20

21 OBSERVED FAULT CODES:

22 CORRECTION OR DEFERRAL: Replaced Voice Recorder per A.M.M. 23-71-11 pg 401

MX DELAY FLIGHT NO. 23 AIRWORTHINESS RELEASE SIGNATURE: 24 [signature] CONTRACT MECH. FAA NO. 25

27 MD-80 CLEAR ICE CHECK ACCOMPLISHED

26 PLACARDS REMOVED	LOGPAGE	MEL ITEM #	DESCRIPTION	DATE:						
				FLT. NO.						
				STA.						
				EMP. NO.						

28 CHECK HERE IF ROTABLE PARTS CHANGED DUE TO FAILURE ☐

29 ENTER ROTABLE PARTS CHANGE INFORMATION BELOW

	TRACKING NUMBER ON	M&E S/N OFF
1	1144708	3499
2		
3		

ENTER EXCEPTION INFORMATION BELOW (ROBBED PARTS) NOR

30 M&E REMOVE-ONLY PN: 99237190001

31 REMOVE-ONLY PN: SERIAL NUMBER 3499

32 INSTALLED-ONLY PN: TRACKING NUMBER

OIL MONITORING

/FOR SCIECC		OIL MONITORING - QUARTS ADDED					
DATE	STA	FLT NO.	1	2	3	APU	EMPLOYEE NUMBER
33	34	35	36	36	38	39	37

REQUIRED FLIGHT CREW ENTRY

38 R'qrd A/C Checks Date _____ Date _____ Date _____ Date _____

Flt # _____ Flt # _____ Flt # _____ Flt # _____ Flt # _____ Flt # _____ Flt # _____

FOB _____ FOB _____ FOB _____ FOB _____ FOB _____ FOB _____ FOB _____

City _____ City _____ City _____ City _____ City _____ City _____ City _____

Date _____ Date _____ Date _____ Date _____ Date _____ Date _____ Date _____

EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐

INS/IRS DRIFT RATE

	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R
DRIFT NM/HR												
G/S KTS												
DIST NM												

ORIGINAL - FORWARD TO AIRCRAFT RECORDS AFTER ENTRY INTO SCEPTRE

AIRWORTHINESS RELEASE

REFERENCE GENERAL MAINTENANCE MANUAL

DATE	TIME	STATION	CK	SIGNATURE	EMPLOYEE NO.
39	40	41	42	43	44

8818512

FORM: 44.0001
DATE: 11-01-00
M&E: 00-0732-3-0110

Continental Airlines

REVIEW INITIALS [illegible]

AIRCRAFT MAINTENANCE LOG

EMPLOYEE MAKING ENTRY INTO SCEPTRE: 0 3 7 8 2

/FOR SCIRFC	LOG NO.	A/C	FLT. NO. CHECK	REPORTED BY EMPLOYEE NO.	STATION	DAY	MONTH 3-ALPHA	YR
	8818513	626	1515	02759	ELP	18	JAN	06

9 FRM FAULT CODE

10 DISCREPANCY DETAILS

QAR Removed for MX Convenience

SIGNATURE: [signature]

MAINTENANCE ACTION

/FOR SCIROC	ATA CODE	REPORTED BY EMPLOYEE NO.	ENTER "Y" FOR CORRECTION OR CODE FOR DEFERRAL (SEE GMM 7-62-10 FOR DEFERRAL CODE)	STATION	DAY	MONTH 3-ALPHA
	3100	88232	Y	ELP	22	JAN

RII INSPECTED BY: 18 INITIALS: MEL / CDL ITEM NO. 19 MEL / CDL CONTROL NO. 20

21 OBSERVED FAULT CODES:

22 CORRECTION OR DEFERRAL: Replaced QAR per A.M.M. 31-24-04 pg 401

pd OK

MX DELAY FLIGHT NO. 23 AIRWORTHINESS RELEASE SIGNATURE: 24 [signature] CONTRACT MECH. FAA NO. 25

27 MD-80 CLEAR ICE CHECK ACCOMPLISHED

26 PLACARDS REMOVED	LOGPAGE	MEL ITEM #	DESCRIPTION	DATE:						
				FLT. NO.						
				STA.						
				EMP. NO.						

28 CHECK HERE IF ROTABLE PARTS CHANGED DUE TO FAILURE ☐

29 ENTER ROTABLE PARTS CHANGE INFORMATION BELOW

1 TRACKING NUMBER ON	1714990	M&E S/N OFF	8013
2 TRACKING NUMBER ON		M&E S/N OFF	
3 TRACKING NUMBER ON		M&E S/N OFF	

ENTER EXCEPTION INFORMATION BELOW (ROBBED PARTS)

30 M&E REMOVE-ONLY PN

31 REMOVE-ONLY PN SERIAL NUMBER

32 INSTALLED-ONLY PN TRACKING NUMBER

OIL MONITORING

/FOR SCIECC OIL MONITORING - QUARTS ADDED

DATE	STA	FLT NO.	1	2	3	APU	EMPLOYEE NUMBER
33	34	35	36	36	36	36	37

REQUIRED FLIGHT CREW ENTRY

38 R'qrd A/C Checks Date _____ Date _____ Date _____ Date _____

Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____

FOB ____ FOB ____ FOB ____ FOB ____ FOB ____ FOB ____ FOB ____

City ____ City ____ City ____ City ____ City ____ City ____ City ____

Date ____ Date ____ Date ____ Date ____ Date ____ Date ____ Date ____

EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐

INS/IRS DRIFT RATE

	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R
DRIFT NM/HR												
G/S KTS												
DIST NM												

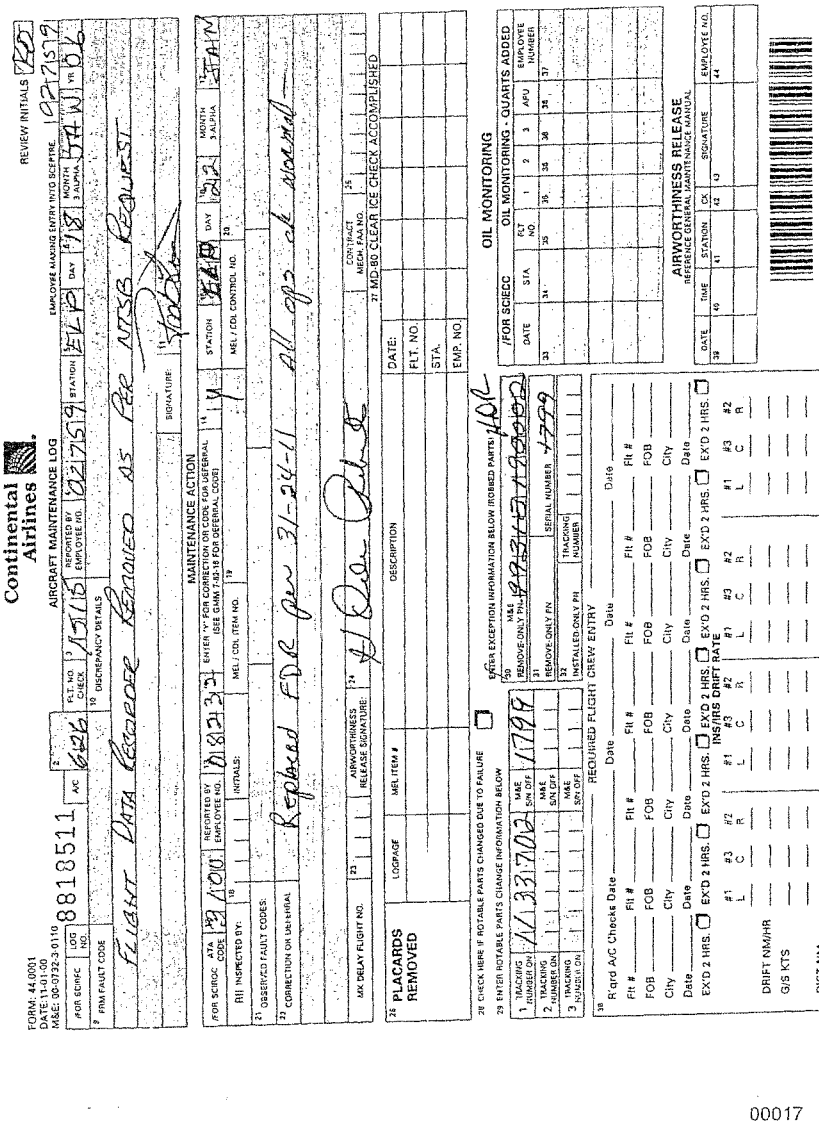
ORIGINAL - FORWARD TO AIRCRAFT RECORDS AFTER ENTRY INTO SCEPTRE

AIRWORTHINESS RELEASE

REFERENCE GENERAL MAINTENANCE MANUAL

DATE	TIME	STATION	CK	SIGNATURE	EMPLOYEE NO.
39	40	41	42	43	44

8818513


Continental Airlines
AIRCRAFT MAINTENANCE LOG
FORM: 44.0001
DATE:11-01-00
M&E: 00-0732-3-0110
8818511
REVIEW INITIALS
EMPLOYEE MAKING ENTRY INTO SCEPTRE
FLIGHT DATA RECORDER REMOVED AS PER ATA138 REQUEST
MAINTENANCE ACTION
Replaced FDR per 31-24-11 all ops ok normal
PLACARDS REMOVED
OIL MONITORING
REQUIRED FLIGHT CREW ENTRY
AIRWORTHINESS RELEASE
ORIGINAL - FORWARD TO AIRCRAFT RECORDS AFTER ENTRY INTO SCEPTRE
* 8 8 1 8 5 1 1 *

00017

FORM: 44.0001
DATE:11-01-00
M&E: 00-0732-3-0110

Continental Airlines

REVIEW INITIALS SE

AIRCRAFT MAINTENANCE LOG

EMPLOYEE MAKING ENTRY INTO SCEPTRE: 03782

/FOR SCIRFC	LOG NO.	A/C	FLT. NO. CHECK	REPORTED BY EMPLOYEE NO.	STATION	DAY	MONTH 3-ALPHA	YR
	8818510	626	1515	02759	ELP	18	JAN	06

9 FRM FAULT CODE

10 DISCREPANCY DETAILS

#2 ENGINE SIGNIFICANT FOD DAMAGE

SIGNATURE: [signature]

MAINTENANCE ACTION

/FOR SCIROC	ATA CODE	REPORTED BY EMPLOYEE NO.	ENTER "Y" FOR CORRECTION OR CODE FOR DEFERRAL (SEE GMM 7-62-16 FOR DEFERRAL CODE)	STATION	DAY	MONTH 3-ALPHA
	7200	08232	YP	ELP	22	JAN

RII INSPECTED BY: 06551 INITIALS: DS MEL / CDL ITEM NO. 19 MEL / CDL CONTROL NO. 20

21 OBSERVED FAULT CODES:

22 CORRECTION OR DEFERRAL: Removed and Replaced #2 Eng per 03-7100-1-9400 and completed Trim and Test per 03-7100-1-8902. All Eng. parameters within Required specifications

MX DELAY FLIGHT NO. 23 AIRWORTHINESS RELEASE SIGNATURE: 24 [signature] CONTRACT MECH. FAA NO. 25

27 MD-80 CLEAR ICE CHECK ACCOMPLISHED

26 PLACARDS REMOVED	LOGPAGE	MEL ITEM #	DESCRIPTION	DATE:						
				FLT. NO.						
				STA.						
				EMP. NO.						

28 CHECK HERE IF ROTABLE PARTS CHANGED DUE TO FAILURE ☑

29 ENTER ROTABLE PARTS CHANGE INFORMATION BELOW

	TRACKING NUMBER ON	M&E S/N OFF
1	1012552	8887
2		
3		

ENTER EXCEPTION INFORMATION BELOW (ROBBED PARTS)

30 M&E REMOVE-ONLY PN

31 REMOVE-ONLY PN SERIAL NUMBER

32 INSTALLED-ONLY PN TRACKING NUMBER

OIL MONITORING

/FOR SCIECC OIL MONITORING - QUARTS ADDED

DATE	STA	FLT NO.	1	2	3	APU	EMPLOYEE NUMBER
33	34	35	36	36	38	38	37

REQUIRED FLIGHT CREW ENTRY

38 R'qrd A/C Checks Date _____ Date _____ Date _____ Date _____

Flt # _____ Flt # _____ Flt # _____ Flt # _____ Flt # _____ Flt # _____ Flt # _____

FOB _____ FOB _____ FOB _____ FOB _____ FOB _____ FOB _____ FOB _____

City _____ City _____ City _____ City _____ City _____ City _____ City _____

Date _____ Date _____ Date _____ Date _____ Date _____ Date _____ Date _____

EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐

INS/IRS DRIFT RATE

	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R
DRIFT NM/HR												
G/S KTS												
DIST NM												

ORIGINAL - FORWARD TO AIRCRAFT RECORDS AFTER ENTRY INTO SCEPTRE

AIRWORTHINESS RELEASE

REFERENCE GENERAL MAINTENANCE MANUAL

DATE	TIME	STATION	CK	SIGNATURE	EMPLOYEE NO.
39	40	41	42	43	44

8818510

FORM: 44.0001
DATE:11-01-00
M&E: 00-0732-3-0110

Continental Airlines

REVIEW INITIALS: SE

AIRCRAFT MAINTENANCE LOG

8818509

EMPLOYEE MAKING ENTRY INTO SCEPTRE: 013121

/FOR SCIFC	LOG NO.	A/C	FLT. NO. CHECK	REPORTED BY EMPLOYEE NO.	STATION	DAY	MONTH 3-ALPHA	YR
		6126	7151715	013121212	ELP	16	JAN	06

9 PRM FAULT CODE

10 DISCREPANCY DETAILS: bear pins INSTALLED

SIGNATURE: 11

MAINTENANCE ACTION

/FOR SCIMOC	ATA CODE	REPORTED BY EMPLOYEE NO.	ENTER "Y" FOR CORRECTION OR CODE FOR DEFERRAL (SEE GMM 7-62-16 FOR DEFERRAL CODE)	STATION	DAY	MONTH 3-ALPHA
	32100	013121212	Y	ELP	21	JAN

RII INSPECTED BY: 18 INITIALS: MEL / CDL ITEM NO. 19 MEL / CDL CONTROL NO. 20

21 OBSERVED FAULT CODES:

22 CORRECTION OR DEFERRAL: Removed 3ea gear pins & stowed in cockpit.

MX DELAY FLIGHT NO. 23 AIRWORTHINESS RELEASE SIGNATURE: 24 CONTRACT MECH. FAA NO. 25

37 MD-80 CLEAR ICE CHECK ACCOMPLISHED

26 PLACARDS REMOVED	LOGPAGE	MEL ITEM #	DESCRIPTION	DATE:						
				FLT. NO.						
				STA.						
				EMP. NO.						

28 CHECK HERE IF ROTABLE PARTS CHANGED DUE TO FAILURE ☐

29 ENTER ROTABLE PARTS CHANGE INFORMATION BELOW

	TRACKING NUMBER ON	M&E S/N OFF
1		
2		
3		

ENTER EXCEPTION INFORMATION BELOW (ROBBED PARTS)

30 M&E REMOVE-ONLY PN

31 REMOVE-ONLY PN / SERIAL NUMBER

32 INSTALLED ONLY PN / TRACKING NUMBER

REQUIRED FLIGHT CREW ENTRY

33 R'qrd A/C Checks Date ____ Date ____ Date ____ Date ____

Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____

FOB ____ FOB ____ FOB ____ FOB ____ FOB ____ FOB ____ FOB ____

City ____ City ____ City ____ City ____ City ____ City ____ City ____

Date ____ Date ____ Date ____ Date ____ Date ____ Date ____ Date ____

EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐

INS/IRS DRIFT RATE

	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R
DRIFT NM/HR												
G/S KTS												
DIST NM												

ORIGINAL - FORWARD TO AIRCRAFT RECORDS AFTER ENTRY INTO SCEPTRE

OIL MONITORING

/FOR SCIECC — OIL MONITORING - QUARTS ADDED

DATE	STA	FLT NO.	1	2	3	APU	EMPLOYEE NUMBER
33	34	35	36	36	36	36	37

AIRWORTHINESS RELEASE

REFERENCE GENERAL MAINTENANCE MANUAL

DATE	TIME	STATION	CK	SIGNATURE	EMPLOYEE NO.
39	40	41	42	43	44

8818509

00000

6922

FORM: 44.0001
DATE:11-01-00
M&E: 00-0732-3-0110

Continental Airlines

REVIEW INITIALS 5E

AIRCRAFT MAINTENANCE LOG

EMPLOYEE MAKING ENTRY INTO SCEPTRE: 0 3 7 8 2

/FOR SCIRFC	LOG NO.	A/C	FLT. NO. CHECK	REPORTED BY EMPLOYEE NO.	STATION	DAY	MONTH 3-ALPHA	YR
	8318508	6 4 0	1 5 1 5	0 3 7 8 2	E L P	1 6	0 6	0 6

9 FRM FAULT CODE

10 DISCREPANCY DETAILS: The following circuit breakers have been pulled per MX control request FDR AC, DK + POS, COMBAT VOICE RECORDER, AND OQAR —

SIGNATURE:

MAINTENANCE ACTION

/FOR SCIROC ATA CODE	REPORTED BY EMPLOYEE NO.	ENTER "Y" FOR CORRECTION OR CODE FOR DEFERRAL (SEE GMM 1-92-16 FOR DEFERRAL CODE)	STATION	DAY	MONTH 3-ALPHA
2 4 0 0	0 8 2 3 2	1 Y	E L P	1 6	J A N

RII INSPECTED BY: | INITIALS: | MEL / CDL ITEM NO. | MEL / CDL CONTROL NO.

21 OBSERVED FAULT CODES:

22 CORRECTION OR DEFERRAL: All circuits breakers reset as required.

MX DELAY FLIGHT NO. | AIRWORTHINESS RELEASE SIGNATURE: | CONTRACT MECH. FAA NO.

27 MD-80 CLEAR ICE CHECK ACCOMPLISHED

26 PLACARDS REMOVED	LOGPAGE	MEL ITEM #	DESCRIPTION	DATE:						
				FLT. NO.						
				STA.						
				EMP. NO.						

28 CHECK HERE IF ROTABLE PARTS CHANGED DUE TO FAILURE ☐

29 ENTER ROTABLE PARTS CHANGE INFORMATION BELOW

1 TRACKING NUMBER ON		M&E S/N OFF	
2 TRACKING NUMBER ON		M&E S/N OFF	
3 TRACKING NUMBER ON		M&E S/N OFF	

ENTER EXCEPTION INFORMATION BELOW (ROBBED PARTS)

30 M&E REMOVE-ONLY PN			
31 REMOVE-ONLY PN		SERIAL NUMBER	
32 INSTALLED-ONLY PN		TRACKING NUMBER	

OIL MONITORING

/FOR SCIECC		OIL MONITORING - QUARTS ADDED					
DATE	STA	FLT NO.	1	2	3	APU	EMPLOYEE NUMBER
33	34	35	36	36	36	36	37

REQUIRED FLIGHT CREW ENTRY

38 R'qrd A/C Checks Date 1-16-06 Date ____ Date ____ Date ____

Flt # 1683	Flt # 1515	Flt #	Flt #	Flt #	Flt #	Flt #
FOB 14.4	FOB	FOB	FOB	FOB	FOB	FOB
City ELP	City IAH	City	City	City	City	City
Date 1-15	Date 1-16	Date	Date	Date	Date	Date
EX'D 2 HRS. ☐	EX'D 2 HRS. ☐	EX'D 2 HRS. ☐	EX'D 2 HRS. ☐	EX'D 2 HRS. ☐	EX'D 2 HRS. ☐	EX'D 2 HRS. ☐

INS/IRS DRIFT RATE

	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R
DRIFT NM/HR												
G/S KTS												
DIST NM												

ORIGINAL - FORWARD TO AIRCRAFT RECORDS AFTER ENTRY INTO SCEPTRE

AIRWORTHINESS RELEASE

REFERENCE GENERAL MAINTENANCE MANUAL

DATE	TIME	STATION	CK	SIGNATURE	EMPLOYEE NO.
39	40	41	42	43	44

8818508

FORM: 44.0001
DATE:11-01-00
M&E: 00-0732-3-0110

Continental Airlines

REVIEW INITIALS

AIRCRAFT MAINTENANCE LOG

EMPLOYEE MAKING ENTRY INTO SCEPTRE: 02184

/FOR SCIRFC	LOG NO.	A/C	FLT. NO. CHECK	REPORTED BY EMPLOYEE NO.	STATION	DAY	MONTH 3-ALPHA	YR
	8818507	624	1683	81855	IAH	15	JAN	06

9 FRM FAULT CODE

10 DISCREPANCY DETAILS

#2 GEN WOULD NOT COME ON LINE CSD LOW OIL PRESS LIGHT ON

SIGNATURE: [signature]

MAINTENANCE ACTION

/FOR SCIROC ATA CODE	REPORTED BY EMPLOYEE NO.	ENTER "Y" FOR CORRECTION OR CODE FOR DEFERRAL (SEE GMM 7-62-16 FOR DEFERRAL CODE)	STATION	DAY	MONTH 3-ALPHA
2400	05871	-Y-	IAH	15	JAN

RII INSPECTED BY: | INITIALS: | MEL / CDL ITEM NO.: | MEL / CDL CONTROL NO.

21 OBSERVED FAULT CODES:

22 CORRECTION OR DEFERRAL: Reconnected CSD — Ran engine + put #2 GEN on line + volts + freqs normal — CKS good — OK for service

MX DELAY FLIGHT NO. | AIRWORTHINESS RELEASE SIGNATURE: [signature] | CONTRACT MECH. FAA NO.

