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 CALA1515IMG_0055.JPG CALA1515IMG_0056.JPG IMG_0057.JPG

IMG_0058.JPG IMG_0059.JPG IMG_0060.JPG IMG_5111.JPG

IMG_5112.JPG IMG_5113.JPG IMG_5114.JPG IMG_5115.JPG IMG_5116.JPG IMG_5117.JPG IMG_5118.JPG

IMG_5119.JPG IMG_5120.JPG IMG_5121.JPG IMG_5122.JPG

IMG_5123.JPG IMG_5124.JPG IMG_5125.JPG IMG_5126.JPG IMG_5127.JPG

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

TO: NAME	ROUTING SYMBOL	DATE
JTH	PCI	2/28/6
B MILLINS	MGR	

CALL	TIME	DATE
	1:45 PM	02/24/2006

ROUTING SYMBOL	ROUTING INITIALS

of Aircraft Systems

- [ ] 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

h CALA POI and COA Mgr regarding
accident in El Paso might be directly
e run up, on which they have received no
ALA have not received any FAA
e operations. Moreover, there is no
(AFM), Checklists, Quick Reference
guidance for the pilot to do maintenance

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 AFM PAGES ON CRM & THREAT/ERROR MANAGEMENT PHILOSOPHY FROM CALA AFM

OI, 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,

FROM: P. THRASH | TELEPHONE NO. 2448 | ROUTING SYMBOL COY

FAA Form 1360-13 (4-67) FORMERLY FAA FORM 2641 ☆ U.S.G.P.O.: 1992-668-012/60128

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

EPI 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

To meet this objective, the inspector must answer the following questions:

Question	Activity ID	Response	Explanation/ Yes Comments	Inspector Action Taken	ATA Code
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	--	--	--	--

OS v1.1 RMP
seph Thrash- CALA (ASI)

isk Management Process

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.

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.

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.

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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,

Jim

Captain R. J. Starley
Senior Director, Flight Operations

Continental

PILOT BULLETIN

Date: July 20, 2005
Expires: September 30, 2005
File #: I – 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,

Jim

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

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.
JP Thrash

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 JPThrash

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.

Mr. Thrash also submitted several suggested actions, which he believes the FAA should have taken 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

Enclosure 3 p 2
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 reduhdantly 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

Enclosure 1
JPTrash

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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JPThrash

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.

Enclosure 3 p. 6 JPThrash

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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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.

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: + 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.

<u>Pilots fly airplanes and mechanics conduct maintenance run-up procedures.</u>

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 21 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. Forsberg 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.

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,

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 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

PUBLIC LAW 103-272—JULY 5, 1994

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,

Inter-governmental 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

§ 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

Date: October 18, 2006 — rcvd Joseph Phil Thrash 10/23/2006

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:

Joseph Phil Rhum — 10/23/2006

Signature — 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 _____