

EMERY WORLDWIDE AIRLINES

RESPONSE TO

EXHIBIT 17S

EWA'S RESPONSE TO

LETTER DATED December 2, 1988

REFERENCED IN LIST ATTACHED

TO MEMO FROM EWA CMT



U.S. Department
of Transportation
**Federal Aviation
Administration**

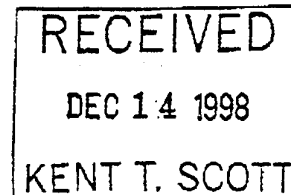
San Jose Flight Standards District Office

CC: Tom Wood
Ted Graves
Rene Visscher

San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

December 2, 1998

CERTIFIED-RETURN RECEIPT
File No. 99WP150008



Mr. Kent Scott
Senior Vice President
Emery Worldwide Airlines, Inc.
One Emery Plaza
Vandalia, OH 45377

Dear Mr. Scott:

Personnel of this office are investigating an occurrence, which involved the operation of Emery Worldwide Airlines (RRXA) DC-8 aircraft on and prior to December 1, 1998.

On December 1, 1998 a routine aircraft ramp surveillance was performed on N797AL, a DC-8-63 operated by Emery Worldwide Airlines. During this inspection it was discovered that the #1 Universal Navigation Flight Management System had a flight discrepancy deferred in accordance with Emery's Non-MEL procedure (reference Non-MEL #304, dated 8-5-98). This is contrary to the Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

Nicholas E. Pearson
Principal Avionics Inspector



December 21, 1998

Mr. Nicholas Pearson
Principal Avionics Inspector
San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130

Dear Mr. Pearson:

This letter constitutes Emery Worldwide Airlines, Inc. (EWA)'s formal response to your letter of investigation (99WP150008), addressed to EWA's President and Chief Operating Officer, dated December 7, 1998, and your letter to me dated December 2, 1998. (See Attachment 1)

I would like to assure you that your letters have merited EWA's immediate and undivided attention. EWA, as a certificated air carrier, and its management and employees are fully appreciative of their responsibilities arising under pertinent laws and under the Federal Aviation Regulations (FAR's) and strive to fulfill these responsibilities in a professional and conscientious manner.

Your letter of investigation alleges that the #Universal Navigation Flight Management System flight discrepancy deferred in accordance with EWA's Non-MEL procedure was contrary to the Federal Aviation Regulations.

EWA has a FAA accepted/approved Non-MEL procedure contained in the Maintenance Policy and Procedure Manual, Chapter 3, Page 20 (See Attachment 2). This procedure is controlled by management and ensures that the Non-MEL items are corrected in a timely manner in the specific control of non airworthiness items.

I have attached a Non-MEL listing for EWA's fleet per your December 2, 1998 letter. The attached report reflects 118 Non-MELS, that average 3 Non-MELS per aircraft, in EWA's fleet of 43 DC-8's. This representation clearly demonstrates effective management of EWA Non-MEL program. (See Attachment 3)

The Non-MEL used on the GPS/FMS in question was for a system design irregularity not effecting airworthiness. The True Airspeed (TAS) input to the UNS-1D is used in conjunction with the Strut Extension Switch to determine the 'Off Time'. This function is not used for any EWA operations or maintenance procedure. During the operation of the UNS-1D system in the EWA configuration there were some reports that the 'Off Times' disagreed between the Captain and First Officer systems. This problem was not repeatable and took several months to find the source of the problem. The problem as provided by Universal, states in the service bulletin #1XXX.X.(1)34-2617.1 C.3, (See Attachment 4) was identified as an inadvertent transition to airborne mode when performing a preflight air

Mr. Nicholas Pearson
Page 2
December 21, 1998

data test. The S/B ultimately corrects for this by relying on GPS based TAS and not ADC information. EWA also noted several occurrences of this irregularity during power transitions associated with engine start and when the TAS and strut signals came at the same time during take-off.

Flight Operations worked closely with Maintenance on this issue. EWA Maintenance and Operations were in constant contact with the OEM, Universal and assisted with identifying the source of the irregularity. On July 7, 1998 a Special Operations Bulletin was issued from, then EWA Chief Pilot, describing the cause, effect and that Pilot Reports would be placed on Non-MEL. (See Attachment 5) A copy of this bulletin was sent to Mr. Kristiansen (EWA Principal Operations Inspector) with no objections.

The Non-MEL determination was provided to EWA by the OEM. They stated the function of "off-times" is not listed to be used in any operational procedure and the system operates as certified. The IS&S and UNS-1D are certified to function exactly as they do on the aircraft, however in some cases during the normal operation of these systems the automated function of determining the "off-time" the signals miscommunicate and reflect a difference between the two units/systems installed.

EWA is currently performing the universal software upgrade to eliminate the inadvertent determination by the UNS-1D of being in flight with S/B 1XXX.XX.()-34-2617. The units are marked under the Software Control Number (SCN) as 601.5. This upgrade will be complete in three weeks.

