

January 25, 2012

Ms. Tracy L. Biggs
Attorney, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, N. W., Suite 218
Washington, D.C. 20036-4505

Re: OSC File Numbers DI-11-2238 and DI-11-2709

Dear Ms. Biggs:

Please find FAA Inspector Daniel Mirau and my written response to the DOT-OIG Report, I11A004SINV, dated November 1, 2011, in response to your forwarding to the Secretary of The U.S. Department of Transportation our public safety disclosure.

Inspector Mirau and I have enclosed our signed written response and signed the OSC "Consent to Public Release of Written Comments on Agency Report" form.

As you can see in the FAA's response to the DOT-OIG and in our response, corrective actions to ensure Delta Air Lines Fuel Tank Safety (FTS) and Electrical Wiring Interconnection System (EWIS) maintenance programs comply to public safety Regulations is still on going. FAA Management continues to side with the Airline thwarting the Aviation Safety Inspector's ability to ensure compliance.

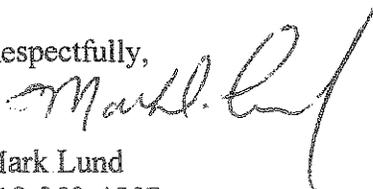
We will continue to follow FAA Management's and Delta's corrective actions and may have need to obtain The U. S. OSC's assistance again.

We sincerely thank you and The U.S. OSC for assisting us in keeping Americans safe in The United States' air transportation system.

We will be forwarding a copy of the Report and our Response to our Minnesota State Representatives Senator Amy Klobuchar and Congressman Chip Cravaack, who serve on their respective Aviation Subcommittees.

Please contact use if you need anything from us in the final processing of our disclosure.

Respectfully,


Mark Lund
612-253-4557


Daniel Mirau
612-253-4551

FAA Aviation Safety Inspectors
FAA-Delta Air Lines Certificate Management Office
Minneapolis, Minnesota

To: President Barack H. Obama, United States of America

The Honorable John L. Mica, Representative from Florida
Chairman, U.S. Congressional Committee on Transportation and Infrastructure

The Honorable Chip Cravaack, Representative from Minnesota
Vice-Chairman, House Subcommittee on Aviation

The Honorable Jay Rockefeller, Senator from West Virginia
Chairman, U.S. Senate Committee on Commerce, Science, and Transportation

The Honorable Amy Klobuchar, Senator from Minnesota
Senate Subcommittee on Aviation, Operations, Safety and Security

Secretary Ray LaHood, U.S. Department of Transportation

Acting Administrator Michael P. Huerta, U.S. Federal Aviation Administration

From: Mark S. Lund, Aviation Safety Inspector, Minnesota

Daniel J. Mirau, Aviation Safety Inspector, Minnesota

U.S. Federal Aviation Administration Delta Air Lines Certificate Mgmt. Office,
Minneapolis, Minnesota

Subject: Our Response to: The United States Office of Special Counsel,
File Numbers. DI-11-2238 and DI-11-2709

U.S. Department of Transportation Office of Inspector General Investigation
Report Dated November 1, 2011, "FAA Oversight of Delta Air Lines Fuel Tank Safety
And Electrical Wiring Interconnection System Maintenance Programs"
Investigation Number I11A004SINV

January 25, 2012

Dear President Obama:

As we understand from the U.S. Office of Special Counsel (OSC), this written response will accompany their Report when it is forwarded to your office. We have signed our consent so that this response will be made available to the American citizens with the public release of the OSC Report, File Nos. DI-11-2238 and DI-11-2709. We respectfully offer this written response, as U.S. Government employees in service to the citizens of The United States of America in the performance of our duties, to ensure and maintain public safety in America's air transportation system.

We understand that we are protected by the laws of the United States of America from retaliatory acts against us by Federal Aviation Administration (FAA) management for our whistleblower disclosure of FAA management's continued demonstration to disregard their oath of office to the American people by catering to the desires of the airline(s), instead of addressing the safety concerns raised; and electing to retaliate against your employed FAA Aviation Safety Inspectors for disclosing airline safety concerns in their efforts to ensure the American public's safety. FAA Management continues to thwart the effectiveness of the Aviation Safety Inspector to uphold the public's safety.

During our public safety disclosure and subsequent U.S. Department of Transportation's Office of Inspector General (DOT-OIG) Investigation, FAA Supervisor Sam Varajon, of the FAA-Delta Air Lines' Certificate Management Office (FAA-Delta-CMO), pursued, April-July, 2011, disciplinary actions against your employed Aviation Safety Inspector who is party in this disclosure. FAA Supervisor Varajon has demonstrated hostile aggression towards Inspector Lund forcing repeated written requests from Inspector Lund to FAA-Delta-CMO Management to be re-assigned to another supervisor. It was only after Inspector Lund raised our public safety concerns to AFS-1 did FAA-Delta-CMO Management re-assign Inspector Lund to remove him from Varajon's aggression. We can provide, upon your request, documentation to support this fact. As we understand our Federal Law, 5 U.S.C. Section 2302(b)(8), Mr. Varajon's action are not lawful and warrant disciplinary actions.

FAA Supervisor Varajon received written correspondence of Delta's FTS and EWIS non-compliance from Inspector Lund before March 10, 2011, the Regulatory compliance date for 14CFR 121.1111, Delta's incorporation of EWIS maintenance program. The findings of non-compliance before Varajon's FAA approval currently exist at Delta even after his approval as evidenced by the FAA and DOT-OIG Investigations, FAA's issuance of enforcement actions, Delta's re-inspection of B757 aircraft due to incorrect EWIS maintenance instructions, and a special project by Delta to remove improper electrical wire ties from the engines fitted to their MD88 aircraft because the FAA ACO engineers would not approve the Delta wire tie method. One has to question FAA Management's statements, in their Memos attached to the DOT-OIG Report, that Delta's noncompliance is only "administrative" errors and are not safety of flight critical. We can provide documentation, upon request, to support the facts as stated herein.