27 MD-80 CLEAR ICE CHECK ACCOMPLISHED

28 PLACARDS REMOVED	LOGPAGE	MEL ITEM #	DESCRIPTION	DATE:						
				FLT. NO.						
				STA.						
				EMP. NO.						

28 CHECK HERE IF ROTABLE PARTS CHANGED DUE TO FAILURE ☐

29 ENTER ROTABLE PARTS CHANGE INFORMATION BELOW

1 TRACKING NUMBER ON	M&E S/N OFF	
2 TRACKING NUMBER ON	M&E S/N OFF	
3 TRACKING NUMBER ON	M&E S/N OFF	

ENTER EXCEPTION INFORMATION BELOW (ROBBED PARTS)

30 M&E REMOVE-ONLY PN

31 REMOVE-ONLY PN | SERIAL NUMBER

32 INSTALLED-ONLY PN | TRACKING NUMBER

OIL MONITORING

/FOR SCIECC DATE	STA	FLT NO.	OIL MONITORING - QUARTS ADDED 1	2	3	APU	EMPLOYEE NUMBER
1-15-06	IAH	ACLK	01	01		0	49941

REQUIRED FLIGHT CREW ENTRY

38 R'qrd A/C Checks Date 1-15-06 Date ____ Date ____ Date ____

Flt # 1683 Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____ Flt # ____

FOB ____ FOB ____ FOB ____ FOB ____ FOB ____ FOB ____ FOB ____

City ELP City ____ City ____ City ____ City ____ City ____ City ____

Date 1-15 Date ____ Date ____ Date ____ Date ____ Date ____ Date ____

EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐ EX'D 2 HRS. ☐

INS/IRS DRIFT RATE

	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R	#1 L	#3 C	#2 R
DRIFT NM/HR												
G/S KTS												
DIST NM												

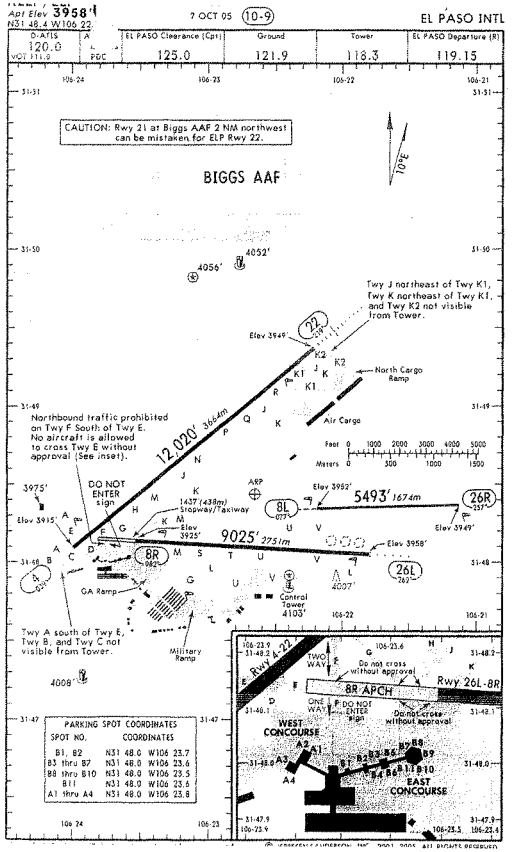
AIRWORTHINESS RELEASE

REFERENCE GENERAL MAINTENANCE MANUAL

DATE	TIME	STATION	CK	SIGNATURE	EMPLOYEE NO.
1-15-06	0500	IAH	A	[signature]	49941

ORIGINAL - FORWARD TO AIRCRAFT RECORDS AFTER ENTRY INTO SCEPTRE

8818507



Airport Information 11 OCT 02

EL PASO INTL

SEE 10-9

UTC=MDT+6
UTC=MST+7

Elev 3956'

ATIS	120.0
CAL OPS	129.92
GATE COORDINATES	N 31 48.0 W 106 23.6
TERMINAL OPS	(915) 781-0336

GATE AND RAMP NOTES

1. OPS located under B-9.
2. Pushback/Powerback: Clearance Required from Ground Control.
3. J: 5-2-3

NOISE ABATEMENT CONSIDERATIONS

1. Standard Operating Procedures.

ARRIVAL CONSIDERATIONS

F.O.Q.A. ALERT

F.O.Q.A. data shows unstabilized approaches (high sink rates below 500 ft. AGL) for runways 8/26. Careful planning of your approach is required to fly a stabilized approach as defined in the flight manual.

1. Use caution when landing on R/W 22. Do not confuse with parallel runway at Biggs AAF.
2. Use caution when landing on R/W 26L. Do not confuse with 26R which is a general aviation runway.

DEPARTURE CONSIDERATIONS

1. 7200' terrain approximately 5 miles west of the airport.
2. Note IFR take-off procedure on ELP 10-9A page.

ENGINE OUT DEPARTURE CONSIDERATIONS

1. **RUNWAY 22:**
   - A. ALL ENGINE PROCEDURE:
     Standard Operating Procedures.
   - B. ENGINE FAILURE PRIOR TO 6000' MSL:
     Climb on runway heading to 4200' MSL. Turn LEFT heading 120°. Cleanup on schedule. Then as assigned by ATC.
   - C. ENGINE FAILURE AFTER 6000' MSL:
     Standard Operating Procedures.
2. **RUNWAY 26L:**
   - A. ALL ENGINE PROCEDURE:
     Standard Operating Procedures.
   - B. ENGINE FAILURE PRIOR TO 6000' MSL:
     Immediate LEFT turn heading 120°. Cleanup on schedule. Then as assigned by ATC.
   - C. ENGINE FAILURE AFTER 6000' MSL:
     Standard Operating Procedures.
3. **ALL OTHER RUNWAYS:**
   Standard Operating Procedures.

AIRPORT NOTES

1. Contract maintenance.

Supplied by Jeppesen Sanderson

JULIE'S AIRCRAFT SERVICE, INC.
EL PASO INTERNATIONAL AIRPORT
6805 BOEING DRIVE
EL PASO, TEXAS 79925-1105

February 18th, 2006

Larry G. York
Acting Principal Avionics Inspector
CONTINENTAL CERTIFICATE MANAGEMENT OFFICE
2625 Bay Area Boulevard
Suite 400
Houston, TX 77058-1568
(281)461-2400
(281)461-2456 Fax

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
RE: FILE 2006SW270055

Dear Mr. York,

I am responding to your letter dated February 3, 2006 which I received on February 10, 2006. I will fully cooperate with the Federal Aviation Administration investigation.

Julie's Aircraft Service, Inc.'s on-call maintenance technicians do not have "run-up" or "taxi" authorization or training from Continental Airlines, nor from any other Airline company operating Boeing 737 aircraft at the El Paso International Airport. Our dispatched on-call maintenance technicians do not have, and have never had direct access to Continental Airlines Aircraft Maintenance Manuals (AMM) or CALA General Maintenance Manuals Section 05-77-27, Engine Run Procedures (GMM) and therefore rely on the aircraft Captain's expertise for conducting Continental Airlines proper procedures for aircraft engine "run-ups".

Julie's Aircraft Service, Inc. has never declined any offers from Continental Airlines for any type of training. The accident which occurred on January 16, 2006 at the El Paso International Airport had much to do with a lack of safety training from Continental Airlines. Our on-call maintenance technicians have never been given training on "walk-around" inspections from Continental Airlines pertaining to any of Continental Airlines many aircraft model types. We were never trained on the use of; or advised by Continental Airlines of the safety restraint equipment/system available from the Boeing Aircraft Company.

Julie's Aircraft Service, Inc. has provided FAR Part 121 Air Carrier on-call maintenance service for over twenty (20) years without an accident. In our entire history of providing such service we have never received an FAA letter of investigation. Our company ceased all FAR Part 121 Air Carrier on-call maintenance service beginning January 16th, 2006 due to the horrific nature of this accident and the resulting devastating affect on our current employees.

Most Sincerely,

Thorleifur Juliusson
Company President

Federal Aviation Regulation

Sec. 91.13

Part 91 GENERAL OPERATING AND FLIGHT RULES
Subpart A--General

Sec. 91.13

Careless or reckless operation.

(a) *Aircraft operations for the purpose of air navigation.* No person may operate an aircraft in a **careless** or **reckless** manner so as to endanger the life or property of another.
(b) *Aircraft operations other than for the purpose of air navigation.* No person may operate an aircraft, other than for the purpose of air navigation, on any part of the surface of an airport used by aircraft for air commerce (including areas used by those aircraft for receiving or discharging persons or cargo), in a **careless** or **reckless** manner so as to endanger the life or property of another.

Comments

Document History
Notice of Proposed Rulemaking Actions:

Final Rule Actions:

SERVED: April 12, 1994

NTSB Order No. EA-4135

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 28th day of March, 1994

DAVID R. HINSON, Administrator, Federal Aviation Administration, Complainant, v. GERALD P. WARD, Respondent.	Docket SE-11672

OPINION AND ORDER

The respondent has appealed from the oral initial decision of Chief Administrative Law Judge William E. Fowler, Jr., issued on November 22, 1991, at the conclusion of an evidentiary hearing.[1] By that decision, the law judge affirmed the Administrator's order suspending respondent's airline transport pilot (ATP) certificate on an allegation of a violation of

[1]An excerpt from the hearing transcript containing the initial decision is attached.

section 91.9 of the Federal Aviation Regulations (FAR), 14 C.F.R. Part 91.[2] The Administrator alleged in his order, which was filed as the complaint in this proceeding, that on March 29, 1990, a maintenance worker was injured by jet blast when respondent's Boeing 727 aircraft, Delta Flight 606, made a turn on a taxiway following push back from a gate at LaGuardia Airport, New York.[3] The law judge modified the sanction from a 30-day suspension of respondent's ATP certificate to a 15-day suspension.[4]

According to the maintenance worker, on the day in question he was working fifteen feet above the ground, on a flatbed, preparing for long-term storage of an Eastern Airlines L-1011 aircraft that was parked adjacent to the gate and across from the jetway used by Delta Airlines. The worker recounted that at the time of respondent's push back he was at the nose of the L-1011, covering the left pitot tubes with tape and plastic. He testified that he heard an aircraft start up and then he felt warm air. He turned around and saw a Delta 727 aircraft, two

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[2]FAR § 91.9 [now recodified as § 91.13(a)] provides as follows:

"§ 91.9 Careless or reckless operation.

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of others."

[3]The Administrator specifically alleged in his order that respondent "applied engine power in such a way as to cause injury to a nearby maintenance worker."

[4]The Administrator has not appealed the sanction modification.

hundred or less feet away, with all three engines running, and with the "exhaust pipes looking right at me." (TR-27).[5] Believing he did not have enough time to get out of the way, he braced his foot against the control panel of the flatbed and held on to a pitot tube.[6] He described the blast as "tremendous," "loud," and "hot," and asserted that he was "tossed about," causing him to twist his back. The worker immediately reported the incident to both the Delta Airlines station manager and to his supervisor at Eastern Airlines. He testified that because later that day he began to experience back pain, he sought medical attention. He was subsequently retired on disability as a result of the back injury he claims to have sustained.

The gist of respondent's defense is that the maintenance worker was not in the area during the push back and that his injuries are feigned. Neither respondent or his crew recalled seeing a worker on the flatbed, although the first officer did recall noticing the orange covers on the pitot tubes of the L-1011. In any event, they explained that the taxi instructions they received from the tower that day were unusual, in that,

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[5]An FAA inspector testified that the Boeing 727's engines are approximately 13 feet off the ground and the pitot tubes on the L-1011 are about 17 feet off the ground. The worker is 5'8" tall.

[6]He admits that jet blast is a "fact of life" at a congested airport such as LaGuardia, but he claims he has never been hit with as much power as he felt on this day. (TR-84). Joint Exhibit 7, an excerpt from a Delta Operating Manual, warns crews that "[a]ircraft are to be pushed back and positioned in such a manner to preclude jet blast from affecting hangar structures, service road areas, or ground support vehicles and personnel."

instead of being instructed, following push back from the gate, to take the taxiway to their left, they were told to execute a 180-degree turn and follow a different routing to the runway. The crew testified that they were confused and distracted by this unexpected instruction, which respondent had his first officer confirm before he executed the turn. Both he and his first officer asserted that they looked around the area and saw no one. Both also testified that even if they had seen[7] this worker on the flatbed next to the L-1011 they would have still executed the 180-degree turn because their aircraft was far enough away from the front of the other aircraft to not present a problem -- the first officer estimates they were at least 300 feet away from the L-1011, and respondent estimates he would have been at least 200 feet away. The law judge found, as a matter of credibility, that the maintenance worker was in fact injured as a result of the jet blast associated with the 727's turn following the push back. He concluded that the amount of power used by respondent during the operation must have been excessive.

Respondent contends on appeal that the law judge's determination that he utilized excessive engine power in the operation of the aircraft is not supported by a preponderance of the evidence. In addition, he claims that the law judge's exclusion of certain deposition testimony was so detrimental to his defense as to warrant reversal. The Administrator has filed

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[7] According to the FAA inspector who investigated the incident, before executing the turn the 727 and the L-1011 were "nose-to-nose." (TR-98).

a brief in reply, urging the Board to affirm the initial decision.

Upon consideration of the briefs of the parties, and of the entire record, the Board has determined that safety in air commerce or air transportation and the public interest require affirmation of the Administrator's order, as modified by the law judge with regard to sanction. For the reasons that follow, we deny respondent's appeal.

In the Board's view, there is ample support for the law judge's determination that respondent's operation of his aircraft carelessly endangered the maintenance worker, who, the law judge found, was in fact on the flatbed at the time of respondent's push back and should have been observed by him. Respondent offers us no persuasive reason to disturb the law judge's acceptance, as a matter of credibility, of the maintenance worker's testimony as to his location during the incident. See Administrator v. Smith, 5 NTSB 1560, 1563 (1986). Respondent further argues that assuming the worker was present, the power used to execute the turn would not have endangered the worker, because one of respondent's experts calculated that the aircraft would have been some 285 feet away from the worker. We do not share respondent's belief that his witness' calculations are unassailable. Those calculations were based on an interview with a wing walker conducted two years after the incident, in which he told respondent's expert that he had put the nose gear of the 727 on the centerline of the taxiway nearest the gate before leaving

the area. However, when this wing walker was interviewed by the FAA within weeks of the incident, he admitted that he had only pushed the 727 back until it was just short of that taxiway.[8] According to the FAA inspector's calculations, if the aircraft was disengaged from the tow when it was short of the taxiway, and in light of the fact that respondent would have to move the aircraft forward, towards the L-1011, in order to gain sufficient momentum to make the turn, it is likely that the 727's aircraft's engines were within 100 to 140 feet of the L-1011 after the turn had been completed. In any event, it was within the province of the law judge, as the trier of fact, to reject the distances calculated by the various experts, and credit the worker's testimony that he was hit by a tremendous jet blast. The FAA's calculations are also more consistent with the testimony of the injured worker, the wing walker's post-incident statement, and even respondent, all of whom observed that the 727 was about 200 feet from the L-1011.

Respondent's admission that while executing the 180-degree turn he added power to the number 1 engine at an EPR [engine pressure ratio] value of between 1.2 and 1.3 is supportive of the conclusion that he used excessive thrust in the circumstances, in violation of FAR section 91.9. (TR-263; see also Vol. II, TR-71). The Delta Operating Manual (Joint Exhibit 2) states that "to get the aircraft moving from a stop, careful application of

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[8]This witness testified that the 727 was within "a couple hundred" feet of the L-1011.

additional thrust is required....If necessary to turn shortly after brake release, allow the airplane to gain enough momentum to carry it through the turn at idle thrust."[9] This same exhibit instructs that idle thrust is adequate for taxiing under most conditions, and if more than idle thrust is necessary to meet taxi requirements, symmetric thrust on Engines 1 and 2 is recommended. Even respondent's own expert witness, a Delta 727 pilot for 12 years, admitted on cross-examination that if the maintenance worker was 200 feet away on a fifteen-foot flatbed and respondent utilized an EPR value of 1.3, he would "definitely" have been concerned for the worker's safety. In fact, he testified, he would not under any circumstances, use an EPR value of 1.3. (Vol. II, TR-68)(Emphasis added). The law judge could fairly view this evidence as establishing that respondent, by using more than idle thrust to execute the turn, when he should have known that the worker was on the flatbed, failed to exercise the degree of care required of an airline

[9]The Delta Airlines Operating Manual further specifies that if the engine power setting of a B-727 aircraft is at idle, at a distance of 100 feet from the exhaust nozzle the exhaust temperature would be 30 to 50 degrees and velocity would be 15 to 25 knots. At start of taxi-roll, temperature would be 90 to 95 degrees and velocity would be 35 to 50 knots. At a distance of 200 feet from the exhaust nozzle, the exhaust temperature would be 15 to 30 degrees and velocity would be 5 to 20 knots. At start of taxi-roll, temperature would be 75 to 90 degrees and velocity would be 10 to 35 knots. Ambient (outside) air temperature and velocity are also to be factored into the calculations. See Exhibit A-16. The record establishes that the temperature that day was 69 degrees fahrenheit, and there was a northwesterly wind of 9 knots. These figures appear to provide ample support for the maintenance worker's account to the effect that the jet blast was loud, hot, and strong enough that he had to hold on to keep from being blown off the fifteen-foot flatbed.

transport pilot because he executed the turn at an engine power level that potentially endangered either persons or property within an area he should have known would be placed at risk from his aircraft's jet blast.

The evidentiary ruling respondent challenges involves, as we have already noted, the maintenance worker's claim that he suffered a back injury as a result of this incident. During a deposition taken in the course of the maintenance worker's litigation against Delta, and in his testimony before the law judge, the maintenance worker denied that he had had any previous back injury. Respondent made a proffer of evidence that the maintenance worker's physician, if permitted to testify, would have stated that the worker had been treated for back pain prior to the incident which is the subject of this proceeding. Respondent believes that this evidence would have established that the maintenance worker's claim should have been rejected. We find respondent's position unavailing.

The only question before the law judge was whether respondent's actions carelessly created the potential for endangerment to the worker, not whether the worker was in fact injured by any alleged excessive application of engine power by respondent. Administrator v. Fay and Takacs, NTSB Order No. EA-3501 at 8 (1992); Administrator v. Kline, 1 NTSB 1591, 1593 (1972). In order to make that determination, the law judge only needed to decide if the worker was present where he said he was during the push back, and if so, whether he was subjected to

excessive jet blast. The law judge found that the worker was hit by an excessive jet blast which caused him to be stiff and in pain immediately after the incident. Thus, the question of whether the maintenance worker suffered any back injury prior to, or as a result of, this incident was not relevant to the merits of the Administrator's case, even though it had some bearing on the maintenance worker's credibility.[10] Since, however, the law judge, having seen and heard the testimony of the maintenance worker, clearly found him to be a credible witness despite the proferred deposition, any error committed in excluding such evidence was harmless at best, and provides no basis for disturbing the law judge's credibility finding in this regard.

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied;

2. The Administrator's order, as modified by the initial decision, and the initial decision are affirmed; and

3. The 15-day suspension of respondent's ATP certificate shall begin 30 days from the date of the service of this order.[11]

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HAMMERSCHMIDT, and HALL, Members of the Board, concurred in the above opinion and order.

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[10]The maintenance worker testified in his deposition that he had not been previously treated for a back injury or condition.

[11]For purposes of this order, respondent must physically surrender his certificate to an appropriate representative of the FAA pursuant to FAR § 61.19(f).

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

V. FAA Aircrew Program Manager, Joseph Phil Thrash's, February 14, 2006, FAA e-mail to FAA Administrator Blakey, with preliminary official record of professional disagreement that CALA1515 fatal accident had been accepted into FAA's Aviation Safety Action Program. E-mail includes APM Thrash's concerns, and flight interview questions requested to be asked of CALA1515 flight crew by FAA Manager Bernie Mullins, and FAA Principal Operations Inspector John Merrifield.

Joseph P Thrash/ASW/FAA
06/07/2006 08:44 AM

To Joseph P Thrash/ASW/FAA@FAA
cc
bcc
Subject Fw: Administrator's Hotline Notification: CALA1515, El Paso, TX. Death of Contract Mechanic. Official Record of Professional Disagreement of Opinion of FAA's Acceptance of Pilot Crewmember's Disclosure and Acceptance of Disclosure into ASAP Program by Joseph Phil Thrash, COA CMO FAA B737 Aircrew Program Manager.

History: This message has been forwarded.

----- Forwarded by Joseph P Thrash/ASW/FAA on 06/07/2006 08:43 AM -----

Joseph P Thrash/ASW/FAA
02/14/2006 10:44 AM

To Marion Blakey/AWA/FAA
cc Jim Ballough/AWA/FAA@FAA, Thomas Stuckey/ASW/FAA@FAA, Bernard Mullins/ASW/FAA@FAA, John T Merrifield/ASW/FAA@FAA, Daniel S McLucas/ASW/FAA@FAA, James R Clark/ASW/FAA@FAA
Subject Administrator's Hotline Notification: CALA1515, El Paso, TX. Death of Contract Mechanic. Official Record of Professional Disagreement of Opinion of FAA's Acceptance of Pilot Crewmember's Disclosure and Acceptance of Disclosure into ASAP Program by Joseph Phil Thrash, COA CMO FAA B737 Aircrew Program Manager.

Administrator's Hotline
AOA-20 Room 1003
800 Independence Avenue Southwest
Washington, D.C. 20591

Administrator Blakey:

Please make this E-mail notification the preliminary official record of my professional disagreement of this event being accepted into the Aviation Action Safety Program. I will provide an official FAA Letter and/or memo for the official permanent file records with specific details of my concerns and reasons for my professional disagreement of this matter.

A few days after the El Paso event I was taken off routine surveillance and certification duties to prepare interview questions at request of COA Principal Operations Inspector: John T. Merrifield, and COA Certificate Manager: Bernard Mullins. I prepared the questions which were reviewed and accepted by the POI and Manager on or about January 19, 2006. My attempt to interview the crew on January 20, 2006 was thwarted by Continental Airlines, Inc. as the crew was going through an Employee Assistance Program. I was dispatched by local management to attend a previously scheduled out of agency training during week of January 23, 2006 through January 27, 2006.

On January 19, 2006, at CMO Manager's request the interview questions were provided to the ASAP Event Review Committee (ERC) FAA members Jim Dixon, and Paul LeBlanc. Subsequently, I learned that the questions were never put to the pilot crewmembers involved in the accident. Upon my return from the out of agency training, I also learned that the Event Review Committee, made up of three persons, one FAA, one CALA company person, and a CALA Union Representative, had accepted the crew's ASAP report into the ASAP program for remedy.

I am attaching the questions I developed which were not asked of the crew by the ASAP FAA personnel. Pictures of the aftermath of the El Paso accident are included.

