

Docket No. SA-531

Exhibit No. 2-00

NATIONAL TRANSPORTATION SAFETY BOARD

Washington, D.C.

Operations Group Chairman
FAA Response to NTSB Recommendation A-05-01
September 9, 2005

(3 Pages)



U.S. Department
of Transportation

**Federal Aviation
Administration**

Office of the Administrator

800 Independence Ave., S.W.
Washington, D.C. 20591

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The Honorable Mark V. Rosenker
Acting Chairman, National Transportation
Safety Board
490 L'Enfant Plaza East, SW.
Washington, DC 20594

Dear Mr. Rosenker:

This is in response to Safety Recommendations A-05-1 and -2 issued by the Board on January 27, 2005. These safety recommendations were issued as a result of the Board's investigation of an accident on July 13, 2003, involving Air Sunshine, Inc. (doing business as Tropical Aviation Services, Inc.), flight 527. The airplane, a Cessna 402C, N314AB, was ditched in the Atlantic Ocean about 7.35 nautical miles west-northwest of Treasure Cay Airport, Treasure Cay, Great Abaco Island, Bahamas, after the in-flight failure of the right engine. Two of the nine passengers sustained no injuries, five passengers and the pilot sustained minor injuries, and one adult and one child passenger died after they evacuated the airplane. The airplane sustained substantial damage. The airplane was being operated under the provisions of 14 CFR Part 135 as a scheduled international passenger commuter flight.

A-05-1. Require all Part 121 and 135 air carriers to obtain any notices of disapproval for flight checks for certificates and ratings for all pilot applicants and evaluate this information before making a hiring decision.

FAA Comment. Notices of Disapproval for flight checks for certificates and ratings are not among the Federal Aviation Administration's records explicitly required by the Pilot Records Improvement Act of 1996. To require that all 14 CFR Parts 121 and 135 air carriers obtain such notices would require FAA rulemaking or a change in the statute itself.

In fact, some air carriers are currently using a practice of asking a pilot job applicant to sign a consent form, permitting the FAA to release records of Notices of Disapproval to the air carrier requesting them, as part of their preemployment screening. The FAA, in turn, furnishes those records to the air carrier without violating Privacy Act laws.

To address the safety concern outlined in this safety recommendation, the FAA will amend Advisory Circular (AC) 120-68, Pilot Records Improvement Act of 1996, to add the following note after subparagraph 8(a)(4)(a):

Additional information. A *letter of consent* signed by a pilot job applicant may be used to authorize the FAA to release records of Notices of Disapproval for flight checks for

certificates and ratings to an air carrier making such a request. Air carrier representatives involved in screening pilot job applicants may find this additional information helpful in evaluating an applicant.

I will provide the Board with a copy of the amendment to AC 120-68 as soon as it is issued.

A-05-2. Conduct a study to determine whether the number of flight checks a pilot can fail should be limited and whether the existing system of providing additional training after a notice of disapproval is adequate for pilots who have failed multiple flight checks. On the basis of the findings of the study, establish a flight check failure limit and modify the recheck training requirements, if necessary.

FAA Comment. The FAA conducted a study in 2004 to determine if there is a correlation between flight test failures and the airman being cited in an FAA enforcement action. A review of a total of 15,024 disapprovals against the FAA Enforcement Information System showed a very low correlation, less than one percent. While any single case of involvement in an FAA enforcement action may have little significance, taken collectively involvement in enforcement can be an indicator of lack of qualities that make up a safe pilot, including required skills, knowledge, or compliance disposition. This study showed a negligible correlation between test failures and enforcement. We would be pleased to provide further details on this study to the Board.

An additional concern that has been raised by training experts and FAA inspectors as regards establishment of a hard limit on the number of test failures, is that, particularly as this limit is approached, examiners will be extremely reluctant to find an applicant unsatisfactory. This could result in applicants passing flight checks who otherwise would not, with net negative safety consequences.

As discussed in response to Safety Recommendation A-05-1, there are systems in place to enable 14 CFR Parts 121 and 135 operators to take additional steps to screen applicants. The amendment to AC 120-68 will strengthen the use of letters of consent to authorize FAA to release records of Notices of Disapproval for flight checks to prospective employers. The cost of retraining and other economic considerations also tend to screen out pilots who are consistently poor performers.

I believe that the FAA has satisfactorily responded to this safety recommendation, and I look forward to your response.

Sincerely,



Marion C. Blakey
Administrator