We find it ironic that FAA Supervisor Varajon is currently assigned responsibility for the correction of Delta's FTS and EWIS compliance when he was the FAA Supervisor that forced our public safety disclosure because he did not ensure Delta's full compliance before his approval. And instead of ensuring Delta's EWIS compliance as of March 10, 2011, FAA Varajon proceeded with his aggression towards Inspector Lund in his attempts of unfounded disciplinary action. FAA Supervisor Varajon displayed visible anger towards us during the DOT-OIG Investigation.

In addition, Delta EWIS maintenance instruction task cards, that were found to lack correct and complete instructions before Varajon's approval by us FAA Aviation Safety Inspectors, have now been found unacceptable by the FAA ACO Engineers. This required a re-inspection of ten (10) Delta B757 aircraft to ensure the safety of the applicable aircraft. As of the writing of this response, additional Delta task cards have been identified with incorrect maintenance instructions for the EWIS inspections required on Delta's B757 engine electrical wiring. Yet, these types of deficiencies were all briefed to FAA Supervisor Varajon before he

gave approval. One (1) lone FAA Supervisor gave away all the hard work and tax payer dollars expended to develop FTS and EWIS maintenance requirements enacted to keep the public safe. FAA Management apparently supports this one (1) lone Supervisor and Delta Air Lines' by concluding faulty maintenance instructions do not impact the public's safety and then continuing to allow this FAA Supervisor to obtain full compliance from Delta.

As of the writing of this response, the current FAA Supervisory Principal Avionics Inspector Nicholas Pearson of the FAA-Delta-CMO has pre-aligned himself with Delta's position over the reviewing Aviation Safety Inspectors' noncompliance findings unless undue effort is taken by the Inspector to convince him otherwise. FAA Management has sided with Delta and has improperly placed the Airlines' burden of responsibility for FTS/EWIS Regulatory compliance on to the FAA Aviation Safety Inspector. As such, it may be necessary for us Aviation Safety Inspectors to initiate another U.S. OSC public safety disclosure, again at unnecessary tax payer's expense, due to FAA Management's continued preference to support the Airline instead of the highest level of public safety. We, FAA Aviation Safety Inspectors, will not be derelict in our duties to uphold the public's safety and trust.

The FAA enacted Federal Aviation Regulations (FAR) to protect the public from another fatal airline accident as the TWA Flight 800 in flight explosion of the center fuel tank and the Swiss Air Flight 111 in flight fire, both reportedly caused by electrical wire failure, shorting and burning causing the accidents and hundreds of loss of American lives. FAA issued Airworthiness Directives under 14CFR 39 and 14CFR 121.1113 mandating the incorporation of Fuel Tank System (FTS) maintenance programs and 14CFR 121.1111 mandating incorporation of Electrical Wiring Interconnection System (EWIS) maintenance program that were developed by the aircraft manufactures, i.e., Boeing and Airbus, and FAA Approved by the FAA Aircraft Certification Offices.

The importance to the public's safety to note is that these FTS and EWIS maintenance instructions were required to be approved by FAA Engineering Offices to ensure the aircraft's safe design is maintained throughout its operating life with the airlines.

In January 2011, a Delta Air Lines' Boeing B757 aircraft experienced the failure of electrical wiring, burning and shorting, in a wire bundle that contains fuel tank system wiring; A similar electrical wire failure scenario as the TWA 800 fuel tank explosion. Both the U.S. OSC and FAA's Director of Flight Standards (AFS-1) have seen evidence of the electrical wiring that burned on the Delta B757 while it was flying in passenger service, an aircraft that carries over 180 passengers. An event like the TWA 800 accident is very real and the reason FAA enacted public safety Regulations mandating maintenance instructions that are FAA Approved by FAA Engineering personnel. It is beyond belief that FAA Management provided statement during this DOT-OIG Investigation that airlines are only required to meet the "intent" of these FAA Engineering Approved maintenance requirements and that errors in maintenance instructions do not affect flight safety of the passengers.

The Delta B757 burned wiring event brings to attention our grave public safety concern with Delta Air Lines' compliance with FAA FTS and EWIS Regulations. We find it disrespectful to the public's safety that FAA Management finds the Delta FTS and EWIS maintenance instruction and program errors are not safety of flight concerns as stated in the FAA attached Memos to the DOT-OIG Report. FAA Management's position discloses clearly their

failure to uphold the public's safety in light that their Memo dated, November 8, 2011 from the FAA Manager of the Delta Air Lines Certificate Management Office (FAA-Delta-CMO) to FAA AFS-1 states that, "...For FTS AD deficiencies that may result in a mechanic performing a task incorrectly, the CMO has required Delta to evaluate these deficiencies against all fleet types..." (ATTACHMENT 1, page 1, Allegation 1, 4th paragraph). Apparently, incorrect maintenance instructions that could result in a mechanic performing incorrectly is not a safety of flight concern for FAA management.

To further note, the FAA Memos attached to the DOT-OIG Report state that enforcement actions have been taken against Delta for their non-compliance. Management states they are using these to correct Delta's non-compliance. Yet, the deficiencies are classified as "administrative" findings and not safety of flight findings. FAA Management's determination of public safety is questionable in their DOT-OIG response Memos. Their determination that the deficiencies with Delta's FTS and EWIS maintenance programs are not safety of flight critical does not agree with their actions to obtain corrections to ensure full compliance.

Mr. President and Mr. Secretary, is it your preference that an airlines' aircraft mechanic have correct maintenance instructions to ensure he is doing maintenance properly? If he did not have correct instructions and he performed FTS and/or EWIS maintenance incorrectly which could lead to the burned fuel system wiring on the Delta B757, would not this be unsafe for flight?

Yet, FAA Management has determined this is not an unsafe situation. Why then did enormous amounts of tax payer dollars get expended to have FAA Engineering approve FTS and EWIS maintenance instructions, (ICAs) if it is not flight safety critical?