A letter and/or Memo will follow with more detailed concerns as official permanent records. A digest of my preliminary concerns for your perusal in this E-mail follow:

1. The pilot crewmembers were not following any FAA approved procedures in their FAA approved Flight Operations Flight Manual, Checklists or Minimum Equipment lists.
2. The pilot crewmembers were accomplishing a high power engine run-up for which they had received no FAA Approved training .
3. The L-1 Forward Door was open with a galley service truck onloading a wheelchair passenger, which is contrary to CALA's Before Start Checklist, where all doors are checked closed with door warning lights out. This was being done during the high power engine run up.
4. The pilots did not get ATC approval to accomplish the high power run up.
5. The pilots did not make a maintenance log book entry for the mechanic to review.
6. The pilots did not contact their CALA Maintenance Control with nature of discrepancy and to get Maintenance recommendations for maintenance procedure to follow.

I submit as a minimum the FAA Should have:

1. Done an emergency Pilot certificate revocation on both pilots.
2. Not accepted the event into the ASAP program due to the pilots' intentional egregious careless and reckless operation of the aircraft at high power settings.
3. Issued LOIs to both pilots for alleged violations of FAR concerning careless and reckless operation.
4. Issued Letters to both pilots for Reexamination of Competency under Provision 44709 of The FAA Act Of 1958 as recodified.

I personally feel that FAA can be severely criticized by outside agencies, NTSB, OSHA, and Legal Entities looking at possible wrongful death causes in this accident.

I personally feel that by accepting this event into ASAP, FAA may be viewed as culpable of an obstruction of justice for failure to investigate the accident under provisions of the aforementioned FAR dealing with "careless and reckless" operation.

I am available to discuss these matters with anyone of you or all of you.

This is my preliminary personal professional disagreement with the decision that this matter was accepted into the ASAP program.

Phil Thrash
FAA B737 Aircrew Program Manager
Continental Airlines CMO
Houston, TX 77058
281-461-2448
E-mail Joseph.P.Thrash@faa.gov


FAAInterviewCALA1515.doc


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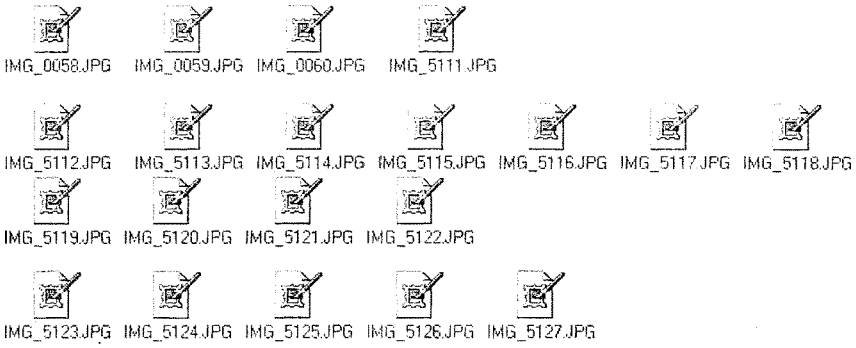
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FAA Interview with CALA Flight Crewmembers, CALA 1515, 01-16-2006, El Paso, TX.
Regarding Death of Maintenance Person: Engine Ingestion.

Questions:

1. Were you the PIC and FO on this flight during this incident? PIC Y/N. FO Y/N.

2. When did you crew day start?

3. What precipitated the engine run?

4. Who did you contact to report your maintenance concerns?

5. Did you make a maintenance logbook entry?

6. How did you contact the persons to relay your concerns?

7. Did you contact SOCC to voice concerns and get guidance?

8. Did you contact CALA Maintenance Control and get guidance?

9. Did contract maintenance personnel communicate maintenance check procedures with you?

10. How were these maintenance check procedures communicated to you?

11. Did the contract maintenance personnel show you any written procedures of the maintenance check procedures?

Interview: continuation CALA1515, 01-16-2006.

12. What communication coordination procedures were established between ground maintenance and cockpit before and during the engine run?

13. Were you in constant interphone contact with the ground maintenance personnel during the engine run?

14. Who told you to run the engine up to a high power setting?

15. Did you use and/or refer to any Continental Airlines Flight Operations Flight Manual procedures, or Flight Manual Checklists prior to and/or during this engine run operation, specifically: Safety Inspection Exterior, Safety Inspection-Flight Deck, Flight Deck Inspection, Exterior Inspection, Cabin Inspection, Crew Briefings, Receiving Aircraft Checklist, and Before Start Checklist?

16. Did your use and/or refer to any Continental Airlines Minimum Equipment List procedures during this engine run operation?

17. Did you use and/or refer to any Continental Airlines Flight Operations Manual procedures during this engine run operation?

18. Did you use and/or refer to any Continental Airlines Quick Reference Checklist procedures during this engine run operation?

19. Have you ever received any Continental Airlines training including during IOE, on how to conduct engine run-ups for maintenance checks?

Interview CALA 1515 ELP, 01-16-2006.

Additional Comments: These questions were developed by Joseph Phil Thrash, COA CMO FAA B737 Aircrew Program Manager and coordinated and accepted as satisfactory thru the FAA Continental Airlines Principal Operations Inspector: John T. Merrifield, and Continental Airlines Certificate Management Office Manager: Bernard Mullins on or about January 19, 2006.

The interview questions were provided to the COA CMO ASAP Representatives Jim Dixon, and Paul LeBlanc for use at the ASAP Event Review Conference (ERC.)

I learned subsequently that the questions were not put to the crewmembers in the ERC meeting, and the ASAP disclosure by the crew was accepted into the ASAP Program for ASAP Remedy.

Joseph Phil Thrash
FAA B737 Aircrew Program Manager
COA CMO
Houston, TX
281-461-2448
E-mail joseph.p.thrash@faa.gov

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

VI. FAA Internal Records of Conversation, and official inspection records of APM Thrash to Mullins, Merrifield expressing concerns regarding various Continental Airlines' Pilot Bulletins allowing the continuation of "non-FAA approved" maintenance engine runs by its pilot group.

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

ROUTE SLIP

DATE: 2/28/6

TO: NAME	ROUTING SYMBOL
JOHN	PAT
BMULLINS	MGR

- [ ] PER YOUR REQUEST
- [x] FOR YOUR INFORMATION
- [ ] PER OUR CONVERSATION
- [ ] NOTE AND RETURN
- [ ] DISCUSS WITH ME
- [ ] FOR YOUR APPROVAL
- [ ] FOR YOUR SIGNATURE
- [ ] COMMENT
- [ ] TAKE APPROPRIATE ACTION
- [ ] PLEASE ANSWER
- [ ] PREPARE REPLY FOR SIGNATURE
- [ ] OF

REMARKS:

I MADE MORE DETAILED LEGIBLE COMMENTS FYI ON PILOT BULLETIN WE DISCUSSED FRIDAY 2/24/06, OF WHAT I THOUGHT I WAS TRYING TO COMMUNICATE

Please NOTE - ADDED ATM POLICY ON CRM & THREAT/ERROR MANAGEMENT PHILOSOPHY FROM FAA AFM

FROM: P. THRASH | TELEPHONE NO. 2408 | ROUTING SYMBOL C04

FAA Form 1360-13 (4-67) FORMERLY FAA FORM 2641 ☆ U.S.G.P.O.: 1992-668-012/60128

CALL | TIME 1:45 PM | DATE 02/24/2006

ROUTING SYMBOL	ROUTING INITIALS

of Aircraft Systems

h CALA POI and COA Mgr regarding

5 accident in El Paso might be directly

e run up, on which they have received no

LA have not received any FAA

e operations. Moreover, there is no

(AFM), Checklists, Quick Reference

guidance for the pilot to do maintenance

DI, and COA MGR that CALA was

factors at El Paso. CALA has Pilot

es in the CALA Maintenance Manual

o CALA Operations for safety review,

proval as Pilot Operational Procedures,

such procedures would have to be submitted to the CALA POI for appropriate review, coordination, and scrutiny before incorporation into any of the FAA Approved Pilot Manuals, and FAA approved Training Programs.

CONCLUSION, ACTION TAKEN, OR REQUIRED

I requested, suggested that CALA POI contact CALA to have them rescind bulletin. (open)

I think FAA should take strong measures to have CALA cease and desist using pilots for maintenance purposes.

Pilots fly the aircraft. The mechanics maintain the aircraft.

DATE	TITLE	SIGNATURE
02/27/2006	FAA B737 Aircrew Program MGR	Joseph Phil Thrash

FAA Form 1360-33 (4-75) Formerly FAA Form 1522 AFS Electronic Forms System - v2.2

RECORD OF ☐ VISIT ☒ CONFERENCE OR ☐ TELEPHONE CALL	TIME 1:45 PM	DATE 02/24/2006

NAME (S) OF PERSON (S) CONTACTED OR IN CONFERENCE AND LOCATION	ROUTING SYMBOL	ROUTING INITIALS
n Merrifield Principal Operations Inspector @ COA CMO		
Bernie Mullins COA CMO Mgr @ COA CMO		
SUBJECT Continental Airlines Pilot Bulletin File # I-06-043		
Subject: Coordination of Maintenance Procedures Involving Operations of Aircraft Systems		

DIGEST

Reporting Inspector expressed concerns in two separate meetings with CALA POI and COA Mgr regarding Safety ramifications of aforementioned "POLICY" bulletin. CALA 1515 accident in El Paso might be directly attributed to the fact that the pilots were performing a maintenance engine run up, on which they have received no FAA Approved training, checking, or certification. The pilot force at CALA have not received any FAA approved operational training, checking or certification to do maintenance operations. Moreover, there is no procedures in the CALA FAA approved Flight Operations Flight Manual (AFM), Checklists, Quick Reference Handbook, Minimum Equipment Lists, or Flight Operations Manual for guidance for the pilot to do maintenance edures on the aircraft.

By Issuing this bulletin as CALA POLICY I expressed my concerns to POI, and COA MGR that CALA was perpetuating the exiting hazardous risk area and possible accident causal factors at El Paso. CALA has Pilot Procedures to conduct maintenance functions and maintenance procedures in the CALA Maintenance Manual which are not coordinated internally at CALA from CALA maintenance to CALA Operations for safety review, need for pilot training, checking, certification. Prior to acceptance and approval as Pilot Operational Procedures, such procedures would have to be submitted to the CALA POI for appropriate review, coordination, and scrutiny before incorporation into any of the FAA Approved Pilot Manuals, and FAA approved Training Programs.

CONCLUSION, ACTION TAKEN, OR REQUIRED

I requested, suggested that CALA POI contact CALA to have them rescind bulletin. (open)

I think FAA should take strong measures to have CALA cease and desist using pilots for maintenance purposes. Pilots fly the aircraft. The mechanics maintain the aircraft.

DATE	TITLE	SIGNATURE
02/27/2006	FAA B737 Aircrew Program MGR	Joseph Phil Thrash

Activity Report Details for Activity Record 2104-0002 – Joseph Thrash
Element: 2.1.4 Availability (Manuals) 1.x Tool

EP! SECTION 1 - PERFORMANCE OBSERVABLES					
Question	Activity ID	Response	Explanation/ Yes Comments	Inspector Action Taken	ATA Code
To meet this objective, the inspector must answer the following questions:					
1. Determine whether the following performance measures were met:					
1.1. Did persons to whom a manual or appropriate parts of it are furnished, have it accessible when performing assigned duties?	2104-0002-01	--	--	--	--
	2104-0002-02	Yes	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	Yes	--	--	--
	2104-0002-05	--	--	--	--
1.2. Did the certificate holder's airplanes carry the manual required by 14 CFR part 121, section 121.141?	2104-0002-01	Yes	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	Yes	--	--	--
	2104-0002-05	--	--	--	--
	2104-0002-01	No	**Drop Down Selections:** 4. Procedures, policies or instructions or information. **Explanation:** Pilot are not trained, checked, and certified to conduct high power maintenance engine run-ups as specified in CALA's General Maintenance Manual. There are no FAA Approved procedures for pilots to conduct maintenance engine run-ups in the FAA Approved Airplane Flight Manual.	I contacted the COA CMO MGR and the COA CMO POI to express my concerns that CALA was having the Pilots conduct engine run up procedures without any training. I recommended to both the MGR and the POI to contact CALA to have them cease and desist CALA having the pilots conduct maintenance engine run-up procedures.	Powerplant Engine Drains
	2104-0002-02	Yes	--	--	--
	2104-0002-03	Yes	--	--	--
	2104-0002-04	Yes	--	--	--
2. Were the certificate holder's			**Drop Down Selections:** 4. Procedures, policies or instructions or information.		

policies, procedures, instructions, and information, contained in its manual for the Availability (Manuals) process, followed?	2104-0002-05	No	7. Controls. 9. Interfaces. 10. Desired Outcome. **Explanation:** Flight crews have not had any CALA training on conducting maintenance engine runup procedures. The crew did not interface with CALA maintenance to determine what maintenance procedure was to be used. CALA Maintenance Manuals have pilot procedures in them for pilots to perform maintenance procedures such as maintenance engine runup procedures which are not specifically coordinated with CALA operations. None of the CALA Pilot B737 Group have received any training on Pilot Procedures Contained in CALA's Maintenance Manuals. CALA's FAA Approved Airplane Flight Manual does not have CALA Maintenance Engine Runup procedures in it. The CALA Crew members are not trained on CALA maintenance procedures. The pilots fly the airplanes and the mechanics maintain the aircraft.	I contacted the COA CMO MGR and the COA CMO POI to express my concerns that CALA was having the Pilots conduct engine run up procedures without any training. I recommended to both the MGR and the POI to contact CALA to have them cease and desist CALA having the pilots conduct maintenance engine run-up procedures.	Engine Controls
3. Were the Availability (Manuals) process controls followed?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	Yes	--	--	--
	2104-0002-04	Yes	--	--	--
	2104-0002-05	--	--	--	--
4. Did the records for the Availability (Manuals) process comply with the instructions provided in the certificate holder's manual?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	Yes	--	--	--
	2104-0002-05	--	--	--	--
5. Were the process measurements for the Availability (Manuals) process effective in identifying problems or potential problems and	2104-0002-01	--	--	--	--
	2104-0002-02	Yes	--	--	--
	2104-0002-03	Yes	--	--	--
	2104-0002-04	Yes	--	--	--
			Drop Down Selections: 8. Process Measures. 9. Interfaces. **Explanation:** CALA does not have a process measurement to deal with the	I contacted the COA CMO MGR and the COA CMO POI to express my concerns that CALA was having the Pilots conduct	

providing corrective action for them?	2104-0002-05	No	consistency of procedures in maintenance manuals and operations manuals. Specifically CALA maintenance manuals have pilot procedures for maintenance engine runup procedures which have never been coordinated with CALA Operations Pilot Group at management level and at the pilot training and checking level.	engine run up procedures without any training. I recommended to both the MGR and the POI to contact CALA to have them cease and desist CALA having the pilots conduct maintenance engine run-up procedures.	Ignition
6. Did personnel properly handle the associated interfaces by complying with other written policies, procedures, instructions, and information that are related to this element?	2104-0002-01	No	**Drop Down Selections:** 9. Interfaces. **Explanation:** There appear to be no interfaces between maintenance manuals containing pilot maintenance engine run up procedures and the pilot's operational manuals.	I contacted the COA CMO MGR and the COA CMO POI to express my concerns that CALA was having the Pilots conduct engine run up procedures without any training. I recommended to both the MGR and the POI to contact CALA to have them cease and desist CALA having the pilots conduct maintenance engine run-up procedures.	Powerplant Powerplant System
	2104-0002-02	--	--	--	--
	2104-0002-03	Yes	--	--	--
	2104-0002-04	Yes	--	--	--
	2104-0002-05	No	**Drop Down Selections:** 9. Interfaces. 10. Desired Outcome. **Explanation:** Flight Crew did not interface with Systems Operation Control, or Maintenance Control as outlined in their Flight Operations manual regarding required maintenance/pilot interfaces to deal with maintenance problems. Continental Maintenance Control did not interface with the contract maintenance personnel nor the Pilot in command to coordinate proper procedures. The ground mechanic was ingested into the engine and	I contacted the COA CMO MGR and the COA CMO POI to express my concerns that CALA was having the Pilots conduct engine run up procedures without any training. I recommended to both the MGR and the POI to contact CALA to have them cease and desist CALA having the pilots	Powerplant

			killed. The pilot was performing a procedure for which Was not in his FAA approved flight manual by conducting a high power maintenance engine runup at the gate.	conduct maintenance engine run-up procedures.	

EPI SECTION 2 - MANAGEMENT RESPONSIBILITY & AUTHORITY OBSERVABLES					
Question	Activity ID	Response	Explanation/ Yes Comments	Inspector Action Taken	ATA Code
To meet this objective, the inspector must answer the following questions:					
1. Is there a clearly identified person who is responsible for the quality of the Availability (Manuals) process?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
2. Is there a clearly identified person who has authority to establish and modify the certificate holder's policies, procedures, instructions, and information for the Availability (Manuals) process?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
3. Does the responsible person know that he/she has responsibility for the Availability (Manuals) process?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
4. Does the person with authority know that he/she has authority for the Availability (Manuals) process??	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
5. Does the person with responsibility for the Availability (Manuals) process meet the qualification standards?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
6. Does the person with authority to establish and modify the Availability (Manuals) process meet the qualification standards?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
7. Does the person with responsibility understand the	2104-0002-01	--	--	--	--

controls, process measurements, and interfaces associated with the Availability (Manuals) process?	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
8. Does the person with authority understand the controls, process measurements, and interfaces associated with the Availability (Manuals) process?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
9. Does the responsible person know who has authority to establish and modify the Availability (Manuals) process?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--
10. Does the individual with authority know who has the responsibility for the Availability (Manuals) process?	2104-0002-01	--	--	--	--
	2104-0002-02	--	--	--	--
	2104-0002-03	--	--	--	--
	2104-0002-04	--	--	--	--
	2104-0002-05	--	--	--	--

Action Items

Action Item Log

The purpose of the log is to provide a place where the person working the action item can document his or her work.

Action Item: Primary area(s) that Mr. Jim Kelly and Mr. Phil Thrash are responsible for are Station Operations, Safety, Flight Operations an Airport Operations. You may want to work your assigned area as a team and/or separately, your choice. a): Interface with CALA Station Operations (David Allen), Safety (Toby Carol), Flight Operations (Heather Seltzer/Phil Emden) and Airport Operations (Robert Purdy/Michael Pigoiacelli) regarding all SAT inputs for possible solutions/suggestions regarding vendor maintenance training requirements & CALA operations. SAT meetings with CALA for the month of April, are tentatively scheduled for 4th & 18th, time and location are TBD. SAT Team Leader will advise all team members by Lotus Notes. The SAT Team Leader's goal is to complete all SAT assignments by the first week of May, 2006.

Requested Completion Date: 05/01/2006

Requested Person: Joseph Thrash

Action Item Log:
Date: 1). 04/05/2006 - 15:57

My suggestions to SAT Team leader, COA MGR, COA POI, COA PMI, COA PAI from FAA Operations Perspective of the COA CMO B737 Aircrew Program Manager to ensure IMMEDIATELY that CALA does not injure or kill any ground personnel or passengers or crewmembers follow: 1. Have CALA COA MGR Bernard Mullins demand that all pilot maintenance procedures to be done by pilots as described in any CALA Maintenance Manual be deleted from the CALA Maintenance Manuals immediately. CALA Maintenance and CALA Operations WITHOUT FAA INTERVENTION then coordinate their two realms of high-risk unsafe maintenance procedures, which overlap into the operations arena. There are currently in the CALA Maintenance Manuals procedures for pilots to perform maintenance functions for which the pilots have no FAA approved training, checking or certification. There is nothing in the CALA Operations FAA Approved Airplane Flight Manual, Checklists, Quick Reference Handbooks, or onboard MELs, which give FAA Approved safety guidance to the flight crews regarding the aforementioned CALA Maintenance high risk procedures. 2. Have CALA POI John Merrifield demand that CALA revokes its Continental Pilot Bulletin File # I-06-058, Subject: Coordination of Maintenance Procedure Involving the Operation of Aircraft Systems-Revision. Bulletin dated March 9, 2006, Expires: July 30, 2006. This bulletin promulgates the status quo of the existing policy which resulted in the ingestion and death to a CALA Contract Maintenance Technician in El Paso Texas mid January 2006. The nature of this policy bulletin is onerous from standpoint of safety in that it becomes policy, operational flight crew policy without any FAA scrutiny, regarding appropriate training, checking and certification requirements of the crews. It is in effect Flight Manual Procedural Revisions without FAA safety oversight. The glaring commissions of all persons involved in the El Paso accident resulting in the death of the contract maintenance person are prima facie evidence that the policy is egregiously unsafe. There are too many loops in the chain of coordination, and communication for this policy to be allowed to stand and be in effect. 3. By accomplishing the first preliminary action, this office might start to emerge from under the cloud and shadows cast by the IG's report on Airline's Contract Maintenance and FAA's Maintenance Oversight in that area. 4. By accomplishing the second action, the POI would take the Flight Crews out of the realm of doing maintenance work, engine runs, etc, for which they did not safely perform at El Paso this past January. An ancillary gain, would to put CALA Higher Management on notice that the FAA is not going to accept Pilot Bulletins as policy substitutes for FAA approve flight manual revisions in areas so rife with safety hazards. 5. CALA has not provided a high level commitment of its personnel assignments to the operational side of this risk area SAT. CALA's own words on Threat and Error Management follow from their FAA Approved Flight Manual, "The NTSB accident studies show that, in approximately 69% of all aviation accidents, the flight crew was identified as a primary causal factor. Failure to follow standard operation procedures...were the leading causes identified. Continental is committed to the Threat and Error Management Process" CALA AFM Intro Page 4. 6. I hereby recuse myself from this SAT team;. I do not have time to do what the team leader assigned and ensure safety of the B737 Operational program responsibilities as Aircrew Program Manager. 7. Conclusion: CALA Maintenance, Stations, SOCC, need to coordinate their areas that overlap into safety risks with CALA Operations; THEN produce a written product for FAA scrutiny.

on Item Log:
Date: 2). 04/26/2006 - 08:47

April 18 I attended SAT meeting as FAA Operations Inspector B737 Aircrew Program Manager. There were no management level operations personnel from CALA operations,or CALA Safety Regulatory and Compliance Group at the meeting. One person from CALA ops was present, a former pilot who no longer flys. The rest of CALA personnel were directly related to maintenance. There appears to be no

commitment from CALA operations management or possibly the interface between CALA maintenance and CALA operations is nonexistent. This later possibility maybe the crux of the matter. There are still pilot procedures in the CALA maintenance manuals which the pilots have received no FAA approved training, checking, and/or certification. This maintains the status quo of what caused the death of the mechanic at EL Paso. Persons were not trained on the procedures they executed, and they executed procedures not in any of CALA's manuals, due to lack of coordination with appropriate CALA entities. Additionally, it appears, from my perspective of CALA's Comments at the meeting, that CALA feels that the existing contract maintenance training is ok and no changes are required. I do not have time as the FAA B737 Aircrew Program Manager to attend meetings, which in my opinion, the FAA has no business; that is to say that CALA is responsible for their manuals,content, issuance, revision, required coordination between affected entities. CALA needs to revise their manuals in a coordinated effort between Maintenance,Operations, SOCC, and any other pertinent entity. I think CALA is using the FAA SAT as a delay mechanism to make any substantial coordination and changes in their maintenance manuals, and associated training requirements and similar facets through coordination with CALA operations.

