



National Transportation Safety Board

Washington, D.C. 20594

Safety Recommendation

Date: January 27, 2005

In reply refer to: A-05-01 and -02

Honorable Marion C. Blakey
Administrator
Federal Aviation Administration
Washington, D.C. 20591

On July 13, 2003, about 1530 eastern daylight time, Air Sunshine, Inc. (doing business as Tropical Aviation Services, Inc.), flight 527, a Cessna 402C, N314AB, was ditched in the Atlantic Ocean about 7.35 nautical miles west-northwest of Treasure Cay Airport, Treasure Cay, Great Abaco Island, Bahamas, after the in-flight failure of the right engine. Two of the nine passengers sustained no injuries, five passengers and the pilot sustained minor injuries, and one adult and one child passenger died after they evacuated the airplane. The airplane sustained substantial damage. The airplane was being operated under the provisions of 14 *Code of Federal Regulations* (CFR) Part 135 as a scheduled international passenger commuter flight.

The National Transportation Safety Board determined that the probable cause of this accident was the in-flight failure of the right engine and the pilot's failure to adequately manage the airplane's performance after the engine failed. The right engine failure resulted from inadequate maintenance that was performed by Air Sunshine's maintenance personnel during undocumented maintenance. Contributing to the passenger fatalities was the pilot's failure to provide an emergency briefing after the right engine failed.¹

A review of Federal Aviation Administration (FAA) records revealed that, from April 1983 to February 1998, the Air Sunshine accident pilot failed nine flight checks.² Specifically, the pilot failed two flight checks that he was receiving for his private pilot certificate, one flight check that he was receiving for his instrument pilot rating, one flight check that he was receiving for his airline transport pilot certificate, two flight checks that he was receiving for his certified flight instructor (CFI) certificate, and three flight checks that he was receiving for his CFI instrument rating.

¹ For more information about this accident, see National Transportation Safety Board, *In-Flight Engine Failure and Subsequent Ditching, Air Sunshine, Inc., Flight 527, Cessna 402C, N314AB, About 7.35 Nautical Miles West-Northwest of Treasure Cay Airport, Treasure Cay, Great Abaco Island, Bahamas, July 13, 2003*, Aircraft Accident Report NTSB/AAR-04/03 (Washington, DC: NTSB, 2004).

² The FAA or an FAA-designated representative conducts flight checks for pilot certificates and ratings, and the FAA maintains the paperwork related to flight checks.

Previous Safety Board Actions on Pilot Records

During the investigation of the December 13, 1994, accident involving American Eagle flight 3379,³ Safety Board investigators found deficiencies in the company's procedures for evaluating applicant pilots' experience, skills, and abilities.⁴ As a result, on November 15, 1995, the Board issued Safety Recommendations A-95-116 through -119.

Safety Recommendation A-95-116 asked the FAA to

Require all airlines operating under 14 CFR Parts 121 and 135 and independent facilities that train pilots for the airlines to maintain pertinent standardized information on the quality of pilot performance in activities that assess skills, abilities, knowledge, and judgment during training, check flights, initial operating experience, and line checks and to use this information in quality assurance of individual performance and of the training programs.

Safety Recommendation A-95-117 asked the FAA to

Require all airlines operating under 14 CFR Parts 121 and 135 and independent facilities that train pilots for the airlines to provide such information to the FAA for incorporation into a storage and retrieval system.

Safety Recommendation A-95-118 asked the FAA to

Maintain a storage and retrieval system that contained pertinent standardized information on the quality of 14 CFR Part 121 and 135 airline pilot performance during training.

Safety Recommendation A-95-119 asked the FAA to

Require all airlines operating under 14 CFR Parts 121 and 135 to obtain information from the FAA's storage and retrieval system that contains pertinent standardized pilot training and performance information for the purpose of evaluating applicants for pilot positions during the pilot selection and hiring process. The system should have appropriate privacy protections, should require the permission of the applicant before release of the information, and should provide for sufficient access to the records by an applicant to ensure accuracy of the records.

In a February 11, 1997, letter, the FAA stated that it responded to Safety Recommendations A-95-117 through -119 by working with Congress on legislation that would require that pertinent pilot training records be provided to potential employers by previous

³ For more information, see National Transportation Safety Board, *Uncontrolled Collision with Terrain, Flagship Airlines, Inc., dba American Eagle Flight 3379, BAe Jetstream 3201, N918AE, Morrisville, North Carolina, December 13, 1994*, Aircraft Accident Report NTSB/AAR-95/07 (Washington, DC: NTSB, 1995).