We wish to offer that FAA Management has taken this position because other airlines besides Delta Air Lines may also not be in full compliance with FTS and EWIS Federal safety Regulations. This is evident because FAA Management and the AFS-1 IAC Investigation Team identified a need to revise FAA guidance and revise FAA training to ensure FAA Aviation Safety Inspectors have been properly trained. This FAA finding applies across other airlines and their compliance with FTS and EWIS safety regulations. FAA Management surely does not want to publicly state that incomplete or incorrect FTS or EWIS maintenance instructions are not safe and may exist at other airlines. We clearly point out; it was not the FAA Aviation Safety Inspector that allowed Delta's FTS and EWIS non-compliance. It was FAA Supervision. Yet, FAA is proposing to re-train only Inspectors, not FAA Supervisors.

In consideration of the current Federal Budget crisis, we also offer our observations of the waste of tax payers' monies due to poor decisions by FAA Supervisors and Managers to not act upon the public safety concerns raised by us FAA Aviation Safety Inspectors.

The FAA Flight Standards Division (AFS-1)'s mission is, "to assure the safety, while enabling the adventure, commerce, and service of aviation." In recent times, the FAA has emphasized that "our customer" is the flying public. In addition, one of FAA's stated function is: "Promoting safety through monitoring compliance with the Federal Aviation Regulations, including the gathering of evidence and the preparation of Enforcement Investigative Reports (EIR) to support the initiation of administrative and legal enforcement action, when appropriate." (FAA National Policy FS1100.1B)

In this DOT-OIG Investigation, we see the many thousands of dollars wasted due to FAA Management's decisions to not resolve the public safety issues raised by us FAA Aviation Safety Inspectors within the FAA-Delta Certificate Management Office. This elevated to a special Southern Region Investigation with travel monies spent, to an FAA-AFS-1 Internal Assistance Capability (IAC) Team investigation which spent more travel monies, to involvement of the U.S. Office of Special Counsel (OSC) and the U.S. Department of Transportation Office of Inspector General (DOT-OIG) further increasing the cost to the American tax payer.

The spending of all these unnecessary tax payer funds to only confirm that our public safety concerns were valid as evidenced and recorded in the DOT-OIG Investigation Report, "FAA Oversight of Delta Airlines Fuel Tank Safety and Electrical Wiring Interconnection System Maintenance Programs," Number I11A004SINV, dated November 1, 2011.

We are FAA Aviation Safety Inspectors given oath in service to America's citizens to uphold their safety in airline transportation. They are "our customers."

President Obama, Why is it that FAA Management does not support us and our public safety duties without the additional waste of thousands of tax payer dollars spent for additional investigations? We, FAA Aviation Safety Inspectors, are paid to uphold the public's safety in the first place.

Secretary LaHood, Why is it that FAA Management does not work to support the FAA Aviation Safety Inspectors to keep the public safe? Why is it that FAA Management's first priority is to protect their reputation at the cost of unnecessary tax payer dollars?

Maybe the answer lies in the FAA-Flight Standards AFS-1 "Internal Assistance Capability (IAC)" document. It states, "This institutionalizes the Flight Standards Service (AFS) internal assistance capability (IAC), which is devoted to fact-finding, assessing, and making recommendations on matters of special interest to AFS top leadership. Normally, if unattended, such matters may adversely impact the reputation of AFS management or possibly negatively impact AFS safety oversight." To note, the document's Appendix contains no attributes to keep the public safe. It contains attributes to prepare disciplinary actions against FAA employees. It is clearly a process to protect the reputation of FAA Management. (Attachment 2, IAC document, page 1, first paragraph and page 4).

Thousands of dollars of tax payer monies were wasted to protect the reputation of FAA Management due to the public safety concerns raised by FAA Aviation Safety Inspectors as validated by the DOT-OIG Investigation.

The safety concerns raised were also validated by the recent FAA initiation of more enforcement actions against the airline for FTS and EWIS non-compliance of public safety Regulations enacted to keep the public safe from aircraft fuel tank explosions and electrical fires which have already caused aircraft accidents and loss of hundreds of American lives.

For fact, in January 2011, a Delta Air Lines Boeing B757 passenger aircraft experienced burned electrical wiring failure of portions of aircraft's fuel system wiring. This event was stated in OSC's July 22, 2011 disclosure letter to the Secretary of Transportation (page 3, first paragraph of the letter). This burned fuel tank wiring on the Delta B757 aircraft, similar to the

NTSB accident reported probable cause of the TWA800 fuel tank explosion, immediately brings to attention the validity of our grave public safety concerns with Delta Air Lines' non-compliance with mandated fuel tank system (FTS) and electrical wiring system (EWIS) maintenance programs.

This brings us to our second Federal Budget crisis observation with this DOT-OIG Investigation. FAA Flight Standards has a function to process enforcement actions for Federal Safety Regulation non-compliance. There currently is estimated in excess of two-hundred-million dollars (\$200,000,000.00) of civil penalty sanctions pending FAA enforcement actions or under current investigation for Delta Air Lines' non-compliance with Fuel Tank Safety (FTS) and Electrical Wiring Interconnection System (EWIS) Regulations enacted to save public lives.

This estimated \$200,000,000.00 civil penalty sanction amount against Delta Air Lines is collectable under Federal Law and complies with FAA's own legal sanction guidance provided in FAA Order 2150.3B, "FAA Compliance and Enforcement Program." One 2009 FAA enforcement case for Delta's non-compliance with Fuel Tank Safety (FTS) maintenance program requirements is still pending FAA Management's legal processing as presented in the DOT-OIG Report. And continuing into 2010, 2011, and 2012, FAA Aviation Safety Inspectors continue to process new enforcement cases for Delta's continuing non-compliance with Fuel Tank Safety (FTS) and Electrical Wiring System (EWIS) maintenance requirements enacted to keep the American public safe.

The FAA Flight Standards' Division has a function which includes collecting civil penalties for Federal revenues due to public safety Regulation noncompliance; And yet, in many instances this Federal authority to process and collect civil penalty revenues can be mitigated away by a single FAA Manager or Supervisor. We point out that FAA has publicly released a number of significant civil penalty cases against major airlines such as American Airlines and Southwest Airlines. Yet, for some reason, FAA Management has not publicly released significant cases filed by FAA Aviation Safety Inspectors against Delta Air Lines.