Status: Action Item Closed
Accomplish Date: 04/26/2006

Source Documents

- Currently, there are no Source documents.

RMP SAT SUMMARIES

My suggestions to SAT Team leader, COA MGR, COA POI, COA PMI, COA PAI from FAA Operations Perspective of the COA CMO B737 Aircrew Program Manager to ensure IMMEDIATELY that CALA does not injure or kill any ground personnel or passengers or crewmembers follow:

1. Have CALA COA MGR Bernard Mullins demand that all pilot maintenance procedures to be done by pilots as described in any CALA Maintenance Manual be deleted from the CALA Maintenance Manuals immediately. CALA Maintenance and CALA Operations WITHOUT FAA INTERVENTION then coordinate their two realms of high-risk unsafe maintenance procedures, which overlap into the operations arena. There are currently in the CALA Maintenance Manuals procedures for pilots to perform maintenance functions for which the pilots have no FAA approved training, checking or certification. There is nothing in the CALA Operations FAA Approved Airplane Flight Manual, Checklists, Quick Reference Handbooks, or onboard MELs, which give FAA Approved safety guidance to the flight crews regarding the aforementioned CALA Maintenance high risk procedures.

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4. By accomplishing the second action, the POI would take the Flight Crews out of the realm of doing maintenance work, engine runs, etc, for which they did not safely perform at El Paso this past January.

An ancillary gain, would to put CALA Higher Management on notice that the FAA is not going to accept Pilot Bulletins as policy substitutes for FAA approve flight manual revisions in areas so rife with safety hazards.

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6. I hereby recuse myself from this SAT team;. I do not have time to do what the team leader assigned and ensure safety of the B737 Operational program responsibilities as Aircrew Program Manager.

7. Conclusion: CALA Maintenance, Stations, SOCC, need to coordinate their areas that overlap into safety risks with CALA Operations; THEN produce a written product for FAA scrutiny.

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One person from CALA ops was present, a former pilot who no longer flys.

The rest of CALA personnel were directly related to maintenance.

There appears to be no commitment from CALA operations management or possibly the interface between CALA maintenance and CALA operations is nonexistent.

This later possibility maybe the crux of the matter. There are still pilot procedures in the CALA maintenance manuals which the pilots have received no FAA approved training, checking, and/or certification.

This maintains the status quo of what caused the death of the mechanic at EL Paso. Persons were not trained on the procedures they executed, and they executed procedures not in any of CALA's manuals, due to lack of coordination with appropriate CALA entities.

Additionally, it appears, from my perspective of CALA's Comments at the meeting, that CALA feels that the existing contract maintenance training is ok and no changes are required.

I do not have time as the FAA B737 Aircrew Program Manager to attend meetings, which in my opinion, the FAA has no business; that is to say that CALA is responsible for their manuals,content, issuance, revision, required coordination between affected entities.

CALA needs to revise their manuals in a coordinated effort between Maintenance,Operations, SOCC, and any other pertinent entity.

I think CALA is using the FAA SAT as a delay mechanism to make any substantial coordination and changes in their maintenance manuals, and associated training requirements and similar facets through coordination with CALA operations.

I repeat my intent and desire to recuse myself from this SAT.

Continental



PILOT BULLETIN

Date: November 15, 2004
Expires: December 30, 2004
File #: I – 04 - 216
Subject: Audits of Maintenance Logbook Pages

To: All Pilots

We have experienced a few incidents where pilots have not been following the logbook procedures regarding mechanical irregularities and/or logbook write-ups. It is imperative that maintenance irregularities are entered in the aircraft's maintenance log. Although verbal discussions with maintenance personnel are encouraged, verbal reporting of maintenance irregularities **is not** acceptable.

Pilots are reminded that proper logbook entries require that local dates, captain's signature and station identifiers be completed. Please review Section 2 of the Flight Operations Manual for detailed procedures. **Recent audits have found log pages missing the captain's signature.** Non-compliance with these procedures could result in FAA violations against the individual pilot and the company.

It is also imperative that overnight station personnel are notified personally that logbook write-ups have been made and a direct contact with maintenance control to insure that maintenance action is taken on the overnight. Failure to make these contacts have resulted in departure delays when new reporting crews discover maintenance discrepancies in the log book that have not been cleared on the overnight. Most outlying stations utilize contract maintenance and these corrective procedures are necessary to insure timely morning departures.

Thank you for your attention to this very important matter.

Regards,

Captain R. J. Starley
Senior Director, Flight Operations

Continental

PILOT BULLETIN

Date: July 20, 2005
Expires: September 30, 2005
File #: 1 – 05 - 156
Subject: Maintenance Log Book Corrective Action or Deferral Requirement

To: All Pilots

The purpose of this bulletin is to clarify maintenance logbook requirements when corrective maintenance action has been accomplished.

A maintenance corrective action is required any time a discrepancy has been entered by a flight crewmember or maintenance. This will be in the form of a description of the action maintenance personnel used to correct the discrepancy or deferral of the item allowing the flight to continue in accordance with the MEL.

Company maintenance employees taking corrective action will place their signature and employee number in the maintenance action section of the logbook (Block 24 titled "Airworthiness Release Signature"). Contract maintenance employees will utilize their signature followed by their certificate or repair station number.

Pilots must assure that the signature and employee number/certificate or station number are documented on the logpage as described above. Any question concerning this requirement should be brought to the attention of Station Operations or Maintenance Control.

All discrepancies must be addressed, by corrective action or deferral, prior to dispatch. Maintenance Control may authorize release of an aircraft from a non-maintenance station without an entry in Maintenance Action portion of the log page provided a deferral can be issued in accordance with the provisions of the Minimum Equipment List or the discrepancy is an informational only entry.

The Airworthiness Release of an in-service aircraft is provided when a corrective action or deferral is documented in the Maintenance Action portion of the logpage and the Airworthiness Release block is signed by a certified technician.

Regards,

Jim

Captain R. J. Starley
Senior Director, Flight Operations

Continental

PILOT BULLETIN

Date: December 19, 2005
Expires: March 30, 2006
File #: I - 05 - 268
Subject: Aircraft Maintenance Logbook Requirements – Captain's Signature

To: All Pilots

The purpose of this bulletin is to bring to your attention to a Continental requirement concerning the completion of the aircraft maintenance logbook. Captains are requested to make note of this detail. Recent audits of maintenance logbook pages indicate that captains may have regulatory expose concerning this requirement.

The captain will ensure that all mechanical irregularities occurring during a flight as well as any irregularities noted during preflight inspections and checks are entered into the aircraft's maintenance log. Although verbal discussions with maintenance personnel are encouraged, verbal reporting of maintenance irregularities is not acceptable.

The date placed in the logbook should be the local date at the location where the entry is being written. **The captain is required to sign each entry in the maintenance logbook. The captain's signature shall be placed in the signature box.** All entries should be written in ink. Black ink is preferred. Red ink should not be used.

Thank you for your attention to this important operational detail.

Regards,

Captain R. J. Starley
Senior Director, Flight Operations

Continental

PILOT BULLETIN

Date: February 17 , 2006
Expires: August 30, 2006
File #: I - 06 – 043
Subject: Coordination of Maintenance Procedures Involving the Operation of Aircraft Systems

To: All Pilots

A comprehensive review is underway regarding the coordination of operating aircraft systems when working with Maintenance personnel to resolve operational issues while on the ground. That review will take some time to complete.

In the interim, the following procedure will be considered policy, and included in the operations manual with the next revision:

All engine-runs requested by Maintenance involving the participation of flight crews will be coordinated through the Operations Director in SOCC. The Captain will speak directly with the Operations Director to ensure that the coordination occurs. The Operations Director will run a comprehensive checklist to ensure all appropriate personnel, including Maintenance Control are involved in coordinating the implementation of the procedural elements. The Captain will speak directly with Maintenance Control concerning all maintenance procedures involving maintenance / crew interaction.

Please address questions or comments regarding this procedural clarification to your Chief Pilot, or this office.

Regards,

Jim

Captain R. J. Starley
Senior Director, Flight Operations

Back to Pilot Bulletins Main Page

Continental



PILOT BULLETIN

Date: March 9, 2006
Expires: July 30, 2006
File #: I – 06 - 058
Subject: Coordination of Maintenance Procedure Involving the Operation of Aircraft Systems - Revision

To: All Pilots

The following procedure for engine runs will be considered policy and included in the operations manual with the next revision:

All engine runs requested by maintenance involving the participation of flight crews will be coordinated through the base Tech Ops Control Center in the hubs (CLE, EWR, IAH and GUM). All other stations shall be coordinated through the Operations Director in SOCC.

The Captain will speak directly with the Operations Director, or, if in the Hub, the base Tech Ops Control Center, to ensure that the necessary coordination occurs. In a station other than CLE, EWR, IAH or GUM, the Operations Director will run a comprehensive checklist to ensure all appropriate personnel, including Maintenance Control, are involved in coordinating the implementation of the procedural elements. In our hub locations, the local base Tech Ops Control Center will handle all coordination. The Captain will speak directly with Maintenance Control (or in the hubs the local Tech Ops Control Center) concerning all maintenance procedures involving engine runs and maintenance / crew interaction.

> Note: Until notified of a revision in policy, the operation of an aircraft engine for maintenance purposes in excess of idle thrust will not be accomplished by the flight crew.

This policy in no way changes the requirement to deal directly with Dispatch via SOCC in the event of any abnormality once off the gate. The above procedure is in reference to maintenance troubleshooting activities while at the gate.

Please address questions or comments regarding this procedural clarification to your Chief Pilot, or this office.

Regards,

Jim

Captain R. J. Starley
Senior Director, Flight Operations

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

VII. AFS-2, FAA Deputy Director of Flight Standards, Allen's Official FAA response to FAA Administrator's Hotline Concern No.#20060215001 generated by my February 14, 2006 FAA e-mail to FAA Administrator expressing my preliminary concerns regarding the CALA 1515 Fatal Accident being accepted into ASAP.

Enclosure 2 p. 1.
JPThrash

Federal Aviation Administration

Memorandum

Date: APR 18

To: Manager, Hotline Operations Program, AOA-20

From: John M. Allen, Deputy Director, Flight Standards Service, AFS-2

Prepared by: Wanda Moore, AFS-10

Subject: Administrator's Hotline Information System Request #200602150001

In response to the subject hotline complaint, Flight Standards conducted an inquiry. The complaint, submitted by Mr. Joseph P. Thrash, concerns the actions taken by the Federal Aviation Administration (FAA) in response to a ground accident involving a Continental Airlines (CALA) aircraft in El Paso, Texas. Mr. Thrash is currently assigned as an assistant partial program manager at the Continental Airlines Certificate Management Office (COA CMO) in Houston, Texas.

On January 16, at El Paso International Airport (ELP), during the dispatch preparations of CALA Flight 1515, the flightcrew noticed a fluid leak under the number two engine during a walk around inspection. The crew requested that maintenance personnel investigate the possible leak. Two maintenance mechanics positioned themselves by the engine to troubleshoot the reported leak during engine run-up. The flightcrew operated the number two engine at 70 to 75 percent power, when one of the mechanics, Mr. Donald Buchanan, was ingested into the engine and killed. This accident is currently under investigation by the FAA and the National Transportation Safety Board (NTSB).

In his complaint, Mr. Thrash provided a list of concerns regarding this accident that are addressed below:

Concern 1: The pilot crewmembers were not following any FAA-approved procedures in their FAA-approved Flight Operations Manual, Checklists, or Minimum Equipment Lists.

Response: The investigation into this accident has shown that the crew did not have guidance for a maintenance engine run at the gate, and instead appeared to rely on the verbal instructions given by the mechanic. This was found to be a deficiency. CALA will take corrective action based on the results of the Systems Analysis Team (SAT) review organized by the COA CMO. The projected completion date of this review is May 2.

Concern 2: The pilot crewmembers were accomplishing a high power engine run-up for which they had received no FAA-approved training.

Enclosure 2 p.2 JP Thrash

Response: This is a true statement. Prior to this accident, there was no training or published guidance in the pilot's manuals for engine maintenance runs. This is being included as part of the SAT review. As an interim measure, the carrier has provided guidance to personnel at CALA requiring certain checklist items to be accomplished in conjunction with maintenance checks when conducted by contract personnel.

Concern 3: The L-1 forward door was open with a galley service truck on-loading a wheelchair passenger, which is contrary to CALA's "Before Start" checklist, where all doors are to be checked closed with the door warning lights not illuminated. This was done during the high power engine run-up.

Response: Based on the results of the investigation to date, it is known that the L-1 door was not closed. The cited checklist does require that a check be made to be certain all doors are closed. However, since there was no published guidance for the performance of maintenance engine runs, it appears the crew departed from all checklists to follow the verbal instructions from the mechanic. This was found to be a deficiency. This is being included as part of the SAT review.

Concern 4: The pilots did not get air traffic control's (ATC) approval to accomplish the high power run-up.

Response: This is a true statement. There is no published guidance at ELP requiring the pilots to request ATC approval prior to accomplishing an engine run-up. This is being included as part of the SAT review.

Concern 5: The pilots did not make a maintenance logbook entry for the mechanic to review.

Response: This is a true statement. This was found to be a deficiency. This is being included as part of the SAT review.

Concern 6: The pilots did not contact their CALA Maintenance Control with the nature of the discrepancy to obtain recommendations for procedures to follow.

Response: This is a true statement. This was found to be a deficiency. This is being included as part of the SAT review.

Concern 7: Mr. Thrash developed a series of interview questions for the pilot crewmembers, and his attempts to interview them were denied.

Response: Mr. Thrash did develop a series of interview questions for the pilot crewmembers, which were subsequently utilized during the Aviation Safety Action Program (ASAP) Event Review Committee (ERC) interviews. An airline denying the FAA access to crewmembers after an accident is a common practice during an investigation. CALA did deny the FAA, as a whole, access to the crewmembers, not

Enclosure 2 p.3 JP Thrash

solely Mr. Thrash. Once FAA was granted access, the FAA inspector in charge, or his designee, would have been tasked with conducting crewmember interviews.

The objective of ASAP is to encourage air carrier and repair station employees to voluntarily report safety information that may be critical to identifying potential precursors to accidents. ASAP provides for the collection, analysis, and retention of safety data that is obtained, much of which would otherwise be unobtainable. This data is used to develop corrective actions for identified safety concerns and to educate the appropriate parties to prevent a reoccurrence of the same type of safety event. An ASAP is based on a safety partnership that includes the FAA and the certificate holder, and may include a third party, such as the employee's labor organization.

The ERC is comprised of a representative from each party to an ASAP Memorandum of Understanding (MOU). The ERC is usually comprised of a management representative from the certificate holder, a representative from the employee labor association (if applicable), and a specifically qualified FAA inspector from the Certificate Holding District Office. The ERC reviews and analyzes reports submitted under an ASAP.

. Thrash also submitted several suggested actions, which he believes the FAA should have en in response to this accident. Each suggestion is addressed below:

Suggested Action 1: Emergency pilot certificate revocation on both pilots.

Response: At the time Mr. Thrash initiated his hotline complaint, the FAA's investigation into this accident was still in process. No factual information had been identified that would indicate any certificate revocation was appropriate.

Suggested Action 2: Not accept the event into the ASAP, due to the pilot's intentional egregious, careless, and reckless operation of the aircraft at high-power settings.

Response: A review of the facts surrounding the actions of the pilot crewmembers determined the actions of the pilots do not meet the definition of intentional, egregious, careless, and reckless behavior, as defined by Title 14 of the Code of Federal Regulations (14 CFR). A careful examination of the grounds under which the pilot reports were accepted into ASAP was conducted. It was determined that the CALA ASAP ERC accepted the reports in a manner consistent with the FAA's advisory circular on ASAP, as well as with the ASAP MOU with CALA. This ASAP event remains open pending the conclusion of the NTSB investigation and completion of any required corrective actions.

Suggested Action 3: Issue Letters of Investigation (LOI) to both pilots for alleged violations of the CFR concerning careless and reckless operation.

Response: An LOI is simply a notice from the FAA advising an airman it is believed that a regulation has been violated. However, since CALA has an ASAP program, it would not be prudent to initiate enforcement activity prior to review by the ASAP ERC. A review of the facts surrounding the actions of the flightcrew determined the behavior of the pilots

does not meet the definitions of intentional, egregious, careless, and reckless, as defined by 14 CFR requirements.

Suggested Action 4: Issue letter to both pilots for re-examination of competency under Provision 44709 of the FAA Act of 1958, as amended.

Response: What Mr. Thrash suggested was a re-examination of the pilots to be ordered while the investigation was still underway. This suggestion was made before any factual information had been identified that would indicate any re-examination was appropriate.

One item that arose during the review of this complaint was the lack of understanding of the ASAP process by the majority of the ASW ASI workforce. During April and May 2006, ASAP Skills Enhancement Training will be provided to all ASW personnel connected with the ASAP Program.

While it is understandable for Mr. Thrash to become emotionally impassioned by the horrific nature of this accident, it is vital to ensure that all decisions are based upon a full assessment of all of the facts. This will be accomplished by the SAT review.

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

VIII. FAA Memorandum dated July 24, 2006, from APM Thrash to FAA Administrator, DOT-OIG, FAA Associate Administrator of Aviation Safety, AVS-1, Nick Sabatini, and the NTSB, which provided FAA APM Thrash's official response as a "Memo for the Record," of FAA's acceptance of the CALA 1515 accident into ASAP. This memo provides the following counterpoints of factual nature to Allen's Memo of April 18, 2006, to the FAA Administrator Blakey

(1) AFS-2, Allen, fictionalizes Mr. Thrash's job description position in the COA CMO in Houston, TX as "assistant partial program manager," when in fact Mr. Thrash was then the "COA CMO B-737 Aircrew Program Manager."

(2) AFS-2, Allen, makes false statements that the prepared interview questions requested to be asked by the FAA ERC Representative at CMO Manager Mullins and ASW-200, Mr. Stuckey's request were asked either by the ERC, or the FAA Investigator in Charge, or the NTSB. There are no records, tapes, or written transcripts of answers that prove those prepared questions were asked.

(3) AFS-2 uses term "deviation" to describe alleged violations by the CALA1515 flight crew. Deviation is an FAA term/definition which allows a "one" time deviation from a FAR for some justified purpose; whereas, a violation is when one does not follow a FAR either by omission or commission of some act contrary to the FAR. This seems to be a device to obfuscate the facts of the serious nature of the alleged violations and questionable aircrew decision making at El Paso.

(4) AFS-2, Allen, characterized APM Thrash as to have "become emotionally impassioned" by the nature of the accident. This is a materially false representation, trick, scheme, and device to cover up concerns which were factual as transmitted to the FAA Administrator. These statements were defamatory with no basis in fact.

Enclosure 3 p1 JPThrash

Federal Aviation Administration

Memorandum

Date: July 24, 2006

To: FAA Administrator, Marion Blakely, DOT-Inspector General, AVS-001, Nick Sabatini, AIN-1 Bill Norton, ASW-700, Karl Kaprelian, NTSB Investigator, Bill Gamble, FAA-IIC, James Clark.

From: Joseph Phil Thrash, FAA Aviation Safety Inspector, Air Carrier Operations. J.P. Thrash

Prepared by: Joseph Phil Thrash, COA CMO B737 Aircrew Program Manager. JPThrash

Subject: Memo for Record: Professional Concerns/Disagreement of FAA's ASAP Actions Re: CALA1515 Death of Contract Mechanic Donald Buchanan, and Release of Possible Sensitive Internal FAA Information.

MEMO FOR THE RECORD

I sent an internal FAA e-mail memo to the Administrator on February 14, 2006 expressing my professional disagreement with this matter being accepted into FAA ASAP program (Attachment). I indicated the e-mail was my preliminary input on this matter, and left the matter with an invitation to all addressees to contact me on the matter. No one has contacted me, but I did receive AFS-2's Memo to the Administrator indicating AFS had conducted an inquiry into the matter. Thanks to the parties who sent the e-mail (Attachment.)

I am making this memo a matter of record of my position on FAA's acceptance of this matter into the ASAP program and to voice a concern of dissemination of possible sensitive or protected Internal FAA documents and information. I have attached the original e-mail, dated February 14, 2006, so the memo may be better understood within that context.

Allow me to address AFS-2's Memo (Attachment) to the Administrator regarding FAA Flight Standards "Query" into my preliminary concerns expressed in the February 14, 2006 e-mail message (Attachment.)

Item 1:

AFS-2's memo identified me as "Assistant Partial Program Manager." There is no such position in Continental Airlines FAA Certificate Management Office. Let the record show that I am an

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JPThrash

FAA Aviation Safety Inspector, assigned ASW-Position Description No. 9749, FG-14, Aircrew Program Manager. My FAA Form 110A and badge no. is 3921. I have the responsibility for the operational oversight of Continental Airlines, Inc., B737 fleet of over 265 aircraft, 2500 pilots, and associated manuals, training programs and checking, and certification. My service comp date is January 17, 1972 and I will have 35 creditable years in January next.

Item 2: AFS-2's memo indicated the interview questions developed by me for CALA1515 flight crew were asked of the crew. That is a false statement. The questions have not been asked and there is no record of FAA Interview with the flight crew or a record of answers to the questions. (Attachment includes questions.)