⁴ Before the flight 3379 accident, the Safety Board issued Safety Recommendations A-88-141, A-90-141, and A-93-14, which asked the FAA to require air carriers to conduct substantive background checks of prospective pilots before they are hired. All of these recommendations were classified "Closed—Unacceptable Action."

employers. The FAA's efforts resulted in the Pilot Records Improvement Act (PRIA) of 1996,⁵ which required that any company hiring a pilot for air transportation request and receive records from any aviation carrier, company, organization, or person that had employed a pilot applicant during the previous 5 years.

Specifically, the PRIA required all 14 CFR Part 121, 125, and 135 air carriers to obtain training proficiency check, airplane and route qualifications, and release from employment records from previous employers of pilot applicants before allowing an applicant to begin service as a pilot. The PRIA also required all air carriers to obtain from the FAA a pilot applicant's current medical certification and airman certification and any record of closed enforcement actions. The PRIA did not state that air carriers were required to obtain FAA airman records documenting failed flight checks for certificates and ratings. The FAA stated that the PRIA eliminated the need for a storage and retrieval system for pilot training records. In a June 2, 1997, letter, the Safety Board classified Safety Recommendations A-95-117 through -119 "Closed—Acceptable Alternate Action."⁶

Flight Check Failures

Hiring decisions involve evaluating multiple sources of information. Although validation of the FAA ratings and certifications held by a pilot applicant is necessary in evaluating a pilot's background, additional data contained in FAA records, including records of flight check failures and rechecks, would be beneficial for a potential employer to review and evaluate. The Safety Board recognizes that one notice of disapproval for a flight check, along with an otherwise successful record of performance, should not adversely affect a hiring decision. However, the Board also recognizes that multiple notices of disapproval for a flight check might be significant, depending on the reason for the notices of disapproval, and should be evaluated before a hiring decision is made. The Board is aware that some air carriers' employment applications already ask the applicant for this information; however, the carrier has no way to verify the information provided and determine whether any information has been omitted.

A complete review of FAA airman records, including any notices of disapproval for flight checks, is essential in evaluating a pilot's flight proficiency. The Safety Board concludes that a review of any notices of disapproval for flight checks for certificates and ratings would allow prospective employers to assess a pilot applicant's experience and determine whether an applicant has a history of unsatisfactory performance. Therefore, the Safety Board believes that

⁵ The authority and reference for the PRIA are found in Public Law 104-264, section 502, which is codified in 49 *United States Code* section 44703 (h), (i), and (j), and in FAA Advisory Circular 120-68C. The PRIA became effective on February 7, 1997.

⁶ In an April 17, 1998, letter, the FAA stated that the PRIA, along with the requirements of 14 CFR 121.683 and 135.63, addressed most of the concerns in Safety Recommendation A-95-116. The FAA added that the air carrier training requirements contained in 14 CFR Parts 121 and 135 and the advanced qualification program were predicated on training to proficiency and, therefore, should certify pilot proficiency. Further, the FAA stated that much of the information included in the recommendation was already available to prospective employers. The FAA concluded by stating, "the inclusion of subjective evaluations in the permanent record by individual instructors, check airmen or FAA inspectors may have the net effect of making the training event a punitive experience rather than one where individuals can learn from mistakes." In a January 3, 2000, letter, the Safety Board classified Safety Recommendation A-95-116 "Closed—Reconsidered."

the FAA should require all Part 121 and 135 air carriers to obtain any notices of disapproval for flight checks for certificates and ratings for all pilot applicants and evaluate this information before making a hiring decision.

Although pilots are required by 14 CFR 61.49 to be retrained and to receive another instructor signoff before repeating a flight check, the required retraining focuses on the specific portion of the flight check that the applicant failed and, thus, may not be adequate to improve the capabilities of pilots who have repeatedly failed flight checks. The Safety Board concludes that a record of multiple flight check failures may be an indication of a pilot applicant's unsatisfactory flight proficiency. Therefore, the Safety Board believes that the FAA should conduct a study to determine whether the number of flight checks a pilot can fail should be limited and whether the existing system of providing additional training after a notice of disapproval is adequate for pilots who have failed multiple flight checks. On the basis of the findings of the study, establish a flight check failure limit and modify the recheck training requirements, if necessary.

Therefore, the National Transportation Safety Board recommends that the Federal Aviation Administration:

Require all Part 121 and 135 air carriers to obtain any notices of disapproval for flight checks for certificates and ratings for all pilot applicants and evaluate this information before making a hiring decision. (A-05-01)

Conduct a study to determine whether the number of flight checks a pilot can fail should be limited and whether the existing system of providing additional training after a notice of disapproval is adequate for pilots who have failed multiple flight checks. On the basis of the findings of the study, establish a flight check failure limit and modify the recheck training requirements, if necessary. (A-05-02)

Chairman ENGLEMAN CONNERS, Vice Chairman ROSENKER, and Members CARMODY, HEALING, and HERSMAN concurred with these recommendations.

Sincerely,

Ellen Engleman Connors
Chairman