We ask you Mr. President and Mr. Secretary why this is? Why is FAA Management not collecting an estimated \$200,000,000.00 of civil penalty monies provided for by Federal law and FAA's own guidance when public safety laws are not upheld by Delta Air Lines? The American tax payer is paying for this service to collect these monies when airlines do not comply with safety regulations. We, FAA Aviation Safety Inspectors have done our due diligence in enforcement investigation filings for Delta's noncompliance as servants for public safety. Yet, FAA Management is not processing, or hinders our efforts to process, enforcement actions to legally collect this additional Federal revenue. Why?

We also want to make note of the significant amount of financial and human resources that have been expended with the extraordinary effort by the FAA Aircraft Certification Office (ACO) engineers and Aircraft Evaluation Group (AEG) safety inspectors, aircraft manufactures, and industry personnel that developed the FTS and EWIS Regulatory requirements and guidance to keep the public safe from another airline accident like TWA Flight 800 or Swiss Air Flight 111. This was a highly technical endeavor and utilized vast amounts of human intelligence to enact FTS and EWIS public safety requirements.

We found FAA's compliance guidance to be very good, and very thorough. Of course, it had to be read, understood, utilized, and complied with by FAA Supervisors and Airline Management personnel, to ensure FTS and EWIS public safety compliance by the airlines.

And yet, all these resources expended, funded with tax payer monies, are wasted because one (1) FAA Supervisory Principal Inspector can give all this safety effort away with the signing of his signature even when the airline does not fully comply with public safety mandates. An airlines' unsafe, non-compliance can be allowed by one (1) FAA Supervisor as evidenced in this DOT-OIG Investigation, the previous DOT-OIG Investigation referenced in the current Report, and in other past FAA DOT-OIG Investigations. FAA Senior Management has not implemented any action to prevent a single FAA Supervisor or Manager from allowing an unsafe, noncompliant airline situation from occurring despite all the past U.S. OSC, DOT-OIG Investigations and NTSB Accident Investigations validating FAA Management's failure to uphold compliance requirements and the public's safety.

We, as FAA Aviation Safety Inspectors, have no recourse but to disclose our public safety concerns to the U.S. Office of Special Counsel and obtain their assistance for resolution. We have found this to be the best course of action for the public's safety.

FAA Management's desire is to use the FAA Safety Issues Reporting System (SIRS). This process has no Federal protection for the FAA Aviation Safety Inspector and is dependent on a trust relationship between the Inspector and FAA Management which currently does not exist. We will continue to use the U.S. OSC disclosure process and will recommend and assist other FAA Aviation Safety Inspectors in the OSC process when concerns are raised for public safety and conflicts with FAA Supervisors and Managers occurs.

The OSC process is a process that does not protect the reputation of FAA Management but protects the Inspector from retaliatory acts, and seeks out a factual investigation with accountability for corrections by FAA Management.

Thank you for allowing us to share our observations with the waste and loss of Federal dollars due to this OSC and DOT-OIG Investigation process because of FAA Management failure. It has been our observation that Federal (non-management) Employees, such as FAA Aviation Safety Inspectors, provide a cost effective service to the public. Government Management is the leadership and decision making party of the Federal Government and this is where a vast waste of tax payer monies occurs. We see the waste of tax payer dollars regularly in our aviation safety duties within the FAA-Delta Air Lines Certificate Management Office because of inefficient and poor management actions.

Though we could dispute the unsubstantiated DOT-OIG finding that the Federal Regulatory requirements of 14CFR 121.1111 for EWIS and 14CFR 121.1113 for FTS require the airlines' maintenance program to incorporate instructions for continued airworthiness based on those approved by the FAA Aircraft Certification Office as having to be verbatim of these instructions, or obtain FAA approval for deviations;

We know that the current review of Delta Air Lines' FTS and EWIS program and task cards is still in process by a few capable FAA Aviation Safety Inspectors, who are still being thwarted in their efforts to uphold the public's safety by FAA Management. To date, the FAA

ACO engineers have not approved Delta submitted EWIS maintenance instruction deviations which have generated further Delta noncompliance enforcement actions by the FAA. We believe these additional enforcement actions substantiate our position as to the requirements to have FAA-ACO approved FTS and EWIS maintenance program instructions incorporated into Delta's aircraft fleets' Continuous Airworthiness Maintenance Programs (CAMP).

We will continue to monitor FAA's stated corrective actions to this DOT-OIG Report and the previous one (see OSC File # DI-08-2971) to ensure all committed actions are completed such that the public's safety is in fact ensured. Presently, FAA Supervision has not assigned us to participate in this current evaluation of Delta's FTS and EWIS compliance despite our expertise with the public safety requirements.

We wish to thank the FAA Aircraft Certification Office (ACO) Engineers and FAA Aircraft Evaluation Group (AEG) Aviation Safety Inspectors for their due diligence in the enactment of Fuel Tank Safety (FTS) and Electrical Wiring Interconnection Systems (EWIS) airline maintenance program requirements; and the very good guidance developed to support our public safety duties as Aviation Safety Inspectors assigned to U.S. Air Carriers to help us ensure the Airline's compliance and the safety of the public. We have many times talked with ACO and AEG employees over our combined 40 some years of FAA experience, cooperatively assisting each other in our mutual efforts of public safety.

We wish to thank the service and support we received in our interactions with the OSC and DOT-OIG employees. We were allowed freedoms to speak and opportunity to be involved in their investigation process, without harassment or intimidation. We received feedback from them. We felt part of the process and solution to uphold public safety. It gives us pride and assurance that there are good employees in the Federal Government with the dedication in their duties for the well being of the American public. We graciously thank them in their public service to help us FAA Aviation Safety Inspectors keep Americans safe.

We will make ourselves available to you Mr. President and Mr. Secretary, or any U.S. Congressional Committee or Representative, in need of further information from us. It is our sincere desire to serve the American public to the best of our abilities in the most cost effective manner.