Item 3: AFS-2's Memo indicated all of the noted deficiencies were being corrected by the SAT, Safety action Team's, interaction with CALA. This concept of all of the deficiencies being corrected by the SAT makes up the thesis of AFS-2's corrective actions which are all future oriented. AFS-2's Memo does not deal with the facts of the reality of alleged violations corroborated by real documentary evidence of the human errors and probable causes of the El Paso accident. The SAT is a desired outcome for future accident prevention but it does not follow FAA's mandate to conduct investigations based on real time alleged violations and the provision to reexamine for competency at any time the Administrator sees a need. Jim Kelley, FAA B777 APM and I, FAA B737 APM, were the COA CMO's Ops members of this SAT team. I made records of my thoughts on the SAT, which indicated that Continental did not commit any high level operations personnel to the SAT team, and I voiced same to SAT leader. I also wrote that I thought Continental was using the SAT as a stall to make any substantive changes to their procedures, and not incorporate them into the CALA "FAA Approved" training program, which is to say that the flight crewmembers must be trained and checked to demonstrate satisfactory performance on any "Maintenance Operations" conducted by the pilots. The SAT is completed, and CALA made no substantive changes in their procedures from what existed at the El Paso accident. CALA does not have any "FAA Approved Procedures" for CALA pilots to perform maintenance procedures. CALA in addressing the issues revised extant company coordination procedures of January 2006. My SAT records are in ATOS data base. During my investigation in developing interview questions, I acquired and have documentary evidence to pursue LOI's and Letters of Reexamination. AFS-2's Memo misses the thesis of my original concern to the Administrator which was to reject the pilot's ASAP and pursue certificate revocation, enforcement investigative reports, and reexamination for competency for the facts of the matter which occurred in real time at El Paso, Texas, on January 16, 2006. AFS-2's memo redundantly indicates that the SAT will address the deficiencies at some future time. The deficiencies, when closely examined are, in at least three cases, alleged FAR violations. The SAT is no panacea to correct the causes of this accident, as the pilots are still required by company, non "FAA Approved" procedures to coordinate with their dispatch and maintenance centers prior to doing any maintenance operations on the aircraft. If they had followed similar coordination procedures extant at El Paso, the accident may have been prevented.

Item 4: AFS-2's Memo indicated it was premature to issue LOI's and Letters for Reexamination. That is a misconception by AFS-2. FAA Compliance and Enforcement Orders require timely issuance of LOI's and Provision 44709 of The Code, provides for the FAA Administrator to reexamine an airman at anytime there is cause to suspect a competency issue. When Bernie Mullins, FAA COA Manager realized the mistake that the COA CMO FAA ASAP

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JThrash

Coordinator from the pilot's operations side of the accident had been accepted into ASAP, he ensured the COA CMO Airworthiness Section would issue LOIs and pursue EIRs under proper Compliance and Enforcement Protocols. The COA CMO's Airworthiness unit was issuing at least four LOI's related to the CALA 1515 accident during the time which I wrote the initial e-mail to the Administrator.

Item 5: The El Paso, Texas Police Department interviewed the flight crew, the captain and the first officer in two separate interviews. No FAA personnel were at the interview. Captain Loyd Robeson, a CALA Assistant-Chief Pilot, was at the interviews which were videotaped. I have seen these tapes repeated times. The El Paso Detective asked the crew if they were following normal procedures doing the "run-up" at the gate. Both the captain and the first officer answered "yes," that this was a "Normal" procedure. Let the record show that I am the FAA COA CMO B737 Aircrew Program Manager, and the operation the crew accomplished at El Paso, TX, was and is not in any FAA Approved CALA Flight Manuals normal operational procedures. I review the "FAA Approved" Flight Operations manual and its revisions and make recommendations to the Principal Operations Inspector for their approval. The "FAA Approved" operational procedures, if followed, will help ensure no aircraft accidents. The CALA1515 crew did not follow any "FAA Approved" operational procedures when they intentionally chose to run-up the engine at an excessively high power setting of 70% N1.

Item 5: The FAA ASAP coordinator in the COA CMO, was asked by the COA MGR to ask the crew the questions I had developed during the ASAP Event Review Committee on or about January 20, 2006. Not only were the questions not asked, the FAA COA CMO ASAP representative gave/leaked my Internal FAA Memo, and the proposed crew interview questions, dated February 14, 2006, to Continental Airlines Captains Dave Lynn, Continental Airlines Senior Director of Flight Standards and Training and Captain Don Gunther, Senior Director of Safety and Regulatory Compliance, in February, 2006. Coincidentally, the COA CMO FAA ASAP representative is a retired Continental Airline Captain. I learned of this leak of info from Bernie Mullins in early June. I feel that this leak corrupted the entire ASAP process and expressed same to COA CMO management and to ASW-200. This ASAP coordinator has since been replaced after CALA Flight 1836, a B737, ran off the departure end of an East-West runway at KIAH on landing rollout. The aircraft had flown a stabilized approach according to the tapes, but ran off the departure end, yes, the far **end** of the runway. The aircraft took out some runway marking signs, a loss of property, got stuck in the mud, but the crew powered the stuck aircraft out of the mud, like they were driving a pickup truck lodged on "high center." The Flight Crew wrote up their ASAP report and it was accepted by our former ASAP FAA coordinator, who as said previously, is a retired Continental Airlines Captain. I by then had received AFS-2's memo of AFS-1's "Inquiry" methodology and did not want to waste my time on what appears to me to be obfuscation by AFS to avoid the facts of the El Paso accident. Both of these flight crews, CALA1515, El Paso accident, and CALA1836 have returned to the line without being checked by the FAA under Public Law Provisions 44709. Bernie Mullins, COA CMO Manager has indicated this former ASAP methodology has ended here at the COA CMO, and he, the POI and the APM staff will have some meaningful inputs into the ASAP program for Continental Airlines, Inc., pilots.

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Item 5: Last week Continental Airline Captain Don Gunther, Senior Director of Safety and Regulatory Compliance indicated that AFS-1 had talked to him about the aforementioned Internal FAA Memo from me to the Administrator (Attachment.)

Item 6: AFS-2's conclusion is mendacious and based on no data to provide credible support that, in his words "the horrific nature" emotionally skewed my judgments and concerns in this matter. AFS-2 has dishonored himself by taking such a libelous "low road" based on no facts to support his defamatory conclusion. I have never met Mr. White or anyone else in AFS-1 territory. This appears to be a desperate measure to discredit the facts of this accident, which the probable causes are human mistakes, training issues and FAA oversight of contract maintenance. Neither the mechanic nor the pilots were following any "FAA Approved" or Company Approved and FAA "Accepted" documents, training, operations, maintenance or otherwise.

Item 7: Let the record show: I am now 61, and have been flying as a pilot for 40 years. I flew as a USAF Pilot in Vietnam over 550 combat hours, with over 1000 combat sorties, in the Lockheed C130 Assault Transport Aircraft into short unimproved fields in the Jungles over there. I hauled live, please excuse the vernacular, "f--king new guys or FNGs" into these fields and flew many air evacuations from forward combat operations, experiencing and living with unimaginable carnage and KIAs, "Killed in Action," GIs, in rubber body bags, all of which was gruesome. I was awarded some of the Nation's highest Awards and Decorations, including the Distinguished Flying Cross, Air Medal w/many oak leaf clusters, Air Force Outstanding Unit Award with "V" device for valor, to include a few. I also was a Part 121 Airline Transport Pilot for Frontier Airlines from 1979-1985. I have been assigned to the Continental Airlines, Inc., FAA Management office since 1987. I have been an Assistant POI, B727 Aircrew Program Manager, DC-10 Partial Program Manager, B777 FAA Certification Team Leader and currently the B737 Aircrew Program Manager. Ms. Blakely, Mr. Sabatini, Mr. Ballough, Mr. White, I am not a "FNG," susceptible to the shallow, transparent, defamatory conclusions AFS-1 and AFS-2 provided FAA Administrator to apparently discredit my original set of concerns in my February 14, 2006 e-mail to FAA Administrator. I made myself available for comment on my submission of my preliminary concerns expressed in my February 14, 2006 e-mail. No one accepted the offer.

Item 7: AFS-2's memo is rife with errors of fact, false statements and wrong conclusions which are unsupported other than by the subjective nature of the writer. It is consistent in its inaccuracies. A critical reader would have to speculate whether the writer was just ignorant of the facts causing the misstatements or if he made deliberate false statements. It appears under that a closer examination of AFS-2's memo signature block shows that someone other that AFS-2 initialed the document. I respectfully request that the identification of the writer of AFS-2's memo be provided to me in writing.

Item 8: Many Continental Captains have asked me how a matter like the El Paso flight crew's actions could be accepted into ASAP. I do not have an answer for them based on the following summary of facts.

Summary of Facts of the Death of Mr. Donald Buchanan, Contract Mechanic for Continental Airlines, Inc. at El Paso, Texas on January 16, 2006.

Enclosure 3 P.2

1. Pilots discovered oil leak #2 engine, right side.

2. Pilots called El Paso station personnel (non-Continental Mechanics) who called Continental Houston Maintenance Control. A contract mechanic (non-Continental) Mr. Buchanan arrived at the airplane, which was loaded with passengers, and in process of loading a wheelchair party through the open Left Forward Entrance Door, L1.

3. Pilots did not write up oil leak in aircraft logbook, a Federal Aviation Regulation requirement FAR 121.563, to inform maintenance of mechanical irregularity to determine the proper maintenance procedure.

4. Pilots did not speak face to face with mechanic, who did not get the appropriate procedure from Continental Maintenance Control in Houston, as pilots did not write up problem in log book or contact Maintenance control directly, which is company procedure.

5. With a wheel chair passenger being loaded in Left forward door L1, the mechanic plugged into aircraft interphone with the pilots and told them to run the #2 (right engine) up to 70% N1 power which is an excessive power setting in a congested gate area. The aircraft was at the gate area, loaded with passengers, with L-1 door open which is contrary to Federal Aviation Regulation FAR 121.315 cockpit checklist procedures, which requires all doors to be closed before engine start.

6. The mechanic, Mr. Buchanan was in the danger area of the engine intake, and was not wearing a safety harness, and was ingested into the engine and killed. His company indicated that they were never trained by Continental Airlines, Inc. on the existence or use of the safety harness.

Item 9: Adjudicated NTSB cases exist where FAR 121 pilot's ATP certificates were suspended pursuant to FAR 91.13 careless and reckless due to excessive engine power resulting in personal injury to a human being. Refer to NTSB Order No. EA-4135, served April 12, 1995, in which the Chief Administrative Law Judge, affirmed the FAA Administrator's order to suspend the respondent's airline transport pilot (ATP) certificate on an allegation of Section 91.9, now 91.13 of the FAR regarding: Careless and Reckless Operation. The flight crew's actions at El Paso resulted in the death of the mechanic. Part FAR 91.13 is pertinent to this accident, and there was and still is this clear precedent on the matter.

FAR 91.13 states: "Careless or reckless operation.
(a) *Aircraft operations for the purpose of air navigation.* No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.
(b) *Aircraft operations other than for the purpose of air navigation.* No person may operate an aircraft, other than for the purpose of air navigation, on any part of the surface of an airport used by aircraft for air commerce (including areas used by those aircraft for the receiving or discharging persons or cargo), in a careless or reckless manner so as to endanger the life or property of another." Please note that the word ***INTENT*** is not in the regulation.

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Item 10: The pilots followed no "FAA Approved" guidance in making their decision to run the engine up to 70% N1. They made the conscious choice to push the thrust lever to the high power setting. The mechanic was following no FAA Accepted procedure.

AIN-100, FAA Internal Security and ASW-700 are addressees in this memo to determine if the COA CMO FAA ASI's and AFS-1's release of an Internal FAA Memo is in violation of FAA Orders, Public Laws or any other pertinent legal restrictions. I respectfully request a written response from AIN-100 and ASW-700 on their findings.

I submit if the FAA Administrator, AVS-001, AFS-1 and his staff are sold, lock, stock and barrel on ASAP that they sign the FAA Warning Letter that is going to be sent to the CALA1515 crew. I am not sure the traveling public will be given any confidence by these actions. I feel that FAA by accepting the matter into ASAP may be culpable of an obstruction of justice by not ensuring "due process" to the decedent and his survivors through normal EIR protocols. This death was preventable, and corroborates the DOT IG's Report No. AV-2006-031, issued December 15, 2005, entitled "AIR CARRIERS' USE OF NON-CERTIFICATED REPAIR FACILIITES, regarding its concerns of FAA Oversight of Air carriers' use and training of such personnel. The CALA pilots have no "FAA Approved" training on this matter then or now. They were operating the aircraft on their own volitions which were tragically flawed by the methods the mechanic and pilots chose.

The Mission of FAA Flight Standards: "Provide the U.S. traveling public with accident free operations through maintaining the highest standards in the world." I have been a faithful soldier for this country and a dutiful FAA Aviation Safety Inspector, to try to ensure the FAA Flight Standards Mission is accomplished.

I am embarrassed to be associated with an entity which would accept the death of a human being into an amnesty program such as ASAP without a complete and thorough investigation. I hereby, as a matter for the record, disassociate myself from the El Paso, Texas, accident resulting in the death of a human being, being accepted by the FAA into ASAP.

Phil Thrash
FAA B737 Aircrew Program Manager
COA CMO
Houston, TX. Email joseph.p.thrash@faa.gov

Attachments:

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

IX. Official FAA Letters, dated July 24th and 25th of 2006, from APM Thrash to Honorable United States Senators John Cornyn, Kay Bailey Hutchison, and Department of Transportation Inspector General Todd J, Zinser, expressing APM Thrash's concerns about CALA1515 fatal accident being accepted into ASAP.

U.S. Department
of Transportation
Federal Aviation
Administration

Continental Certificate Management Office
2625 Bay Area Blvd., Suite 400
Houston, Texas 77058-1568

July 25, 2006 Certified Mail No._____

The Honorable Senator John Cornyn
517 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510

Dear Senator Cornyn:

I request the Congress and the Inspector General be made aware of and investigate the following concerns:

1. The FAA recently accepted a Continental Airlines. Inc. Flight Crew's Aviation Safety Action Report into the FAA's Aviation Safety Action Program (ASAP) which was related to the death of a Contract Mechanic hired and trained by Continental. ASAP is a FAA and Airline Program which allows certain Federal Aviation Regulations reported by the Airlines' flight crews to be considered for amnesty through a remediation process. I have attached memos from me to the FAA Administrator expressing my professional disagreements with the FAA's decision in this matter.

I have also attached FAA's Flight Standards Deputy Director's (AFS-2) Memo to the FAA Administrator explaining FAA's Flight Standards "Inquiry" into my initial concerns relayed to the FAA Administrator in an internal FAA e-mail from me dated February 14, 2006. My February 14, 2006 e-mail voiced my disagreements and suggested actions I thought the FAA should have taken in this matter towards the flight crewmembers.

I am enclosing for you to understand the matters through a better context of the pertinent correspondence between me and FAA Headquarters on this matter:

1. My Internal FAA e-mail, February 14, 2006, to the FAA Administrator.
2. FAA's Flight Standards, AFS-2's, April 18, 2006 response to the FAA Administrator.
3. My official stance of disagreement of FAA's acceptance of the pilot's operations into ASAP.
4. A Memo for the Record to Congress and the IG on the matter of my disagreement with FAA on the matter.

Sincerely,

Joseph Phil Thrash
FAA Aviation Safety Inspector
B737 Aircrew Program Manager
Continental Airlines Certificate Management Office
Houston, TX 77058-1568
281-461-2448
Email joseph.p.thrash@faa.gov

Enclosures:

U.S. Department
of Transportation
Federal Aviation
Administration

Continental Certificate Management Office
2625 Bay Area Blvd., Suite 400
Houston, Texas 77058-1568

July 24, 2006 Certified Mail No._____

The Honorable Senator Kay Bailey Hutchinson
284 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510

Dear Senator Hutchinson:

I request the Congress and the Inspector General be made aware of and investigate the following concerns:

1. The FAA recently accepted a Continental Airlines. Inc. Flight Crew's Aviation Safety Action Report into the FAA's Aviation Safety Action Program (ASAP) which was related to the death of a Contract Mechanic hired and trained by Continental. ASAP is a FAA and Airline Program which allows certain Federal Aviation Regulations reported by the Airlines' flight crews to be considered for amnesty through a remediation process. I have attached memos from me to the FAA Administrator expressing my professional disagreements with the FAA's decision in this matter.

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4. A Memo for the Record to Congress and the IG on the matter of my disagreement with FAA on the matter.

Sincerely,

Joseph Phil Thrash
FAA Aviation Safety Inspector
B737 Aircrew Program Manager
Continental Airlines Certificate Management Office
Houston, TX 77058-1568
281-461-2448
Email joseph.p.thrash@faa.gov

Enclosures:

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

Continental Certificate Management Office
2625 Bay Area Blvd., Suite 400
Houston, Texas 77058-1568

July 25, 2006 Certified Mail No._____

The DOT Inspector General, Todd J. Zinser
400 7th St. S.W. Room 9210
WASHINGTON, DC 20590

Dear Inspector General Zinser:

I request the Congress and the Inspector General be made aware of and investigate the following concerns:

1. The FAA recently accepted a Continental Airlines. Inc. Flight Crew's Aviation Safety Action Report into the FAA's Aviation Safety Action Program (ASAP) which was related to the death of a Contract Mechanic hired and trained by Continental. ASAP is a FAA and Airline Program which allows certain Federal Aviation Regulations reported by the Airlines' flight crews to be considered for amnesty through a remediation process. I have attached memos from me to the FAA Administrator expressing my professional disagreements with the FAA's decision in this matter.

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2. FAA's Flight Standards, AFS-2's, April 18, 2006 response to the FAA Administrator.
3. My official stance of disagreement of FAA's acceptance of the pilot's operations into ASAP.
4. A Memo for the Record to Congress and the IG on the matter of my disagreement with FAA on the matter.

Sincerely,

Joseph Phil Thrash
FAA Aviation Safety Inspector
B737 Aircrew Program Manager
Continental Airlines Certificate Management Office
Houston, TX 77058-1568
281-461-2448
Email joseph.p.thrash@faa.gov

Enclosures: + CC: Senators Hutchinson, Coryn, Representatives Gohmert and Oberstar.

MEMO FOR THE RECORD July 25, 2006

Dear Senators Hutchison, Cornyn, Representatives Oberstar and Gohmeret and the Inspector General:

I reside at 900 Mockingbird in Lufkin, Texas, a Texas born resident and I plan to die in Texas. I am writing you as a concerned citizen, constituent and also a Federal Aviation Safety Inspector-Air Carrier Operations about the following three concerns:

1. FAA's oversight of Air Carriers' Contract Maintenance Programs and training, where the FAR Part 121 Airlines use non-company mechanics to do maintenance work on the FAR Part 121 Airlines' aircraft.

2. The FAA's Aviation Safety Action Program known as ASAP, wherein a pilot Flight Crewmember can fill out a voluntary disclosure of a Federal Aviation Regulation and then submit the disclosure to an ASAP Event Review Committee for possible acceptance, amnesty, and remediation.

3. Does the leak of an internal FAA e-mail to Continental Airlines, Inc., of an ongoing investigation of an accident involving Continental Airlines, Inc., and its pilot flight crewmembers violate any pertinent Government Orders, Public Laws or any other pertinent rules regarding release of sensitive government information?

I request that Congress and the Inspector General be made aware of and investigate these matters/concerns which will be explained and reiterated in this memo:

1. FAA's oversight of Airlines' Contract Maintenance programs and training.

2. How can the FAA accept a matter resulting in a human fatality into an amnesty program, ASAP, without a complete thorough investigation of the facts of the matter? When an event is accepted into the FAA Aviation Safety Action Program, at worst case, an administrative remedy of a FAA Warning Letter would be written to the flight crew.

3. Does the leak of a February 14, 2006 Internal FAA Memo to the FAA Administrator to Continental Airlines, Inc., constitute unlawful dissemination of sensitive unclassified FAA information or violation of any pertinent Government Orders or Public Laws regarding release of FAA information on a pending investigation.

I am a Federal Aviation Safety Inspector, Air Carrier Operations, assigned to the Continental Airlines Certificate Management Office in Houston, Texas. My Job Description is in Position Description-FAA-Southwest Region No. 9749, FG-24, Aircrew Program Manager. My FAA Form 110A Credential and Badge No. is 3921. I have been assigned to FAA operational oversight of Continental

Airlines, Inc. since 1986. I am currently the FAA B737 Aircrew Program Manager responsible for the safe operations, training programs, airman certification, flight manuals of the Continental Airlines, Inc. B737 fleet of over 265 B737 Aircraft and over 2500 B737 Pilots. My service computation date for Federal Service is January 17, 1972. I will have 35 years of creditable federal service this January.

I graduated from U.T. at Austin in 1967, entered the USAF Pilot Training, and as a USAF pilot was flying C-130 aircraft in support of the ground forces in Southeast Asia in 1969-1970. I flew for Frontier Airlines after the Air Force, and have been with the FAA since 1985.

The FAA is a great outfit and it grieves me that I must write my concerns which have recently arisen out of the death of Continental Airlines trained Contract Mechanic at El Paso, Texas, on January 16, 2006. This is the first such written concern that I have elevated to the FAA Administrator and now to the U.S. Congress and Inspector General.

My Office Manager, Bernie Mullins, and my supervisor, Principal Operations Inspector, John Merrifield took me off routine certification duty after the accident at El Paso to develop some interview questions for the flight crew of Continental Airlines Flight 1515, a B737-500 aircraft. I conducted an investigation into the matter developed the questions which were reviewed and accepted by Mullins and Merrifield. Continental had the crew in an EAP program on January 20, 21, and I could not interview them. Mr. Mullins told me to give the questions to another FAA Inspector in the office to ask to the crew, as I had to go out of town.

The FAA has an Aviation Safety Action Plan (ASAP), which allows pilots to fill out a form of an irregularity they committed, which may be accepted by an ASAP Event Review Committee (ERC). The event if accepted by the ERC is remedied by a remediation by the ERC to the crew. The FAA ERC person who was given the interview questions for the crew and directed by Mr. Mullins to use did <u>not</u> ask the crew the questions I had developed. Upon my return to the office in late January, I learned this matter had been accepted into the FAA's Aviation Safety Action Program (ASAP), which has authority to grant amnesty to pilots who turn themselves in for Federal Aviation violations.

Summary of Facts of the Death of Mr. Donald Buchanan, Contract Mechanic for Continental Airlines, Inc. at El Paso, Texas on January 16, 2006.

1. Pilots discovered oil leak #2 engine, right side.

2. Pilots called El Paso station personnel (non-Continental Mechanics) who called Continental Houston Maintenance Control. A contract mechanic (non-Continental) Mr. Buchanan arrived at the airplane, which was loaded with passengers, and in process of loading a wheelchair party through the open Left Forward Entrance Door, L1.