A Maintenance Reliability and Quality Control audit was performed on the aircraft log pages that was sent to you (See Attachment 6). This review of the IS&S system pilot reports included an avionics technical review, by Mr. Bruce Robbins, Manager Maintenance Training.

The reflected pattern of pilot reports for "STBY" indicates, in most cases, they should not be entered as they do not represent a fault in the IS&S system. As the crews become more aware of the differences between the older style units and the IS&S system these pilot reports will end.

There were no reported issues outstanding as far as the previous training provided on the system. Most pilot reports pertained to the "STBY" issue that as I previously mentioned is being addressed by a S/B, and a Maintenance Bulletin 98-01 that was previously issued to inform and train maintenance and operations personnel on this issue.

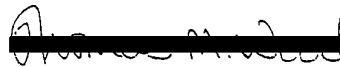
In summary, EWA has actively trained all individuals on the IS&S system, its functions and differences. This training has been effective in providing information to all personnel.

Mr. Nicholas Pearson
Page 3
December 21, 1998

I trust that this information has been responsive to your letters. Should you wish to discuss this matter more fully, EWA's Senior Management and I would be more than willing to meet with you and address your concerns.

As you have on numerous occasions this year discussed to length the UNS-1D with Mr. Bruce Robbins, I would urge you to continue your contact with him. Thank you for your support on this issue.

Sincerely,



Thomas M. Wood
Director Quality Control

TMW/re

Attachments

cc: Kent Scott
Rene' Visscher
Ted Graves
Jerry Buffington
Bruce Robbins
Robert Conlon
Michael Dworkin

EWA'S RESPONSE TO
LETTER DATED November 23, 1998
REFERENCED IN LIST ATTACHED TO
MEMO FROM EWA CMT



U.S. Department
of Transportation
**Federal Aviation
Administration**

RECEIVED
DEC 01 1998
KENT T. SCOTT

FLIGHT STANDARDS DISTRICT OFFICE
1250 Aviation Avenue
Suite 295
San Jose, California 95110-1130

November 23, 1998

CERTIFIED MAIL—RETURN RECEIPT REQUESTED
FILE NO. 99WP150012

MR. KENT T. SCOTT
One Emery Plaza
Dayton International Airport
Vandalia, OH 45377

Dear Mr. Scott:

Personnel of this office are investigating an occurrence, which involved the operation and maintenance of aircraft under operational control of Emery Worldwide Airlines (RRXA).

On July 24, 1998 Mr. Thomas Wood and Mr. Ted Graves issued a company directive in the form of "Emery Worldwide Airlines Maintenance Bulletin" Issue #98-1. This bulletin directed subordinates to maintain and operate RRXA aircraft in accordance with procedures contained in the DC-8 Aircraft Maintenance Manual (AMM) for the Digital Air Data System (DADS) installed under Supplemental Type Certificate (STC) STO9336SC. The STC STO9336SC contains as part of the FAA approved data package a document titled "Instructions for Continued Airworthiness" (ICA). Procedures in the ICA supersede procedures in the AMM in relation to the installed DADS. Directing individuals to conduct maintenance activities that are not in accordance with the appropriate ICA or maintenance manual procedures is contrary to Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

NICHOLAS E. PEARSON
Principal Avionics Inspector



December 17, 1998

Mr. Nicholas E. Pearson
Principal Avionics Inspector
Federal Aviation Administration
Flight Standards District Office
1250 Aviation Avenue
Suite 295
San Jose, CA 95110-1130

Re: **EMERY WORLDWIDE AIRLINES, INC.**
FAA Files Nos. 99WP150010, 99WP150011 and 99WP150012

Dear Mr. Pearson:

This letter constitutes Emery Worldwide Airlines, Inc. ("EWA")'s formal response to your three letters of investigation (99WP150010, addressed to EWA's Director of Quality Control, dated November 18, 1998; 99WP150011, addressed to EWA's Director of Flight Operations, dated November 18, 1998; and 99WP150012, addressed to the undersigned, dated November 23, 1998), and a follow-up to our Director of Quality Control's letter to you of November 24, 1998 and EWA's Manager of Maintenance Training's telephone conference with you of November 30, 1998 (See Attachment No. 1).

At the outset, I would like to assure you that your letters have merited EWA's immediate and undivided attention. EWA, as a certificated air carrier, and its management and employees are fully appreciative of their responsibilities arising under pertinent laws and under the Federal Aviation Regulations ("FAR's) and strive to fulfill these responsibilities in a professional and conscientious manner.