Respectfully,



Mark S. Lund (612-253-4557)
FAA Aviation Safety Inspector



Daniel J. Mirau (612-253-4551)
FAA Aviation Safety Inspector

FAA-Delta-Certificate Management Office
6020 28th Ave. South, Suite 101
Minneapolis, Minnesota 55450

Attachments (2)



Federal Aviation Administration

Memorandum

Date: NOV 15 2011

To: Ronald Engler, Director, Special Investigations, JI-3

From: H. Clayton Foushee, Director of Audit and Evaluation, AAE-1

Subject: Office of Inspector General (OIG) Investigation #I11A004SINV, dated November 2, 2011, Re: FAA Oversight of Delta Airlines Fuel Tank Safety and Electrical Wiring Interconnection System Maintenance Programs (U.S. Office of Special Counsel (OSC) File Nos. DI-11-2238 and DI-11-2709



This is in response to your November 2, 2011, memorandum regarding the above-referenced OIG investigation. You requested that the Federal Aviation Administration (FAA) review the findings and provide a response to your office with any comments, statement of any corrective action taken, and the timeframe for any planned corrective action.

The FAA concurs with OIG's findings.

In response to the determinations detailed in your report for each substantiated allegation, the FAA prepared specific comments and updated plans of action and milestones for your consideration (see attachment dated November 8, 2011). Please note that the attachment further supplements the FAA September 29, 2011, memorandum describing the plans of action and milestones already underway as prepared by the affected certificate management office, regional division, and headquarters policy divisions.

Attachment:
Response to OIG Investigation Report #I11A004SINV

cc: J. Randolph Babbitt, AOA-1



Federal Aviation Administration

Memorandum

Date: NOV 8 2011

To: John Allen, Director, Flight Standards Service, AFS-001
THRU: Michael McCafferty, Manager, Flight Standards Service, AFS-010

From: Thomas A. Winston, Division Manager, So. Region Flight Standards, ASO-200
Thomas A. Winston

Prepared By: Tom Stachiw, Manager, Delta Certificate Management Office, CMO-27

Subject: Response to OIG Investigation Report #I11A004SINV

Southern Region Flight Standards Division has reviewed OIG investigative report I11A004SINV, dated November 2, 2011, and concurs with the OIG's synopsis, as outlined on page five. Below is a status update to the corrective actions identified in the OIG investigative report.

Allegation #1: (substantiated), corrective actions beginning on page 7

The CMO and Delta Airlines will make FTS ADs a priority as part of an on-going joint review of all ADs. The review will ensure that all AD requirements are accurately transcribed in work documents, all initial and repetitive requirements are scheduled, and all maintenance properly recorded. FAA projects the review will be completed by December 31, 2011.

Update: Delta has rearranged the priority of AD's subject to review by the AD SAT team to ensure all Fuel Tank Safety AD's are reviewed by December 31, 2011. This commitment is documented in Delta letter 11-T30, dated October 21, 2011.

Prior to the whistleblowers' OSC complaint, in April 2011, the CMO began an audit of FTS and EWIS maintenance task cards for the B757 fleet. The audit was completed on August 18, 2011, and uncovered enough deficiencies to warrant initiation of an Enforcement Investigation Report. As a result, the CMO has initiated the following:

For FTS AD deficiencies that may result in a mechanic performing a task incorrectly, the CMO has required Delta to evaluate these deficiencies against all fleet types to determine if they are systemic. Delta has committed to completing this review by December 31, 2011.

Update: Delta has completed the review and, in collaboration with this office, has finalized a corrective action plan. The corrective action plan for revising the task cards is documented in

Delta Engineering Report 10-100511-20, dated October 12, 2011 and being coordinated with Delta CMO.

For FTS and EWIS administrative errors, Delta will address them across all fleet types and prepare a comprehensive corrective action plan by December 31, 2011.

Update: The corrective action plan for revising the task cards is complete and is documented in Delta Engineering Report 10-100511-20, dated October 12, 2011 and being coordinated with the Delta CMO.

CMO inspectors will evaluate the effectiveness of the FTS and EWIS maintenance task cards beginning first quarter FY 2012.

Update: ATOS Constructed Dynamic Observation Report (CONDOR) inspections have been assigned to Inspectors to evaluate the effectiveness of the FTS/EWIS program at Maintenance and Repair Organizations (MRO) in the first quarter of 2012. The following CONDOR's were issued: ID #2145964/2145968 in Hong Kong, 2145965/2145969 in Peking, 2145966/2145970 in Guadalajara.

Delta is conducting a comprehensive review of all Enhanced Zonal Analysis Procedures (part of EWIS) and SFAR 88 driven tasks in its records to ensure they are properly identified. FAA projects this task will be completed by December 31, 2011.

Update: These corrections will be incorporated concurrent with the corrective action plan as defined in Delta Engineering Report 10-100511-20, dated October 12, 2011.

FAA will revise its inspection data collection tool (EPI 1.3.1) for FTS and EWIS to address the administrative concerns ...

Update: The DCTs will be revised once the in progress update of advisory circular (AC 120-97) and the accompanying inspector guidance (FAA Order 8900.1 FSIMS) are published by the AFS-300 policy division. AFS-900 anticipates publishing the related revised DCTs by September 2012, following the projected March 2012 release of the amended AC and inspector guidance.

Allegation #2: (not substantiated), corrective action beginning on p. 8

Prior to the SPAI's approval of Delta's EWIS maintenance program, one of the whistleblowers identified discrepancies in the B757 task cards, which he believed represented Delta's non-compliance with EWIS requirements. The SPAI believed the discrepancies were administrative in nature, did not impact the safe implementation of the EWIS program, and could be addressed through subsequent management of the program. To address his administrative concerns, in April 2011, the SPAI requested a 100 percent audit of all B757 EWIS task cards. This review identified that 63 percent of the Legacy Northwest and seven percent of the Legacy Delta task cards contained discrepancies when compared to the Boeing ICA documents. For example, the task card might instruct the mechanic to the proper area, but perform a "General Visual Inspection" instead of "Internal General Visual Inspection." Also, some task cards failed to

identify the zone number where the inspection was to be performed (e.g., "Zone 711"), although the card may include the name of the specific zone (e.g., "nose landing gear").