3. Pilots did not write up oil leak in aircraft logbook, a Federal Aviation Regulation requirement FAR 121.563, to inform maintenance of mechanical irregularity to determine the proper maintenance procedure.

4. Pilots did not speak face to face with mechanic, who did not get the appropriate procedure from Continental Maintenance Control in Houston, as

pilots did not write up problem in log book or contact Maintenance control directly, which is company procedure.

5. With a wheel chair passenger being loaded in Left forward door L1, the mechanic plugged into aircraft interphone with the pilots and told them to run the #2 (right engine) up to 70% N1 power which is an excessive power setting in a congested gate area. The aircraft was at the gate area, loaded with passengers, with L-1 door open which is contrary to Federal Aviation Regulation FAR 121.315 cockpit checklist procedures, which requires all doors to be closed before engine start.

6. The mechanic, Mr. Buchanan was in the danger area of the engine intake, and was not wearing a safety harness, and was ingested into the engine and killed. His company indicated that they were never trained by Continental Airlines, Inc. on the existence or use of the safety harness.

This event was logged into the ASAP program by the pilots, and was accepted by the ASAP ERC personnel, which included an FAA Inspector from the Houston COA CMO, who incidentally, is a retired Continental Airlines Captain.

This Flight Crew followed no "FAA Approved" procedures in its Continental Airlines, "FAA Approved" Flight Operations Manual. I am the FAA B737 Aircrew Program Manager responsible for ensuring FAA Regulatory Oversight for the safe operations, training programs, manuals, certification and all safety related pilot operations of the B737 fleet and its pilots. I am intimately familiar with the "FAA Approved" Flight Operations Manual, as I am the one who reviews it and the revisions and recommend approval to the FAA Principal Operations Inspector. The current revision, and the revision extant on January 16, 2006, is revision #43 which was stamped and approved by the FAA Principal Operations Inspector on November 14, 2005. There never has been and never will be"FAA Approved" maintenance engine run-up procedures in this manual as long as I am responsible for the safe operations of the Continental Airlines B737 Pilots.

Pilots fly airplanes and mechanics conduct maintenance run-up procedures.

It is egregious for a pilot to operate an engine with a known oil leak at such a high power setting with a plane load of passengers. The Flight Crew of Continental Airlines, Inc., Flight 1515 on January 16, 2006, relied on a contract maintenance mechanic, working for Continental Airlines, Inc., who presumably was trained by Continental. The mechanic followed no Continental Maintenance procedure, as the flight crew never wrote up malfunction in log book nor did proper coordination with by Continental Houston Maintenance control to ensure mechanic followed proper procedures.

I wrote FAA Administrator Blakely an e-mail February 14, 2006, expressing my professional disagreement of opinion with the matter being accepted into ASAP for the following reasons:

1. The crew allegedly violated at least 3 Federal Aviation Violations, 2 already mentioned, and FAR 91.13, which in pertinent part says," no pilot will operate an aircraft carelessly, or recklessly in a manner to endanger the life or property of another." I have documentary evidence to support the alleged FAR violations.

This crew was operating this aircraft at extremely high power on the basis of a questionably trained contract maintenance mechanic that was killed due to his lack of knowledge of appropriate maintenance procedures and the pilot's choice to accept the word of mouth procedure from the mechanic to run-up the engine at an excessively high power setting. The pilots performed a high power run up on an engine in a questionable status, an oil leak, with passengers on board, and loading a wheel chair patient through door L-1. The three right exits were unusable, in event of necessity of a ground evacuation, due to the right engine being run-up, and only 2 doors on the left side would have been available in the #2 engine had come apart necessitating a ground evacuation.

FAA Flight Standards, who I work for, made an inquiry into my concern and sent a response of their inquiry to the FAA Administrator, with a copy to me. Their conclusion was that I was emotionally affected, and my concerns were basically unfounded, and the FAA accepted the pilot's ASAP issue. If this matter is accepted and retained in the FAA ASAP Program the pilots remedy will be in the form of "Administrative Action" of three possible outcomes: 1. A FAA Letter of No Action, 2. A FAA Letter of Correction, and 3. A FAA Warning Letter. The Letters of correction and warning would be expunged in 2 years from the pilots FAA Enforcement History. I reject FAA's decision of this matter being accepted into ASAP for the record.

Senators Hutchison and Cornyn, Representatives Oberstar and Gohmert, and Inspector General Zinser, I am now 61, and have been flying for 40 years. I flew in Vietnam over 550 combat hours, with over 1000 combat sorties, in the Lockheed C130 Assault Transport Aircraft into short unimproved fields in the Jungles over there. I hauled live, please excuse the vernacular, "f--king new guys or FNGs" into these fields and flew many air evacuations from forward combat operations, experiencing and living with unimaginable carnage and KIAs, "Killed in Action," GIs, in rubber body bags, all of which was gruesome. I was awarded some of the Nation's highest Awards and Decorations, including the Distinguished Flying Cross, Air Medal w/many oak leaf clusters, Air Force Outstanding Unit Award with "V" device for valor, to include a few, so I am not a "FNG," susceptible to the defamatory conclusions AFS-1 and AFS-2 provided FAA Administrator to discredit my original set of concerns in my February 14, 2006 e-mail to FAA Administrator.

Summary of Facts of the Death of Mr. Donald Buchanan, Contract Mechanic for Continental Airlines, Inc. at El Paso, Texas on January 16, 2006, related to Continental Airlines Flight 1515, a B737-500 Aircraft.

1. Pilots discovered oil leak #2 engine, right side.

2. Pilots called El Paso station personnel (non-Continental Mechanics) who called Continental Houston Maintenance Control. A contract mechanic (non-Continental) Mr. Buchanan arrived at the airplane, which was loaded with passengers, and in process of loading a wheelchair party through the open Left Forward Entrance Door, L1.

3. Pilots did not write up oil leak in aircraft logbook, a Federal Aviation Regulation requirement FAR 121.563, to inform maintenance of mechanical irregularity to determine the proper maintenance procedure.

4. Pilots did not speak face to face with mechanic, who did not get the appropriate procedure from Continental Maintenance Control in Houston, as pilots did not write up problem in log book or contact Maintenance control directly, which is company procedure.

5. With a wheel chair passenger being loaded in Left forward door L1, the mechanic plugged into aircraft interphone with the pilots and told them to run the #2 (right engine) up to 70% N1 power which is an excessive power setting in a congested gate area. The aircraft was at the gate area, loaded with passengers, with L-1 door open which is contrary to Federal Aviation Regulation FAR 121.315 cockpit checklist procedures, which requires all doors to be closed before engine start.

6. The mechanic, Mr. Buchanan was in the danger area of the engine intake, and was not wearing a safety harness, and was ingested into the engine and killed. His company indicated that they were never trained by Continental Airlines, Inc. on the existence or use of the safety harness.

I feel FAA Flight Standards AFS-1, Mr. Ballough, and AFS-2, Mr. Allen, were using an invalid mendacious conclusion in their response to the FAA Administrator to discredit my concerns. AFS-1 and AFS-2's memo to the FAA Administrator also said that the Flight Crew interview questions I developed were asked of the crew. That is a false statement. There is no record of this being done.

I do not trust FAA's Flight Standards Investigation of this matter. AFS-1, Mr. Ballough, and AFS-2, Mr. Allen, wrote the response to my e-mail concerns to FAA Administrator Blakely. To me their characterization of me being emotionally attached is not supported by any of my correspondence or the data in their memo which is filled with many inaccuracies and spins on the facts of the matter. Their statement that the interview questions were asked is a falsehood, and they identified me incorrectly to the FAA Administrator as an "Assistant Partial Program Manager." Ladies and gentlemen there is no such a job description of an "Assistant Partial Program Manager," in the FAA Continental Certificate Management Office here in Houston, TX. I believe that AFS-2's, FAA Flight Standards Division AFS, memo is a deliberate obfuscation of the facts of the matter surrounding the action of the accident at El Paso, Texas, on January 16, 2006.

My Internal FAA Memo dated February 14, 2006 to the Administrator expressing my concerns and professional disagreement of this matter being accepted into the ASAP program was leaked by an FAA Inspector in this office to Continental Airlines, Inc., shortly after I wrote it. FAA management has not investigated this matter. FAA AIN-100, FAA Internal Security, wrote an FAA wide e-mail dated June 23, 2006, heightening awareness of the loss of SUI or sensitive unclassified information (FAA Information) to unauthorized persons. I feel that the dissemination of my internal FAA Memo to the FAA Administrator might fall under the memo's provisions and require the scrutiny of an investigation by AIN-100 and the Inspector General.

I think upper level FAA Management, in Flight Standards cannot stand a "light of day inspection" into contract maintenance, which the IG Report AV-2006-031, Regarding Air Carriers' use of non-certificated repair facilities, dated December 15, 2005. This event seems analogous the "Value Jet" incident where the FAA Administrator was standing with the Secretary of Transportation

in the Florida Everglades, saying everything is "ok" on national television to traveling public.

The ASAP Event Review Committee, composed of two Continental Captains, remedy was to counsel the flight crew and came to the conclusion that the flight crew committed no errors. The FAA ASAP representative, the retired Continental captain, was not at the debriefing remedy meeting.

I request that Congress and the Inspector General investigate these matters/concerns/questions:

1. How can the FAA accept a matter caused by preventable human errors and poor judgment by the mechanic and flight crew not following any "FAA Approved," or Continental Airlines, Inc., approved procedures, resulting in a human fatality, into an amnesty program, ASAP, the FAA Aviation Safety Action Program, which would result, at worst case, an administrative remedy of a FAA Warning Letter?

2. Does the leak of my February 14, 2006 Memo to the FAA Administrator to Continental Airlines, Inc., constitute unlawful dissemination of sensitive unclassified FAA information or violation of any pertinent Government Orders or Public Laws regarding release of FAA information on a pending investigation.

These two pilots are flying the traveling public currently. I went on record in my February 14, 2006 Memo that the FAA should have:

1. Done an emergency revocation of the Flight Crewmembers Certificates.
2. Issued letters of investigation to pursue a legal Enforcement Investigative Report, due to FAR alleged violations, failure to follow cockpit checklist procedures, failure to write up logbook entries, and careless and reckless operation of an aircraft with a suspect engine while plane was loaded with passengers.
3. Issued letters to reexamine them for competency. These pilot's judgment and competence remains a concern to me as they have not been re-examined for competency which is part of the FAA's responsibility.
4. Determine if Mr. Buchanan the mechanic killed in this incident/accident has been deprived of "due process" of law in determining the parties/persons and causes responsible for his death.

I have tried to maintain the high road in expressing concerns, to do "WHAT" is the correct thing in this matter.

I do not to wish to be anonymous. Feel free to contact me if I may provide any more information. I have vast documentary evidence which would support a FAA Enforcement Investigation Report, and also support a re-examination of these pilots to determine their competency.

Let the record show that I will not be a part of the FAA's acceptance of the death of Mr. Donald Buchanan into the FAA's ASAP program. I do not accept the propriety of the release or sharing of my FAA internal memo to the FAA Administrator or its information with Continental Airlines, Inc., by any person or persons in the FAA.

The Mission of FAA Flight Standards: "Provide the U.S. traveling public with accident free operations through maintaining the highest safety

standards in the world." I have been a faithful soldier for this country and a dutiful FAA Aviation Safety Inspector, to try to ensure the FAA Flight Standards Mission is accomplished.

Thank you for your kind attention to this matter.

Sincerely,

Joseph Phil Thrash
FAA Aviation Safety Inspector
B737 Aircrew Program Manager
COA CMO
Houston, TX
281-461-2448
Email joseph.p.thrash@faa.gov

Mailing Address:

Joseph Phil Thrash
900 Mockingbird
Lufkin, TX 75904

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

X. Copies of letters dated September 28th and 29th from the Honorable Senators Cornyn, and Hutchison to FAA APM Thrash closing out their congressional inquiries into the CALA 1515 ASAP fatal accident matter. The Honorable Senator's letters included copies of AFS-1, Ballough's September 21, 2006, the official FAA letters to U. S Senators Cornyn and Hutchison with AFS-2's April 18, 2006 FAA Memo as the FAA's Flight Standards Service official records

JOHN CORNYN
TEXAS

United States Senate
WASHINGTON, DC 20510–4305

September 28, 2006

Mr. Joseph Thrash
900 Mockingbird
Lufkin, Texas 75904

Dear Mr. Thrash:

After reviewing your concerns, the Federal Aviation Administration provided the enclosed response to my inquiry. I hope you find this information useful. Thank you for giving me the opportunity to assist in this matter.

It is a privilege to represent you in the United States Senate. Thank you again for taking the time to contact me.

Sincerely,

JOHN CORNYN
United States Senator

JC:drh

Enclosure

U.S. Department
of Transportation
Federal Aviation
Administration

800 Independence Ave., SW.,
Washington, DC 20591

SEP 2 1 2006

The Honorable John Cornyn
United States Senator
5005 LBJ Freeway
Dallas, TX 75244

Dear Senator Cornyn:

Thank you for your August 24 letter on behalf of Mr. Joseph Phil Thrash who has expressed various opinions about the Federal Aviation Administration's (FAA) conduct of the investigation of the January 16 accident in El Paso, Texas, involving Continental Airlines.

On January 16, at El Paso International Airport during the dispatch preparations of Continental Airlines flight 1515, a Boeing 737-524 aircraft, N32626, the flightcrew noticed a fluid leak under the number two engine. The crew requested maintenance personnel investigate the possible leak. Two mechanics positioned themselves by the number two engine to observe the reported leak during engine run-up. The flightcrew was operating the number two engine for the mechanics to perform a leak check at 70 to 74 percent N1 power when one of the mechanics, Mr. Donald Buchanan, was ingested into the engine and killed. This accident remains under investigation by the National Transportation Safety Board.

In February, Mr. Thrash submitted an Administrator's Hotline Complaint (No. 20060215001) listing his opinions regarding the actions taken during the investigation of this accident. His concerns were fully investigated and addressed in a memorandum dated April 18. Mr. Thrash was provided a copy of this memorandum. Enclosed is a copy for your reference.

During an accident investigation, associated individuals often develop opinions regarding the nature of the actions to be taken. It is vital that the FAA ensure all decisions are based solely upon the full assessment of the facts, not an individual's opinions. Our investigation showed the actions taken by the FAA during this accident investigation were appropriate and the decisions made in accordance with established FAA policy.

If you or a member of your staff needs further assistance, please contact Mr. David Balloff, Assistant Administrator for Government and Industry Affairs, at (202) 267-3277.

Sincerely,

Roger C. Forsen Jr.
for

James J. Ballough
Director, Flight Standards Service

Enclosures
Transmitted Correspondence

cc:
Washington Office

KAY BAILEY HUTCHISON
TEXAS

COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE, AND TRANSPORTATION
RULES AND ADMINISTRATION
VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510-4304

September 29, 2006

Mr. Joseph Phil Thrash
FAA Aviation Safety Inspector
B737 Aircrew Program Manager
Continental Airlines Certificate Management Office
Houston, TX 77058-1568

Dear Mr. Thrash:

I spoke with you a few weeks ago regarding the information you sent to Senator Hutchison's office about the investigation of the January 16 accident. As promised, Sen. Hutchison sent a letter to Administrator Blakey. Enclosed is the response from the FAA.

Thank you for contacting Senator Hutchison's office and please do not hesitate to keep in touch on any matter of concern to you.

Sincerely,

Andress Boggs

U.S. Department
of Transportation
Federal Aviation
Administration

800 Independence Ave., SW.,
Washington, DC 20591

SEP 21 2006

The Honorable Kay Bailey Hutchison
United States Senate
Washington, DC 20510

Dear Senator Hutchison:

Thank you for your August 28 letter on behalf of Mr. Joseph Phil Thrash who has expressed various opinions about the Federal Aviation Administration's (FAA) conduct of the investigation of the January 16 accident in El Paso, Texas, involving Continental Airlines.

On January 16, at El Paso International Airport during the dispatch preparations of Continental Airlines flight 1515, a Boeing 737-524 aircraft, N32626, the flightcrew noticed a fluid leak under the number two engine. The crew requested maintenance personnel investigate the possible leak. Two mechanics positioned themselves by the number two engine to observe the reported leak during engine run-up. The flightcrew was operating the number two engine for the mechanics to perform a leak check at 70 to 74 percent N1 power when one of the mechanics, Mr. Donald Buchanan, was ingested into the engine and killed. This accident remains under investigation by the National Transportation Safety Board.

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During an accident investigation, associated individuals often develop opinions regarding the nature of the actions to be taken. It is vital that the FAA ensure all decisions are based solely upon the full assessment of the facts, not an individual's opinions. Our investigation showed the actions taken by the FAA during this accident investigation were appropriate and the decisions made in accordance with established FAA policy.

If you or a member of your staff needs further assistance, please contact Mr. David Balloff, Assistant Administrator for Government and Industry Affairs, at (202) 267-3277.

Sincerely,

James J. Ballough for
Director, Flight Standards Service

Enclosures
Transmitted Correspondence

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

XI. FAA Memo, October 17, 2006, FAA ASI Thrash to DOT OIG, Tina Nysted, describing Public Law 103-272 USC 44 ~ 44709, Reexamination of Airmen and transmitting allegation of abuse of power by AFS-1 and AFS-2 to sustain the CALA1515 fatal accident being accepted into ASAP.

Federal Aviation Administration

Memorandum

Date: October 17, 206

To: U.S. Department of Transportation, Office of Inspector General
Project Manager, Tina Nysted

From: Joseph Phil Thrash, FAA Aviation Safety Inspector
B737 Aircrew Program Manager, COA CMO, Houston, TX.

Prepared by: Joseph Phil Thrash

Subject: Public Law 103-272: Para: 44709 Reexamination of Airmen.

Under the provisions of the subject law, the FAA Administrator can reexamine an airman at any time that holds a certificate issued under section 44703 of the cited law.

The pilots of the CALA1515, January 16, 2006 accident resulting in the death of contract mechanic were recommended by me to the FAA Administrator to have their certificates suspended and be reexamined for competency under the provisions of this law.

AFS-2, Mr. John Allen wrote to the FAA Administrator in a memo dated April 18, 2006, that all of the accident facts were not available to do a reexamination event.

During my investigation on January 17-19, 2006, I discovered evidence that to me required a reexamination. The crew appeared to commit at least three FAR violations including FAR 91.13, which deals with "careless and reckless" operation of an aircraft.

Sometime between January 20, 2006 and early February 2006, the FAA ASAP coordinators Paul LeBlanc and Jim Dixon met with the CALA ASAP Event Review Committee (ERC) and accepted the matter into the ASAP.

This matter was accepted into ASAP before all the facts of the matter had been discovered. I submit there was a rush to judgment for CALA to get the matter into ASAP to limit any liability they might held responsible on the accident. Once into ASAP, the FAA HQ, AFS-1, AFS-2 agreed with the ASAP process, which in this case, I consider an abuse of power. The FAA issued a warning letter to the crew pursuant to FAR 91.13 supported by HQ FAA AFS-1.

PHIL THRASH

CODIFICATION OF CERTAIN U.S. TRANSPORTATION LAWS AS TITLE 49, UNITED STATES CODE

Public Law 103-272
103d Congress

An Act

To revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

July 5, 1994
[H.R. 1758]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intergovernmental relations.

SUBTITLES II, III, AND V–X OF TITLE 49, UNITED STATES CODE

49 USC prec. 101 note.

SECTION 1. (a) Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsections (c)–(e) of this section without substantive change as subtitles II, III, and V–X of title 49, United States Code, "Transportation". Those laws may be cited as "49 U.S.C. _____".

(b) Title 49, United States Code, is amended by striking the table of subtitles at the beginning of the title and substituting the following new table of subtitles:

"SUBTITLE		Sec.
"I.	DEPARTMENT OF TRANSPORTATION	101
"II.	OTHER GOVERNMENT AGENCIES	1101
"III.	GENERAL AND INTERMODAL PROGRAMS	5101
"IV.	INTERSTATE COMMERCE	10101
"V.	RAIL PROGRAMS	20101
"VI.	MOTOR VEHICLE AND DRIVER PROGRAMS	30101
"VII.	AVIATION PROGRAMS	40101
"VIII.	PIPELINES	60101
"IX.	COMMERCIAL SPACE TRANSPORTATION	70101
"X.	MISCELLANEOUS	80101".

(c) Title 49, United States Code, is amended by striking subtitle II, except that chapter 31 (comprising sections 3101–3104) of subtitle II is redesignated and restated as chapter 315 (comprising sections 31501–31504) of subtitle VI of title 49, as enacted by subsection (e) of this section.

(d) Title 49, United States Code, is amended by adding the following immediately after subtitle I:

SUBTITLE II—OTHER GOVERNMENT AGENCIES

CHAPTER		Sec.
11.	NATIONAL TRANSPORTATION SAFETY BOARD	1101

79-139 O - 94 - 1 (272)

§ 44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing, altering, and maintaining aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair, alter, and maintain aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

§ 44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility available for the use of civil aircraft on the suitability of the facility for that use.

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) REINSPECTION AND REEXAMINATION.—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.

(b) ACTIONS OF THE ADMINISTRATOR.—The Administrator may issue an order amending, modifying, suspending, or revoking—

(1) any part of a certificate issued under this chapter if—

(A) the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(a)).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under subsection (b)(1)(A) of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under subsection (b)(1)(B) of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

(1) the order is effective; and

(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(f) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this section, or the Administrator when the Administrator decides that an order of the Board under this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

TESTIMONY OF JOSEPH PHIL THRASH TO:

THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON APRIL 03, 2008, IN WASHINGTON, DC, USA

TABLE OF CONTENTS with My Comments to Enhance Relevance Re: Abuse of ASAP.

XII. FAA Letter of Reprimand, October 18, 2006 from COA CMO POI John Merrifield to FAA COA CMO B737 APM Thrash; includes counter point Memos from ASI Thrash, and final sustained POI letter of reprimand to ASI Thrash.

Federal Aviation Administration

Memorandum

rcvd Joseph Phil Thrash 10/23/2006

Date: October 18, 2006

To: Joseph P. Thrash, Aviation Safety Inspector, COA CMO, Houston, TX

From: John T. Merrifield, Supervisory Principal Operations Inspector, COA CMO

Subject: Letter of Reprimand

This letter is notice that you are officially reprimanded for your inappropriate use of Federal Aviation Administration (FAA) official letterhead, as explained below.