Update: We consulted with the Aircraft Certification Office; the office of primary responsibility to approve any deviations to FTS/EWIS requirements. They concurred that these differences did not constitute a deviation to the requirement and were acceptable.

We find that the written authority provided by the whistleblower does not support the whistleblower's assertion that Delta must copy, "verbatim," ICA tasks into its maintenance programs. The program rules in Boeing's ICA EWIS source document (D6-84438) require FAA approval if the type of task is changed (e.g., from a detailed to general visual inspection), but there is no provision within the source document that prohibits operators from modifying the wording of task instructions. Further, according to four FAA technical experts involved in the development and review of EWIS and FTS regulations and related documents, including those cited above by the whistleblower, there is no requirement that EWIS tasks be incorporated "without any word changes," as long as the task is completed as intended. They agreed that if a task or procedure is deleted or its meaning or intent changed, FAA approval is required.

Update: This office agrees with the statements made by the Inspection Team. Similarly, Delta has elected to conduct a more detailed inspection on certain tasks. Even though it is a greater level of inspection, by definition, it is "different". Therefore, Delta has applied for approval from the ACO to substitute these inspections. This request is documented in Delta letter, dated October 26, 2011.

For AD requirements for FTS maintenance programs, wording changes are not allowed. According to the technical experts, ADs address a specific unsafe condition; therefore, maintenance procedures cannot be revised without FAA approval, especially for FTS tasks required by ALI/CDCCLs. EWIS maintenance programs, however, are not subject to the same strict compliance standards resulting from ADs because they enhance an already existing inspection program for continuing airworthiness and do not address a specific unsafe condition.

Update: Delta has incorporated all AD driven tasks verbatim from the source requirement.

Allegation #3: (not substantiated), corrective action beginning on p. 11.

The type of discrepancies identified included missing or incorrect ALI/CDCCL information, steps, maintenance manual references, and caution/warning statements. Some required work steps are shown as "notes," which are not mandatory. Moreover, instead of instructing mechanics to perform a task "in accordance with" a required manual, the task merely identified the manual as a reference document. In addition, the whistleblowers provided examples of B767 and B747 task cards with similar discrepancies which demonstrate that compliance issues exist in other Delta fleet types.

Update: Delta explained that this convention was used to maintain consistency within the Legacy Northwest task card system. However, for FTS/EWIS, this office insisted that Delta adopt "in accordance with" for any description of a mandatory task, and remove any mandatory requirements from "notes", unless directed by the source requirement.

Allegation #4: (substantiated, findings listed on p. 12)

Enforcement Case No. 2009SO290159 relates to Delta's operation of the legacy Northwest B757 fleet without complying with AD 2008-10-11. That AD required the airline to revise its B757 ICAs to incorporate FTS airworthiness limitations developed by Boeing and perform related inspection tasks.

Update: The EIR case referenced in the OIG report is incorrect. The correct EIR is 2009SO270159. The assigned attorney continues to meet with Flight Standards personnel and is currently evaluating the case. ASO-7 is hopeful it will be ready to send to AGC for coordination soon.

Allegation #5: (substantiated), corrective action beginning on p. 12.

Air carrier personnel enter data into CASS to monitor the effectiveness of inspection and maintenance programs. CASS data includes results from internal audits. The headquarters review team reported that Delta did not ensure compliance with FTS AD requirements and did not ensure audit results and deficiencies were accounted for in its CASS. The headquarters review team's finding was echoed by the CMO's own audit of Delta's EWIS and FTS task cards, which found a significant number of discrepancies (as disclosed in the findings for allegations 2 and 3) that should have been identified by the airline's internal audits. In our interview with the CMO's SPAI, he agreed these discrepancies represented a failure of Delta's CASS.

Update: This office will not consider this project complete without necessary changes to Delta's CASS program to validate new or major maintenance program changes. This expectation was reiterated in our letter of concurrence with Delta's task card corrective action plan, dated November 4, 2011.

If you should require additional information or have any questions, please contact Kim O. Davies, at 404-305-6061.

ATTACHMENT 3: FAA ACTION PLAN



Federal Aviation Administration

Memorandum

Date: August 26, 2011

To: Thomas Winston, ASO-200

From: Thomas Stachiw, Manager DAL CMU-27

Prepared by: Sam Varajon, Supervisory Principal Avionics Inspector (DAL CMU-27)

Subject: Actions taken to address allegations of Non-Compliance with the Fuel Tank Safety (FTS) and Electrical Wiring Interconnection Systems (EWIS) program.

The Delta Air Lines Inc. Certificate Management Office (DALA / CMU) has conducted a thorough assessment of the substantiated findings from the two investigative bodies, the Southern Region (ASO) Investigation Team and the Joint Internal Assistance Capability Onsite Review team (IAC). The findings cover both the Fuel Tank Safety (FTS) requirements mandated by Airworthiness Directive (AD)¹, and the Electrical Wiring Interconnection Systems (EWIS) required by rule². To affect a comprehensive corrective action plan, this office has engaged two major review initiatives. The outcome of these initiatives will result in a clear picture of DALA's compliance status. Enforcement Investigative Reports (EIR) were generated, when warranted, to require DALA to correct any instances of non-compliance. A summary of the ASO and IAC findings can be found in attachment #1 and #2 of this memorandum with footnote references to the defined corrective action plan that follows.

- To affect a ground up review of all FTS AD requirements, the DALA / CMU has joined with Delta Air Lines Inc. (DALA) in a Air Transportation Oversight System (ATOS), System Analysis Team (SAT) to review the applicable DALA Engineering and other supporting documents to determine administrative compliance with all AD's that have been issued against the current DALA fleets.

The SAT will conduct an in-depth comprehensive AD review that will include the FTS program AD's for each fleet that were not previously reviewed³. The SAT Team has positioned the FTS AD's ahead of their schedule for immediate review to accommodate

¹ Airworthiness Directives that affect the DALA fleet are: 2007-15-06(r1), 2007-14-01, 2008-11-01, 2008-11-13, 2008-10-06(r1), 2008-10-10(r1), 2008-10-11, 2008-11-15.

² 14CFR part 121.1111, Electrical Wiring Interconnection Systems (EWIS) Maintenance Program.

³ The AD SAT addendum, dated February 23, 2011 exempted the FTS AD's that had previously been reviewed by the 2010 ACEP inspection and/or the Legacy NWA/DAL Engineering Mandatory Review Board.

ATTACHMENT 3: FAA ACTION PLAN

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 this project. The projected completion date for these AD's is December 31, 2011. Our office will deploy additional inspectors to assist in this review. This action will ensure the FTS AD requirements were accurately transcribed into the work documents; that all initial and repetitive requirements are scheduled, and all maintenance was properly recorded.

2. Since some of the findings were departures from DALA's manual system and not directly related to the FTS AD or EWIS rule, a 100% review of a representative fleet's maintenance task cards was conducted by this office. The B-757 fleet was emphasized in the findings and was therefore selected for this comprehensive review. The DALA CMU assembled a team of four (4) Aviation Safety Inspectors from the Avionics specialty to conduct the audit and ensure the FTS and EWIS requirements were completely incorporated in the DALA Maintenance Program in accordance with the Federal Aviation Administration Directives / Guidance. This audit was completed on August 18, 2011.

The audit uncovered sufficient deficiencies in the FTS and EWIS programs that warranted the initiation of Enforcement Investigation Reports (EIR) for correction.⁴ The deficiencies represent apparent regulatory non-compliance, but do not pose a safety of flight concern. Since this review was done against one representative fleet, this office is requiring DALA to evaluate these deficiencies against all fleet types, to determine if these deficiencies are systemic, and provide a comprehensive corrective action plan to prevent recurrence. The deficiencies noted during the review are wide ranging in nature and some may result in a mechanic performing the task incorrectly. DALA has committed to addressing this category of deficiencies across all fleets by December 31, 2011. In the event that DALA identifies any deficiencies during the review in the above category, DALA will issue an Alert Bulletin to notify affected employee groups of the deficiency as well as instructions for corrective action. The remainder of these deficiencies, which are apparent administrative errors, will be addressed across all fleet types by April 30, 2012. This office will issue Constructive Dynamic Observation Reports (CONDOR) for our Inspectors to evaluate the effectiveness of the FTS/EWIS maintenance program task cards beginning in the first quarter of FY 2012.

⁴ EIR numbers 2011SQ0275337 and 2011SQ0275338 were initiated on August 19, 2011.

**Flight Standards Service
Internal Assistance Capability (IAC)**

June 18, 2010



Proposed by: AFS Regional Division Managers

Concurrence by:


Director, Flight Standards Service (AFS-1)

"AVS is committed to providing the world's safest aerospace system. AVS achieves this goal by meeting the requirements of the AVS quality management system, responding to our customers, valuing the contributions of each employee, and continuously improving our processes."

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Overview

This institutionalizes the Flight Standards Service (AFS) internal assistance capability (IAC), which is devoted to fact-finding, assessing, and making recommendations on matters of special interest to AFS top leadership. Normally, if unattended, such matters may adversely impact the reputation of AFS management or possibly negatively impact AFS safety oversight. Typically, IAC matters are not under the purview of existing AFS management oversight programs or other FAA/AVS oversight programs. Being pro-active and solution oriented is paramount in the IAC approach and outcomes.

Background

AFS regional division managers recommended the Director, Flight Standards Service (AFS-1), establish the IAC to assist local/regional management in dealing with significant (or potentially significant) allegations of mismanagement or improper oversight affecting safety. In this regard, ten attributes (see Appendix) provide context to the IAC roles and responsibilities.

Subsequently, in a report¹ the Department of Transportation, Office of the Inspector General (OIG) recommended the Federal Aviation Administration (FAA) improve the independent review process by:

- Performing verification work at air carriers rather than just reviewing FAA inspection records and ensuring the review results are shared with the office under review; and
- Coordinating all safety-related independent reviews conducted using the IAC process through the FAA's new Office of Audit and Evaluation (AAE-1).

FAA concurred with those recommendations and committed to revise its independent review process:

- To include verification of work performed, in addition to reviewing FAA inspection records; and
- To ensure the results of the review are shared with the office under review so that all safety concerns are addressed in a timely manner.

Moreover, while AFS will continue to direct and manage the IAC process, FAA believes AAE-1 can add value to the process by performing quality assurance functions with respect to IAC results and reviews. Accordingly, AAE-1 will review final reports from IAC reviews for accuracy and completeness as well as evaluate whether the IAC review was fair and followed established AFS processes. These new responsibilities are consistent with AAE-1's role to coordinate and provide independent quality control of certain investigations and to assess whether investigations and resolutions are fair, impartial and in conformance with established procedures.

Linkage to FAA Flight Plan, AVS Business Plan, and AFS Performance Plan

The AFS FY 2010 Annual Performance Plan, which incorporates AFS headquarters and regional division plans, links directly to the AVS FY 2010 Business Plan and to the FAA Flight Plan 2009-13.

In this regard, the AFS IAC comports with the following Flight Plan initiatives:

- FAA Value: *Increased Safety*
Strategy: *Address safety concerns and issues, expand cost-effective safety oversight and surveillance, and continue research into the causal factors of accidents.*
- FAA Value: *Organizational Excellence*
Strategy: *Build stronger leadership to achieve strategic goals, manage people and resources effectively, and drive continuous improvement.*

¹ See OIG report entitled "FAA's Oversight of American Airlines' Maintenance Programs (AV-2010-042, dated 02/16/10).

Scope

After consideration of the regional division managers' recommendation, the Director, in consultation with the Deputy Director, decided to adopt the regional division managers' recommendation as well as the ten attributes with the program management responsibility for the IAC as a direct report to AFS-1/2. (Note: The ten attributes were revised in accordance with the changes contained in this revision.)

Also, the scope of the IAC is expanded to include any significant matter deemed appropriate by AFS headquarters/regional division managers or AFS-1/2 including, but not limited to (atypical) Office of Inspector General (OIG) inquires, Administrator Hotline complaints, and Safety Recommendations.