By letter dated July 25, 2006 you wrote to The Honorable Senator Kay Bailey Hutchison regarding your disagreements with the FAA's Aviation Safety Action Program as it relates to the death of a contract mechanic. By memorandum dated July 10, 2006 you wrote to Frank S. Del Gandio, Recommendation and Analysis Division, using FAA official letterhead without coordination through your chain of command. You used obscene language in your memorandum; that language is not appropriate for office communications.

Your misconduct is a violation of Federal Aviation Personnel Manual 2635, Chapter 2, Paragraph 201, which states, in part, that employees are responsible for conducting themselves in a manner which will ensure that their activities do not reflect discredit on the Federal Government and the Federal Aviation Administration. Furthermore, paragraph 201(d) states, in part, that employees must support and assist in creating a productive and hospitable model work environment. Paragraph 201(h) states, in part, that employees must observe the various laws, rules, regulations, and other authoritative instructions and paragraph 201(i) states, in part, that employees must uphold with integrity the public trust involved in the position to which assigned. Paragraph 212 states, in part, "...the right of employees, either individually or collectively, to petition Congress or any member thereof or to furnish information to any committee or member of Congress is provided by law. Letters to Congress, as well as petitions and other communications, are covered by this provision. While the FAA desires that employees seek to resolve any problem or grievance within the agency, any employee exercising the right to correspond with a member of Congress shall be free from restraint, reprisal, or coercion. Nevertheless, in accordance with paragraph 205 of this order, employees may not use agency facilities, supplies, equipment, or duty time in writing about personal business to anyone, including any committee or member of Congress." Chapter 12 states, in part, that employees shall not make irresponsible, false, disparaging, disrespectful or defamatory statements which attack the integrity of other individuals or organizations, or disrupt the orderly conduct of official

business, nor may they make statements urging or encouraging other employees to act or speak irresponsibly, or to commit unlawful acts.

I am confident that receiving this Letter of Reprimand will result in your following proper procedures with regard to personal and official correspondence. However, please be advised that any future misconduct will result in further disciplinary action.

If your conduct is the result of a personal situation, the FAA has an Employee Assistance Program (EAP) available to all employees and members of their families. You may request assistance through this confidential program by calling 1-800-234-1327 or by contacting Gina Alcala, EAP Program Manager, at 817-222-5821.

You are advised that I propose to have this reprimand filed in your Official Personnel Folder (OPF) for up to two (2) years. Any further occurrences may result in more severe disciplinary measures. You may call upon me for any assistance you may need to help you understand the reasons for this action and to assist you in avoiding a recurrence of the above-mentioned behavior.

You have the right to reply to me personally, in writing, or both within fifteen (15) calendar days to offer reasons why this reprimand should not be issued. Your reply will be given full consideration. If I determine that the reprimand is sustained, you will be so informed and your reply will be filed in your OPF, together with the reprimand. In the event I decide that this reprimand should not be issued, you will be informed and this letter and the documents related to the particular matter will not be filed in your OPF.

If you do not reply to this letter within 15 calendar days from the day of receipt, it shall be placed in your OPF without further consideration.

If I decide to sustain this reprimand, and if you contend that it violates Article 6 of the PASS/FAA agreement, you may file a grievance under Article 5, Section 7, of the agreement. The grievance must be submitted in writing, no later than fifteen (15) calendar days from the date I sustain the reprimand, to Bernie Mullins, Manager, Continental Certificate Management Office. It will be processed beginning with Step 2 of the grievance procedure.

If you need help understanding this letter your rights, you may contact Melissa Parr, Labor Relations Specialist, ASW-16, at 817-222-5248 for assistance.

Receipt Acknowledged:

Signature

10/23/2006
Date

Federal Aviation Administration

Memorandum

Date: November 6, 2006

To: John T. Merrifield, Supervisory Principal Operations Inspector

From: Joseph P. Thrash, Aviation Safety Inspector

Prepared by: Joseph P. Thrash, Aviation Safety Inspector

Subject: Letter of Reprimand

I plead not guilty to all charges and specifications listed in your proposed letter of reprimand dated October 18, 2006, which you gave to me on October 23, 2006.

The letter refers to letters and memos from me to various persons, but does not provide the specific letters, text or contents of letters and memos from which your charges and specifications are drawn. Without specific copies of the letters and memos and the specific texts, the letter appears to be written hearsay and unsubstantiated opinions.

Any letters and memos from me were business letters/memos on CALA1515. Any reference to obscenities has taken words out of context which suppresses freedom of speech, expression and use of idiom from a common piece of vernacular to make a point.

I take umbrage at your unfounded accusations that quotes Chapter 12 from the Federal Aviation Personnel Manual 2635 which in pertinent part in your memo, "that employees shall not make irresponsible remarks, false, disparaging, disrespectful or defamatory statements which attack the integrity of other individuals or organizations, or disrupt the orderly conduct of official business..."

I consider this proposed letter of reprimand from you to me to be retaliation for my pressing the facts of the matter of CALA1515 to the Department of Transportation, Office of the Inspector General. They were co-addressees on one of the official business letters sent by me to various persons, and they made an official response to my inquiry. My involvement in this issue was to address the facts of CALA1515's acceptance into ASAP and to provide safety recommendations. You personally agreed with me this past spring that the matter never should have been accepted into ASAP. You and the FAA have the opportunity to abandon this letter of reprimand.

Federal Aviation Administration

Memorandum

Date: November 9, 2006

To: John T. Merrifield, Principal Supervisory Operations Inspector

From: Joseph P. Thrash, Aviation Safety Inspector

Prepared by: Joseph P. Thrash, Aviation Safety Inspector

Subject: Letter of Reprimand dated October 18, 2006

In response to your Memorandum to me dated November 8, 2006, Basis for aforementioned Letter of Reprimand I submit this memo.

Your basis for reprimand was for the following:

1. Sending Personal Letters to Congressmen/DOT OIG.

The letter from me to Senator Kay Bailey Hutchison dated July 25, 2006 is clearly an official business letter from an FAA Aviation Safety Inspector to Congress and the DOT/OIG. The DOT/OIG received the same letter and conducted an official investigation of the CALA1515 matter being accepted into ASAP. The DOT/OIG's investigation and actions are prima facie evidence that this is and was a business and professional matter.

2. The accusation of using obscenities in the memo to Frank Del Gandio dated July 10, 2006 is beyond the pale of common sense, fair play and an understanding of the use of expressive terms in the English language to make a point. The term "FNG" is an abbreviation for the term "f--king new guy," which is a term used in the vernacular as an idiom to make a point. This term came into play in the Vietnam War to illustrate the dangerous characteristics of a new person in a combat unit and to use caution when around them until they got some experience. I separated the term FNG with apostrophes "FNG" and used the term "vernacular" to set of "f--king new guy" to heighten their usage as a figure of speech, an idiom. This was to make a point that the CALA1515 crew had no business making a high power run-up, killing the ground mechanic.

Your using these letters/memos as example for a proposed letter of reprimand proves up my position that they were: 1. Strictly Official Business, and 2. Use of Free Speech to make a point. FAA should abandon pursuing Letter of Reprimand on such a capricious basis.

Federal Aviation Administration

Memorandum

Date: November 20, 2006

To: Joseph P. Thrash, Aviation Safety Inspector, COA CMO, Houston, TX

From: John T. Merrifield, Supervisory Principal Operations Inspector, COA CMO

Subject: Letter of Reprimand

I am in receipt of your memos dated November 6, 2006 and November 9, 2006 in response to the Letter of Reprimand you were issued on October 23, 2006. I have considered both the misconduct as stated in the reprimand and your responses and have decided to sustain the Letter of Reprimand. Therefore, the Letter of Reprimand and your responses will be filed on the left (temporary) side of your Official Personnel Folder for a period not to exceed two (2) years.

If you contend that the Letter of Reprimand violates Article 6 of the PASS/FAA agreement, you may file a grievance under Article 5, Section 7, of the agreement. The grievance must be submitted in writing no later than fifteen (15) calendar days from the date I sustain the reprimand to Bernie Mullins, Manager, Continental Certificate Management Office. It will be processed beginning with Step 2 of the grievance procedure.

If you need help understanding this letter your rights, you may contact Melissa Parr, Labor Relations Specialist, ASW-16, at 817-222-5248 for assistance.

Receipt Acknowledged:

Signature _____ Date _____

Gabriel D. Bruno
Retired FAA Manager and Whistleblower

"An Insider's Analysis of the FAA's Failure to Protect the Skies"

April 3, 2008

Contact information:
GBruno3@cfl.rr.com

My name is Gabriel D. Bruno and I am a retired FAA manager. I retired in January 2006 after 28 years of outstanding service with the FAA. Prior to my FAA service, I served for two years in the U.S. Army during the Vietnam-era. Over half of my FAA career was spent as a manager, including positions in FAA Headquarters and managing two Flight Standards District Offices (FSDOs). I spent nine years working in Headquarters. I also worked in four different FAA regions and I routinely earned awards for my outstanding performance over the years. My testimony is drawn from my own personal knowledge and experience as an FAA manager, not an outside observer.

I was compelled to attend the April 3, 2008 House hearing, on "Critical Lapses in FAA Safety Oversight of Airlines," because of my own experience as an FAA whistleblower. Sadly, what I witnessed during the proceedings indicates that things remain unchanged, and that until FAA Associate Administrator for Aviation Safety Nicholas Sabatini is removed from office, nothing will.

While the Committee probed Mr. Sabatini with questions to determine where the breakdown in the FAA organization took place that allowed Southwest Airlines to fly thousands of passengers in noncompliance with Airworthiness Directives, Sabatini invoked the "Ken Lay defense." He tried to convince the Committee that the problems were "not evident at [his] level". Considering the magnitude of the evidence, he is either the most out of touch individual in the Safety organization, or he is lying. If he was aware of these problems and did nothing to correct them, then he is guilty of putting the lives of thousands of passengers at risk. Either way he is the wrong individual to be in the position of Associate Administrator for Aviation Safety.

My personal experience with Sabatini, however, tells me that he was fully aware and actively engaged in the acts of retaliation that the Southwest CMO inspectors testified about. In 2001, when I was the FAA manager responsible for the oversight of the ValuJet/AirTran merger, I personally briefed Sabatini on the critical need for FAA resources to provide proper oversight of that rapidly growing carrier in accordance with the new ATOS program. He refused my requests for resources. Because I disagreed with Mr. Sabatini and pressed this vital safety issue, within 60 days I was under investigation for wildly bogus allegations by FAA Security. Agents Simms and Garcia told me in August 2001 that the investigation of me was the "most important investigation going on in Washington HQ" at that time. Three weeks later while Sabatini had FAA Security resources focused on me, the World Trade Centers and the Pentagon were attacked.

Sabatini also tried to convince the Committee that the Southwest scenario was an "aberration" that he would correct, and not a systemic problem. But, the Southern Region operates in the same manner under Sabatini's personally placed Division Manager, Ms. Dawn Veatch. One example is an inspector that was transferred out of his position because of maintenance violations that he was filing when he had oversight responsibility for AirTran Airlines. This happened in 2003 and it was the same pattern that we heard much testimony about occurring at the SWA CMO. The carrier wrote complaints about this inspector and his supervisor promptly removed him. This was an act consistent with the spirit of Sabatini's "Customer Service Initiative" (CSI). Sabatini himself demonstrated this pattern of favoritism when as the Eastern Region Division Manager, he became personally involved in and ordered the certification of a

new applicant, JetBlue Airlines, to be fast-tracked. This was at a time, when as a result of the ValuJet lessons, the FAA knew that it should have been exercising due-diligence in certifications and not invoking an artificial fast-track timetable. His cozy relationship with JetBlue was once again evidenced when it was discovered that their management conducted pilot fatigue experiments during passenger-carrying service, an illegal action that had the tacit approval of the FAA. See: http://online.wsj.com/public/article/SB116138760170199478-PVlDcORp24oo0PKMJ3E7z0O7juc_20061030.html?mod=blogs

As the committee is conducting its investigation, they will not be able to avoid seeing an agency filled with responsible adults who are harassed, abused and terrorized with fear for loss of their livelihood. However, there are many individuals from every region who, if put under the protection of subpoena, will tell the truth. Threats levied against Inspector Douglas Peters are not idle ramblings. I experienced this myself when I openly disagreed with Sabatini in 2001. My experience of unwarranted personal attack, denial of my Constitutional rights and a public smear campaign is well known within the FAA to this day.

BACKGROUND

Critical lapses in the FAA's safety oversight of airlines is something I have witnessed and experienced from a vantage point inside the FAA chain of command. I was the FAA manager that was given the responsibility of overseeing the merger between AirTran Airlines and ValuJet Airlines (VJA), after the 1996 VJA tragedy that claimed 110 lives. This is not ancient history; the lessons learned from that tragedy provide key insights into the current problems with Southwest Airlines. It was the VJA accident that brought about the Airline Transportation Oversight System (ATOS), which the FAA pours millions of dollars into today. ATOS was the FAA's ultimate response to the following investigations, reports and review: 1) The NTSB VJA investigation that cited lack of FAA oversight as a causal factor; 2) a post-ValuJet Department of Transportation/Office of Inspector General (DOT IG) investigation to determine what was wrong inside the FAA; and 3) the FAA's own "90 Day Safety Review", which made recommendations intended to preclude the recurrence of another tragedy by rapid growth air carriers.

Oddly, when the FAA implemented the ATOS program, they did not include any rapid growth carriers, including the newly merged Valujet/Airtran airline, under the oversight umbrella of their new expensive ATOS program. In fact, I was flatly denied oversight resources and authorization to include the carrier that began the whole chain of events that resulted in the program. Instead, the FAA included only the top ten legacy carriers that were not the subject of the recommendation to develop the program in the first place. During the ensuing years, the FAA has spent millions of taxpayer dollars on ATOS. Meanwhile, the GAO has audited and reported continual problems with its effectiveness. The merged ValuJet/AirTran operation was finally admitted into ATOS nine years and eleven months after the May 1996 VJA tragedy.

As a result of this hearing on the Southwest Airlines/FAA expose', the FAA launched the so-called "Tiger Team." The ostensible purpose of this team is to investigate and correct the "breakdown" that occurred with Southwest (SWA) maintenance procedures, and the "breakdown" in their own oversight of those procedures. The premise, of course, that this is merely a "breakdown" in an otherwise effective system is faulty. A "breakdown" implies a one-

time event that is easy to identify and repair. A dysfunctional system, on the other hand, is an entirely different matter that requires extensive overhaul. It defies reason to assert that the system is otherwise effective when field inspectors have to risk their careers to get corrective action on such flagrant safety violations. A look at other incidents helps to shed light on the fact that the problems go much further than a mere "breakdown."

Did the FAA inspector that also came forward over Northwest Airlines (NWA) maintenance issues risk his career over a simple "breakdown?" In the NWA case, the DOT IG found, "FAA's handling of safety concerns appeared to focus on discounting the validity of the complaints. A potential negative consequence of FAA's handling of this safety recommendation is that the other inspectors may be discouraged from bringing safety issues to FAA's attention." The FAA's ATOS program did not uncover this "breakdown" either.

LOSS OF LIFE

Two other recent examples are the Jan.8, 2003, U.S. Airways Express crash in Charlotte, NC, with 21 fatalities (NTSB ID # DCA03MA022), and the Dec.19, 2005 Chalk's Airways crash in Miami, FL, with 20 fatalities (NTSB ID # DCA06MA010). In both of these accidents the NTSB cited "faulty maintenance and lack of FAA oversight" as causal factors. Are these tragedies also the result of "breakdowns," or do they demonstrate a larger pattern of the FAA's negligence? Close examination of the causal factors identified by the NTSB reveals that these accidents were preventable, and hold the seeds for a "major" accident. They resonate with the unmistakable echoes of the VJA and Alaska Airline (AKA) accident investigation findings.

Despite this, the FAA and its Associate Administrator for Aviation Safety, Nicholas Sabatini, continue to repeat the FAA mantra that this is the safest period in air transportation history. That empty phrase is routinely used as a defense against any criticism and findings of FAA deficiencies. The full measure of safety is not the singular fact that we have not experienced a "major airliner" accident in recent years, but rather, how effective are our oversight and accident prevention programs? Can inspectors do their jobs? The fatalities that have occurred, and the findings of the Whistleblower Inspectors do account for something, even if they don't register on the current FAA regime's Richter scale. Once the "major" accident happens it's too late. The finest accident investigation cannot undo the damage.

TWO EXAMPLES OF ABUSES OF "PARTNERSHIIP PROGRAMS"

Today's "partnership programs" are, for the most part, "don't ask, don't tell" understandings.

1. One illustration of this is the Service Difficulty Reporting (SDR) program. An independent snapshot review of Southwest's use of this program revealed 32 reports from various sources of SWA flight emergency returns and diversions from 2002 to the present. Of these 32 reports, only 10 are in the SDR database demonstrating approximately 31% compliance rate with the SDR program. Only 6 of those 10 show a cause. With FAA acceptance of this type of deficient reporting, how can any "partnership program", designed to identify adverse safety trends, have any validity?

2. Another example is the recent flurry of activity by air carriers grounding hundreds of their in-service aircraft to bring them into compliance with Airworthiness Directives (AD). Numerous "legacy" carriers, carrying thousands of passengers, had not complied with ADs to address fuselage cracks, rudder controls and wire arcing that could result in fires. The FAA's "partnership programs" did not reveal this gross non-compliance. It took intense media reporting to motivate the airlines to come into compliance. Most likely these unairworthy aircraft would have remained in passenger service if the media had not scrutinized the FAA's inattention and ineffectiveness.

The FAA's complicity allowed thousands of fare-paying passengers to be at risk. The "don't ask, don't tell" mentality has to go. A demonstrable change in culture is needed and today's' FAA management is incapable of accomplishing that.

INVESTIGATIONS

The government's Office of Special Counsel (OSC) currently has ordered two separate investigations as a result of disclosures I made about FAA gross mismanagement, resulting in a danger to the public. These disclosures reveal an outrageous dereliction of oversight responsibilities resulting in aviation safety and national security lapses.

With full knowledge of the risk to the public, the FAA has suppressed the information about FAA mechanic certificates that were obtained from a criminal enterprise, St. George Aviation. Mr. Anthony St. George was convicted and sentenced to two and one half years in federal prison for fraudulently issuing mechanic certificates to unqualified individuals. I was charged with recertifying the mechanics. This criminal activity was going on in the same place (Central Florida) and at the same time the 9/11 hijackers were receiving pilot certifications from area flight schools. When I instituted a genuine re-examination program, 80 percent of the first 350 mechanics failed to recertify. Inexplicably, Nicholas Sabatini responded by ordering the FAA cancellation of the program, leaving well over 1,000 untested mechanics working throughout the aviation industry. See attachment, "FAA Looks at Suspect Mechanics," USA Today, April 3, 2008.

As a result of my whistleblower disclosures to OSC, DOT IG required the FAA to resume the program, because of the potential impact on aviation safety. Sabatini's cancellation had left the program for dead for three years. The FAA has since admitted to making no effort to obtain information on where these people are employed or to establish liaison with any air carriers or repair stations where air carrier outsourced maintenance is conducted either domestically or at foreign locations. Further, under Sabatini and Ballough, the FAA has done no cross referencing with NTSB accident or incident investigations or data bases to determine involvement of St. George certificate holders where "faulty maintenance" has been cited as a causal factor of fatal accidents. They simply do not know if any of these mechanics are involved in the current SWA maintenance "breakdowns" or the broader issues of this hearing.

The FAA finally has an incomplete, partial retesting effort underway that does not meet their own regulatory certification requirements. They watered-down the test for recertification,

removing the requirement that an individual be able to demonstrate "hands on" competence, which is like handing out driver's licenses without making someone drive a car.

Potentially more disturbing is the fact that the list of names that obtained FAA mechanic certificates from the St. George criminal enterprise includes the name of a 9/11/01 hijacker, Saeed Hamid Alghamdi.

Since possession of an FAA mechanic's certificate can qualify an individual for employment and give them access to U.S. aircraft and airport security areas, it is astonishing that the FAA did not enact any airline notification/advisory procedures to U.S. air carriers. Neither Sabatini nor Ballough turned over the St. George list to any national security agency that could determine the level of risk caused by foreign nationals on this list. The DOT has requested another extension of time until May 12, 2008 to respond to OSC on this national security issue.

RESPONSIBILITY

So who is responsible for this state of affairs in the FAA? The FAA is an organization with a noble mandate, but it can only function as well as the individuals inside will allow. Like any government agency, the FAA is susceptible to all the weaknesses and challenges of any organization, such as positive workforce motivation and variations in the quality of leadership. To truly hold an organization accountable for the way it conducts business you have to hold the individuals, especially the leaders, accountable for their decisions. There are individuals who are not elected by anyone nor confirmed for their ability to properly conduct FAA business. These leaders enjoy the bureaucratic anonymity that comes with their taxpayer-funded jobs. In the case of a government agency, it is the fulfillment of a public trust that requires accountability to that public.

FAA Assoc. Admin. for Aviation Safety, Nicholas Sabatini, and his handpicked Dir. of Flight Standards, Jim Ballough, are the main drivers of this culture. There are also others who carry their water and the workforce knows well who they are. There is a history of the qualified being replaced by indebted cronies, and unqualified supervisors being promoted into even higher management positions. I can personally point to the FAA's Southern Region as just one great example of this. Under Sabatini's leadership, the FAA does not have a functioning safety system in place, only a taxpayer funded illusion of one. What actually is in place is a Quid Pro Quo understanding with the industry masquerading as "partnership programs". As this Committee has confirmed, the way it works is the FAA buries violations so carriers can operate with little to no negative effect on profits. However, when an outrageously unsafe condition, such as at SWA, breaks through the cover, everyone retreats to their " public position". FAA management feigns concern and proposes a civil penalty, and the carrier, of course, claims safety was never compromised and vows to appeal the penalty. It is a well-orchestrated show for public consumption. The FAA management responsible for violating the public trust pushes the blame downward in the organization..

Rep. James Oberstar has rightly called for the house cleaning of the FAA from "top to bottom." An FAA housecleaning for violations of the public trust must begin with the removal of Nicholas Sabatini and Jim Ballough. To have the necessary effect to begin to change the existing culture

in the FAA these must be removals, not resignations with parachutes leading to soft landings in highly paid industry jobs. Only by the removal of the toxic leadership can the conscientious inspectors stand up and lead the return of the FAA to the public trust and safety mandate.