In this regard, IAC reviews may compliment, but are not intended to replace or substitute for existing oversight processes. As examples, each of the following questions assists in determining if the issue(s) under consideration fall within the purview of existing AFS organizational responsibilities:

1. Is the Part 121 certificated entity in compliance with regulations? If the subject-matter involves this determination, any technical assessment will likely be the responsibility of the AFS Certification and Surveillance Division (AFS-900) in concert with the affected regional division manager. If so, AFS-900 staff will normally use the national air carrier evaluation process (ACEP²) established under FAA Order 8900.1, Vol. 10, Chapter 4.
2. Did AFS personnel follow established AFS processes and procedures? If the subject-matter involves this determination, any assessment will likely be the responsibility of the AFS Quality Assurance Staff (AFS-40). If so, AFS-40 staff will normally use the Flight Standards Evaluation Program (FSEP³).
3. Did AFS management deal with the administrative and technical issues appropriately? If the subject-matter involves this determination, any assessment will most likely be the responsibility of AFS-1/2 and/or the affected AFS regional division manager. If so, they will normally use human resources who are not involved in the matter at hand in order to make assessments and provide recommendations.

Utilization

Each IAC review, by its nature, is special to the issues at hand. In this regard, the initiating regional division manager(s) or AFS-1/2, as applicable, have significant impact in determining the matters to be reviewed and how the IAC review team will be utilized to accomplish the review. Such matters include, but are not limited to establishing the scope and expectations related to the review, the team size and composition (e.g., specialties, team members would be from outside that region) as well as the projected duration and time frame for completing the review. The manager, Executive Staff (AFS-10), serves as IAC program focal point in headquarters and the AFS-10 staff assists in these matters and participates in IAC reviews, as appropriate. This provides the necessary linkage to AFS-1/2 and promotes objectivity and impartiality of the IAC.

² ACEP: (1) provides AFS with standard policies and procedures to evaluate part 121 air carriers at the national, regional, and district office or certificate management office levels; and (2) allows for an in-depth look at one or more air carrier systems and has four primary goals: (a) to verify that the air carrier complies with applicable regulations; (b) to promote a positive safety culture by reinforcing how system safety principles and concepts directly apply to air carrier oversight; (c) to identify hazards and mitigate associated risks; and (d) to identify program strengths (e.g., potential best practices that other air carriers could emulate).

³ FSEP: (1) conducts independent reviews of AFS programs to identify and report on internal best practices and to identify systemic weaknesses for corrective action; and (2) promotes standardization by evaluating the adequacy of national policy and/or guidance and adherence thereof, and by promoting identified internal best practices.

Composition

Core Cadre⁴ – As the AFS regional staffs provide oversight, guidance, and technical review of assigned program areas throughout their region as core competencies, they will be called upon to serve as IAC review team members as an adjunct role and responsibility, as needed.

Subject-Matter Experts (SMEs)⁵ – AFS employees and other FAA employees may be utilized as IAC review team members, as needed, based on the requirements of the individual IAC review team.

Resources

AFS headquarters and regional division managers will continue to actively support the IAC by providing sufficient resources to ensure the IAC is capable, functioning and effective for its intended purposes. This specifically includes the AFS regional administrative/technical branch managers (and staff), as appropriate.

Revisions

The OIG recommendations and the FAA responses to those OIG recommendations regarding revisions to the IAC process (see Background) are hereby adopted for use and become effective as of the date the cover sheet of this IAC document is signed by the AFS-1. Subsequent revisions may be made as determined by AFS-1.

⁴ To ensure objectivity and impartiality, IAC review team members will not normally be assigned to review matters from their region. (Exceptions may be made on a case-by-case basis where such need exists and objectivity is maintained.)

⁵ IAC neither proposes nor implements substantive change in working conditions or personnel policies or procedures. Selection of bargaining unit employees will be under provisions of the collective bargaining agreement, as applicable.

Attributes – AFS Internal Assistance Capability

The following attributes were first developed by the AFS regional division managers to provide context for how the AFS IAC functions. AFS-1/2 modified the attributes as shown below. To ensure the AFS IAC is operating and accomplishing work as intended, these attributes may be reviewed by the Headquarters/regional division managers and recommended revisions may be forwarded to AFS-10 for consideration and adoption as determined by AFS-1/2.

1. The team would be used to conduct internal reviews of allegations of AFS mismanagement, improper oversight affecting safety, or other significant matters deemed appropriate by AFS-1/2.
2. To establish a team to conduct a review, see Utilization (on page 2).
3. Requesting headquarters/regional division funds the team's travel and per diem.
4. Team would have standing membership (collateral duty assignments of managers, supervisors, and non-bargaining unit regional specialists nominated by the division manager) covering the various technical specialties. Nominations would consider the business and interpersonal competencies needed, particularly evaluation, communications (emphasis on writing ability), interpersonal skills, and teamwork.
5. Teams would generally be led by managers/supervisors.
6. Team follows written protocols for the reviews and reports follow a standard format (a work group would develop the protocols and standard report format - any existing regional protocols would be gathered and consulted in developing these).
7. Team receives training/briefings on LMR considerations in gathering evidence and reporting so that any resulting performance or conduct-based personnel actions are supportable.
8. Team provides the final report (and supporting documentation) the division manager(s) who requested the team's assistance (with a copy to AFS-10 for coordination with AFS-1/2). However, if the findings implicate the division manager(s) in any way, the report would only be provided to AFS-10 (for coordination with AFS-1/2) and AFS-1/2 would decide to what extent the division manager would be involved in any closeout actions. The division manager(s) will provide a copy of the IAC report, redacted as appropriate, to the manager of the affected FSDO to facilitate lessons learned with the FSDO management team and employees, as appropriate.
9. Affected division manager(s) are responsible for ensuring appropriate action is taken in their division regarding findings in the team report, including providing a closeout memo to AFS-1/2 (copy to AFS-10) within an established timeframe, detailing the actions taken and pending.
10. AFS-1/2 will provide a copy of the IAC report to AAE-1 for review and assessment consistent with the information contained in the revisions to the IAC document (on pages 1-2) as well as a copy of the closeout memo detailing actions taken and pending.