Sabatini's relationships with special interests should be investigated for their influence on his FAA decision-making. He has allocated millions of taxpayer dollars to the ATOS *don't ask, don't tell* masquerade, that has proven ineffective and keeps hundreds of inspectors engaged in activities not productive to the FAA's safety mission.

In his March 29, 2007 appearance before the House Committee on Transportation and Infrastructure, Aviation Subcommittee, Sabatini stated, "I can assure you that my office is totally committed to making whatever adjustments the situation demands when it comes to safety oversight." Is the emerging evidence of silencing and intimidating safety inspectors his kind of adjustment? In my experience, the answer is "yes!"

WHAT CAN BE DONE

In addition to removing the FAA management that are responsible for the deterioration of the FAA's ability to enforce its safety mandate, and have created risk to the public, there are other actions that can and should be initiated, with a Congressional oversight timetable for completion.

1. The concept of managing the FAA safety mandate as a "business model" needs to be changed. This "business model" paradigm is inappropriate for a government agency whose expected product is public safety, not financial profit. Referring to the regulated air carriers as "customers" is inaccurate and sets up a "business" mentality that facilitates the revolving door. The FAA is a regulatory agency that should be guided by the Congressional legislation that created it, not air carrier profit and loss spreadsheets. The Federal Aviation Act of 1958 (re-codified) contains all the requirements and authority the FAA needs to do its job, and needs to be revisited. This enabling regulatory legislation doesn't refer to air carriers as FAA customers.
2. ATOS needs a major overhaul, or replacement by a program that actually emphasizes safety inspector findings and input, not rubberstamping whatever the air carrier provides. Analyzing deficient information provides nothing useful and takes inspector time away from real safety activities, such as engaging the air carriers on their shop floor. With less than an optimum size workforce, much can be done with taking advantage of current inspector expertise, by removing the blinders of ATOS program guidelines that stovepipe inspectors' attention.
3. The FAA's self-initiated, self-serving, "Self-Exam" amounts to nothing more than the wolf guarding the chicken coop telling you that everything behind the closed door inside the coop is OK. The recently issued FAA Notice 8900.36, that directs a paperwork-sampling audit is a self-created opportunity to give themselves a passing grade. Anyone finding problems would be admitting they did not do their jobs. An independent audit incorporating Congressionally mandated milestones, with FAA operatives standing at parade rest, would be more believable.

The House Committee could not have received more serious evidence of FAA gross mismanagement, which creates a danger to the flying public, without actually having a major accident occur. My "insider's analysis" is that the FAA needs a rebirth of integrity.

April 17, 2008

Honorable Peter DeFazio
2134 Rayburn H.O.B.
Washington DC, 20515

SUBJECT: Testimony of Mary Rose Diefenderfer, FAA Whistleblower (Alaska Airlines)

Dear Honorable DeFazio:

My testimony herein is in reference to the April 3, 2008 FAA whistleblower testimony before United States Transportation and Infrastructure Committee, headed by yourself and Representative Oberstar, and how that testimony directly relates to the FAA lack of oversight of Alaska Airlines and the ***Alaska Airlines 261 crash*** in January 2000.

I believe it is necessary to bring this matter to your attention because the circumstances are similar, but as a FAA whistleblower, I lost my career. However, the high ranking FAA management personnel are still in positions of authority over Alaska Airlines, which I believe is a great detriment to public safety to this day. I respectfully request your assistance in investigating this matter, including the illegal activities of FAA management, and bringing this matter to a conclusion with my career reinstatement.

I will draw a comparison between the inspector testimony during the April 3, 2008 hearings, where inspectors described the actions of Southwest Airlines and FAA Southwest Region management, with the actions of Alaska Airlines and FAA Northwest Mountain Region management (headed by Mr. Bradley Pearson) between 1991 and 2003. The story is much the same. However, people died in the case of Alaska Airlines.

My comparison will show that Alaska Airlines' lack of regulatory compliance and negative safety culture was brought to the attention of FAA management in Seattle, and was not only ignored, but a systematic campaign of retaliation was initiated against those inspectors, including me, who spoke up for the flying public. I believe that if our warnings had been heeded by FAA management, 88 people might not have died on that Alaska Airlines flight in 2000. The real tragedy is that Mr. Pearson and other FAA managers were never held accountable for their retaliatory actions against inspectors prior to the accident, and for their misleading statements about the whistleblowers and the Alaska Airlines culture during the NTSB testimony.

I served as FAA Principal Operations Inspector (POI) in Seattle overseeing Alaska Airlines from 1993 through 1997 (Northwest Mountain Region, Seattle Flight Standards District Office). My duties were as primary Flight Operations Inspector with direct responsibility for Alaska Airlines legal approvals and operations surveillance program. I also had oversight responsibility for three other inspectors, who reported their findings to me for action. Subsequently, from the end of 1997 until the end of 1999, I worked for the FAA in another office after being suddenly reassigned for whistleblowing. I was forced out of the FAA two months before the crash.

As POI, I found a highly dangerous safety culture within Alaska Airlines. It was one of defiance of regulatory authority, especially the FAA, and a culture that appeared to lack any consideration for safety. The culture seemed to be one of "get the job done no matter how illegally you have to do it". There was also a strong culture among mid-level and senior Alaska Airlines management that false complaints against FAA inspectors would keep the FAA from finding deficiencies because inspectors would be reassigned, or at least restricted.

I reported my Alaska Airlines safety findings, as well as the findings of the three inspectors who reported to me, through the FAA chain of command, but our warnings were not heeded. In fact, FAA management began to ostracize me, hindered me from making future reports and correcting problems, sent me to "reprogramming" sessions disguised as a customer service initiative, reassigned me, escalated the retaliation, and ultimately forced me out of the agency though bogus disciplinary actions at the end of 1999. My career was virtually ended for trying to protect the flying public. The three other inspectors experienced similar treatment and two were reassigned from their positions- just like the inspector group overseeing Southwest Airlines.

Ultimately, in May 1997, three Alaska Airlines inspectors and I made a whistleblower report to the DOT Office of Inspector General in Seattle, which focused on FAA management hindered us from performing our jobs and pandered to Alaska Airlines. We expressed our concerns that Alaska Airlines was headed towards a major disaster, and that FAA management's actions were going to be a contributing factor. I also made reports to FAA Security, the FBI, and the NTSB (following the accident). The various parties were warned of an impending disaster if conditions didn't change.

Two months after I was forced out of the FAA, Alaska Airlines 261 crashed off the coast of California killing 88 people. The NTSB ultimately found that the FAA Seattle Office contributed to the crash by its lack of oversight (the report is online at the NTSB website). I believe that if the FAA would have listened to the Alaska Airlines inspector team, those 88 people would still be alive.

During the Transportation and Infrastructure hearing, the ***FAA inspectors overseeing Southwest Airlines*** testified to the following conditions great detail:

1. Regulatory and safety deficiencies at Southwest Airlines
2. Attempts to correct the deficiencies were thwarted by FAA management
3. A culture in the FAA office overseeing Southwest Airlines of "No see, no tell"
4. FAA management held "customer relations" above safety and regulatory considerations, even forcing inspectors into Customer Service Initiative (CSI) meetings
5. Southwest Airlines used this CSI process to complain about inspectors who found violations and have them reassigned
6. The inspectors who found problems had their careers threatened, faced disciplinary action, were harassed, and were reassigned to other jobs

Please take a moment to review and compare the almost identical treatment in chronological order of ***FAA inspectors who oversaw Alaska Airlines*** from 1991-2000, keeping in mind that the current Division Manager, Brad Pearson, was in charge throughout those years. The <u>underlined text is FAA/airline action</u> that is similar to what inspectors reported in the hearing:

1. 1991/1992- Robert Lloyd is Principal Operations Inspector. He finds Alaska Airlines <u>falsifying pilot training records</u> for required simulator windshear training. He initiates an enforcement investigation on the case. <u>He is harassed</u> by FAA management for his findings and ultimately is <u>told to drop the case</u> after his investigative <u>evidence package disappears</u> from his desk while meeting with the Division Manager, a meeting which the Division Manager called regarding the falsification case.
2. 1993- I (Mary Rose Diefenderfer) am Principal Operations Inspector. I find <u>falsification of pilot training records</u> and make a report to both FAA Security (due to the criminal nature of the case) and FAA Flight Standards management. <u>I am harassed, have my FAA</u>

required medical certificate threatened, have my career threatened, and I'm ultimately reassigned to another office. I file an EEOC case and I'm returned to the POI position. (Falsification was proven and action taken)

3. 1994-1997- I, as well as other inspectors who work for me, warn FAA management that the safety and regulatory compliance culture at Alaska Airlines is degrading and could result in an accident. We are ignored, and enforcement paperwork is "lost" at the management level.
4. 1995- Alaska Airlines management is forcing pilots to make dangerous and illegal instrument approaches to airports in the State of Alaska. I fly to Dutch Harbor to investigate and find basis for an enforcement case. FAA management restricts me from investigating and traveling to Dutch Harbor in the future.
5. 1996- Alaska Airlines threatened inspectors with their jobs if they don't back off of enforcement actions.
6. Alaska Airlines attempts to have inspectors removed numerous times between 1994-1996 through various types of complaints.
7. 1997- Inspectors are finding more violations at Alaska Airlines, so the airline escalates complaints about inspectors. Two violations appear to be falsification of records, a criminal offense. Inspectors investigate and find cause to pursue legal action.
8. Alaska Airlines Chief Pilot admits to making false entries in the pilot training records. He is removed from his job. The FAA supervisor, Phil Hoy, begins a campaign against the inspectors to intimidate them into ignoring the violation.
9. I attempt to change Alaska Airlines record keeping requirements so it's easier to spot falsification of records but I'm not permitted to do so after complaints by Alaska Airlines VP of Flight Operations.
10. The supervisor, Phil Hoy, restricts the inspectors from gather evidence, including restricting the inspectors from doing unannounced spot checks.
11. FAA Supervisor, Phil Hoy, informs the Alaska Airlines VP of Flight Operations of the details and status of the inspector's investigations during the investigations.
12. Alaska Airlines refuses to provide information to the inspectors during investigations. Phil Hoy does not support the inspectors.
13. After inspectors find violations, Phil Hoy tells the airline to investigate their own violations and determine if, in fact, a violation occurred. This is contrary to FAA regulations and the Voluntary Disclosure Program.
14. Alaska Airlines VP of Flight Operations informs the FAA Supervisor, Phil Hoy that he is going to do everything in his power to get rid of inspectors who have regulatory violation findings. He follows up with false accusations, which the inspectors must defend.
15. Phil Hoy, the supervisor, informs inspectors that he believes what the Alaska Airlines VP tells him, and not what the inspectors report.
16. Phil Hoy informs inspectors that the inspectors are too hard on the airline and he feels compelled to stop them. Career threats are implied.
17. Phil Hoy does not allow inspectors to send Alaska Airlines letters of investigation. This means that inspectors are not allowed to open case files on violations they discover.
18. Alaska Airlines CEO, John Kelly, informs FAA supervisor, Phil Hoy, that if FAA violation penalties were over $50,000 he would sue the FAA (penalties over $50,000 are posted on the FAA's website). All future sanctions were below $50,000.
19. Two pending maintenance violations/sanctions for the airline knowingly flying with leaking fuel tanks and cracked landing gear are dropped below $50,000. Inspectors originally recommended sanctions of over $1 million dollars because the airline knew of the problems, but flew the aircraft anyway.
20. The supervisor, Phil Hoy, and Seattle Flight Standards District Office Manager, Marlene Livack, place inspectors in "facilitated meetings" to make inspectors understand

customer service (at Alaska Airlines request to apparently force the inspectors to pander to the airline. This is similar to the FAA and Southwest Region's Customer Service Initiative)

21. Alaska Airlines VP of Flight Operations tries to pressure FAA management into shortcutting required program approval processes by making complaints that inspectors are holding up approvals. The supervisor and office manager imply threats against the inspectors, and badger inspectors in required "facilitated" meetings.
22. Other Alaska Airlines inspectors and I report Alaska Airlines safety/regulatory deficiencies, and FAA management interference to the Division Manager (Brad Pearson) but he does nothing to address the illegal activity. Rather, he supports the airline and the District Office management by his threats that "something in the relationship (inspectors and Alaska Airlines) had to change, or else." "Or else" was a threat that Pearson fulfilled by supporting the harassment and removal of inspectors.
23. May 1997- Four Alaska Airlines inspectors, including me, make an official whistleblower complaint to the Office of Inspector General in Seattle, citing management harassment and interference of FAA inspectors in making safety findings and pursuing violations.
24. Alaska Airlines is making illegal instrument approaches into the Reno Airport, but my attempts to stop them are thwarted by my supervisor, Phil Hoy, and office manager, Marlene Livack.
25. After writing numerous letters to Alaska Airlines management officials in 1997 citing safety and cultural problems, I am reassigned with no notice to another office.
26. Several inspectors who worked for me and who found safety violations are told by the supervisor that "their careers would be better served in another section". They are transferred from Alaska Airlines oversight.
27. The one of the two potential falsifications of records violations is closed with no action and the other simply disappears from the FAA database.
28. June 1997- Alaska Airlines mechanic, John Gustafson, writes a letter to the Seattle FAA office citing numerous specific instances of Alaska Airline management making false entries in aircraft maintenance logbooks. The FAA does nothing.
29. 1997/1998- My husband's supervisor, Tom Anderson, threatens my husband with loss of his career if he "didn't get his wife under control".
30. Supervisor Phil Hoy threatens inspector, Les Martin, with career loss if he didn't request a transfer out of the Alaska Airlines section.
31. 1998- John Liotine, an Alaska Airlines mechanic, makes a disclosure of falsification of records by his supervisor to the FAA. FAA officials didn't believe him then worked with Alaska Airlines to fire this employee and allegedly cover up the violations. ***The record that was falsified by the supervisor was John Liotine's order to change the jackscrew on the same aircraft that crashed in January 2000 due to the jackscrew failure. If the FAA had believed the inspectors and John Liotine, 88 people would be alive today.***
32. 1998- The FBI begins a criminal inquiry into falsification of maintenance records by Alaska Airlines. Finally certificate action is taken against certain Alaska Airlines management officials in the maintenance department and a small fine is levied against the airline (under $50,000).
33. 1999- I submit a safety report and recommendation about Alaska Airlines continuing to make illegal approaches to the Reno airport. My attorney also makes a press report about lack of whistleblower protections for FAA employees under the FAA Excepted rules. The FAA escalates their harassment of me.
34. I am assigned to a supervisor, Mike Kelly, who has a criminal arrest record of abuse of females. FAA Division Manager, Brad Pearson and other managers supported this supervisor to the extent that FAA officials paid his bail and pleaded on his behalf to the

court. His charges were then dropped from a felony to a misdemeanor, and because of the FAA's testimony on his behalf, he served jail time at night and worked at the FAA during the day.

35. I'm disciplined by Mike Kelly for my attorney's contacts with the press regarding whistleblower protections
36. FAA officials lie in sworn statements to the US Attorney about me.
37. I am forced out on Leave Without Pay (LWOP) to try to preserve my career and remove myself from Mike Kelly's abuse. I'm on LWOP from April 1999 until December 1999.
38. I'm harassed at home on LWOP by Mike Kelly, and eventually ordered back to work for him after continuing my whistleblower reports about the safety of Alaska Airlines and Mike Kelly's abusive behavior.
39. Although I'm on approve LWOP, I'm placed on AWOL by the FAA after making a complaint about Mike Kelly's abusive and retaliatory behavior towards me. I'm given a 14 day suspension notice.
40. I'm turned down for transfers to safer offices and regions.
41. I'm sent for psychological evaluation.
42. I take constructive discharge in late November 1999.
43. Mike Kelly gets a promotion.
44. Meanwhile, the remaining operations inspectors overseeing Alaska Airlines are afraid to find violations, presumably because they also fear retaliation. The inspector mantra now seems to be, "No see, no hear" airline deficiencies. Very few violations are found.
45. January 2000, Alaska Airlines flight 261 crashes, the FAA is found negligent through lack of proper oversight. There were no repercussions for FAA management.
46. After the accident, FAA Headquarters inspectors spend months trying to bring Alaska Airlines up to standards. However, Alaska Airlines continues its resistant attitude against the FAA and Federal Regulations.
47. The new Principal Maintenance Inspector, Bill Whitaker, is removed from his position after he attempts to make positive safety changes within Alaska Airlines after the crash of flight 261.
48. In the late 1990s and prior to the Alaska Airlines crash, Tom Stuckey (The same Tom Stuckey from the April 3, 2008 hearings) was in a position of leadership at FAA Headquarters. He was instrumental in the retaliation against inspectors who had oversight of Alaska Airlines during the late 1990s.
49. In 2003 the FBI again opens a fraud investigation against Alaska Airlines.

Although these bullet points are abbreviated and not all inclusive, they demonstrate an egregious, concerted, and ongoing effort on the part of FAA Flight Standards Northwest Mountain Region management to protect Alaska Airlines and destroy inspectors doing their jobs.

Between 1991 and 2000, three Principal Inspectors (Bob Lloyd, Bill Whitaker, and me) reported safety deficiencies and were harassed and/or reassigned. In 1997, three of the four inspectors who made a safety report to the DOT OIG were reassigned (Jewett Gibson, Lester Martin, me). The fourth inspector (Steve Franklin) was all but silenced through disciplinary actions.

All the indicators described in the Inspector Handbook (Order 8400.10) were present between 1991 and 2000, and pointed to a future major accident, but FAA management did nothing except restrict, harass and remove the reporting inspectors and retaliate against me to my breaking point. What kind of message does this send to a regulated airline and to the inspectors who are supposed to be the regulators?

However, the facts remain. I blew the whistle between 1993 and 1999 and I lost my career, but 88 innocent passengers and crew died anyway on Alaska flight 261.

That testimony I set forth above is true and can be substantiated through documents and witnesses.

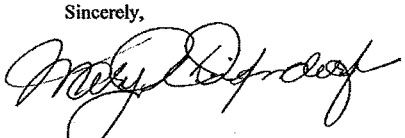
Therefore, keeping the Southwest Airlines inspector testimony in mind, and my testimony herein, I respectfully request your assistance in two areas:

1. I would like my career reinstated with the FAA, just as those Southwest Airlines and Northwest Airlines inspectors were protected and able to return to work after an identical situation. Along with that, I would like the FAA to make me whole for the past years that I suffered away from my career. I have not been able to secure employment in my field and I can only guess that the FAA has seen that I do not.
2. Brad Pearson must be held accountable for his malfeasance and the deaths of 88 people in the crash of Alaska Airlines flight 261.

I recognize that this is a very big request, but I have suffered mentally, physically, and financially for years because I fulfilled my duties to the public as a FAA inspector under the law, while unscrupulous FAA management in Seattle allowed the degradation of safety and the crash of Alaska Airlines flight 261 to occur. It is time this situation is corrected and the real culprits are held accountable for their egregious and illegal activities.

I can be contacted at 206-244-6099 for more information or for personal testimony. I appreciate your time and attention in this matter and I look forward to hearing from you.

Sincerely,



Mary Rose Diefenderfer
Ex-FAA POI, Alaska Airlines Section

Attachments:

2001 Letter to President Bush
2003 Letter to President Bush

Mary Rose Diefenderfer
10706 Glen Acres Dr. S.
Seattle, WA 98168



SOUTHWEST AIRLINES
PILOTS' ASSOCIATION

House Committee on Transportation and Infrastructure
Hearing:

Critical Lapses in FAA Safety Oversight of Airlines: Abuses of Regulatory "Partnership Programs"

Statement for the Committee Record
Submitted by the Southwest Airlines Pilots' Association

April 3, 2008

Chairman Oberstar, Ranking member Mica, and members of the House Committee on Transportation and Infrastructure, the Southwest Airlines Pilots' Association (SWAPA) is an independent union representing the 5,607 pilots of Southwest Airlines. As pilots we consider the safety of our passengers and crew our highest priority and are proud of our safety record, which is second to none in the industry.

While flying the public in his Boeing 737, the Southwest Airlines pilot is at the front line of safety for the passengers, the crew, and the airline as a whole. A pilot at Southwest trusts his airplane to be the best in the world and would not fly it if he thought otherwise. The trust he places in his maintenance department is absolute and well deserved. It goes without saying that for the pilot, the consequences are very personal.

As a result, SWAPA is proud to have taken the lead in embracing the Safety Management Systems (SMS) approach which has been adopted by ICAO and the FAA. SMS is a shared set of assumptions, values, and proven industry best practices that enables a business, such as Southwest Airlines, engaged in high reliability and high consequence endeavors to succeed with outstanding margins of safety. Danger and risk can come in unexpected and subtle ways, since aviation incidents tend to result from the confluence of

many seemingly unrelated issues. A true safety culture puts a premium on obtaining information instead of making judgments. Much like the athlete striving for Olympic gold, SMS represents a way of thinking that places great value on a non judgmental quest for knowledge as a way to constantly improve.

A safety culture is anchored by a philosophy embraced by the top executive and effectively communicated and practiced by all in the organization. Consequently, SWAPA, through its safety department, has led the way by obtaining and providing formal training in safety management systems, developing a standard training manual and creating a dedicated human factors department to understand the complex issues surrounding how man and technology interact.

Large jet aircraft are designed to be flown by a crew of two people or more. A crew that works together and depends on each other is essential for ensuring the right information is gathered for the right decision to be made. In the same manner a safety culture cannot consist of one entity. Labor and management must be partners. They must recognize in the end they are codependent on each other and neither is expendable when safety is concerned. Trust built out of character and competence cannot come from a regulation or a fine, it must start with the chief executive and emanate throughout an organization. Such an environment can only exist if those entrusted with safety of the passengers have the tools they need create the culture of safety.

Just as MRI or CAT scan devices used by physicians, programs like the Aviations Safety Action Partnership (ASAP) and Flight Operations Quality Assurance (FOQA) allow those trained to study safety to look inside the organism that is an airline to see problems before they can metastasize into accidents. These non punitive information gathering programs are the pillars that raise the flying public to new heights in safety. Congress must ensure that these programs are supported, protected and strengthened.

The proof is in the facts: The American traveling public now flies in the safest period in the history of aviation. This is no accident. The voluntary, non punitive programs that

have been developed by safety management professionals, many of whom are pilots, are the answer.

A safety culture cannot be a paper drill. Just like this great country, it must be built on bedrock of shared values, open reporting, and a just culture. SWAPA looks forward to working together with the airline, FAA and the Congress to strengthen and improve the safety culture we believe already sets the standard for the world.

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