The three letters of investigation all pertain to the same subject matter, specifically EWA's issuance of Maintenance Bulletin No. 98-1 (See Attachment No. 2) relating to the Innovative Solutions & Support, Inc. ("IS&S") Digital Air Data System ("DADS") installed in our DC-8 aircraft pursuant to Supplemental Type Certificate ("STC") STO9336SC, and specifically, the procedures set forth therein for resolving certain altimeter indication splits causing illumination of the standby ("STBY") light under certain circumstances. As you are probably aware, Maintenance Bulletin No. 98-1 was jointly developed by EWA's Technical

Mr. Nicholas E. Pearson

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Services and Flight Operations Departments to guide maintenance and flight operations personnel on the IS&S DADS system. In your letters of investigation, you appear to contest the validity of the Maintenance Bulletin, and specifically its directive that system tests be performed in accordance with the DC-8 Aircraft Maintenance Manual. You have also asserted that EWA's performance of the DADS system tests prescribed in the Maintenance Bulletin is contrary to applicable FAR's. We respectfully disagree. Additionally, while we can appreciate the FAA's voicing of its possible concerns with the EWA-prescribed system tests, and a need for legitimate inquiry, we question whether three separate letters of investigation and three separate files, each bearing a different File Number, were required or even appropriate. This is not, and should not be an enforcement matter. Rather, it is a technical issue.

The IS&S DADS System, which EWA has incorporated into its aircraft at great expense in the interest of enhancing safety, is comprised of three different air data computers ("ADC's")--one each at the captain's and first officer's positions, and a third digital ADC in the radio rack. The ADC's receive and process altitude and airspeed information. While the three ADC's operate independently, they also communicate with each other to verify data. This system provides the operator the option of using pitot-static data from multiple sources. As a feature not available on predecessor systems, the IS&S altimeter actually compares data received from the ADC's with data that it has developed through its own self-sensing capabilities. As an aid to the operator, the manufacturer programmed the system to alert the operator to even small differences between these independent sources--an altitude difference of only 50 feet between the digital ADC and the altimeter ADC. In such event, the system automatically switches data sources from the digital ADC to the altimeter's own self-sensing data. IS&S programmed the altimeter to indicate STBY in such event, so that the operator is aware of the fact that the data source has been switched.

In a STBY indication, the altimeters continue to process and display altitude information. STBY merely indicates that the respective ADC has gone into a self sensing mode in an attempt to justify and reconcile its information with that of the other two ADC's. The STBY indication does not indicate an abnormality. Rather it is a normal condition and can exist in a completely airworthy and functional system. Even with the STBY indication, the ADC continues to function and report the data that it is receiving. The STBY indication is separate and distinct from the Error "ERR" indication.

Enclosed are copies of correspondence from Aircraft Systems & Manufacturing, Inc. and IS&S (See Attachments Nos. 3). As can be seen from these correspondence, our position is fully supported by the STC holder and manufacturer.

Mr. Nicholas E. Pearson

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December 17, 1998

While you are correct in your assertion that the Instructions for Continued Airworthiness ("ICA") contained in the STC neither prescribe allowable limits for "altimeter splits"--disparities between altimeter readings on the same aircraft--nor prescribe procedures for testing and evaluating such conditions, the STC and its ICA are limited to differences between the previously installed and newly installed equipment. While you are also correct in your assertion that procedures in the ICA supersede procedures in the Aircraft Maintenance Manual in relation to the installed DADS, this is confined only to those items specifically addressed in the ICA. Items not covered by the ICA can only be supported with other approved and/or accepted data, such as the DC-8 Maintenance Manual. To the extent that the STC prescribes no limits or procedures, the provisions of the Maintenance Manual remain in effect. Hence, reference to and incorporation of the Maintenance Manual, to the extent that these subjects have not been addressed in the STC, is appropriate. Maintenance Bulletin No. 98-1 does not prescribe maintenance other than directing personnel to verify the accepted limitations as set forth in MM 34-11-0. (See Attachment No. 4) The test procedures and test equipment set forth in MM 34-11-00 are identical for the IS&S DADS System, except as provided in the EO. The STC gives no guidance on allowable limits for splits, leaks or limits of accuracy. The 50 foot limit imposed by Maintenance Bulletin No. 98-1 is fully consistent with the 50 foot separation that was programmed into the system by the manufacturer.

The Maintenance Bulletin also references MM 34-12-0 (See Attachment No. 5) which describes and governs the operation of the pitot static system. This is to be used in conjunction with the STC to ensure that the plumbing has been correctly installed and that the pitot static tester has been correctly utilized. The IS&S DADS System interfaces with the pitot-static system as outlined in this Chapter. This is fully consistent with EWA's Engineering Order ("EO") 3415-01-EMERY (See Attachment No. 6) which refers to DC-8 Maintenance Manual for pitot-static adjustments/tests.

On numerous occasions, EWA's Director of Quality Control, Thomas M Wood, and Manager, Maintenance Training, Bruce A. Robbins, have discussed with you at length the IS&S DADS. It is my understanding that Messrs. Wood and Robbins have furnished you with substantial data to assist you in understanding this system. I know that you may still have some questions regarding this system and the use of accepted maintenance manual procedures, and I urge you to contact Messrs. Wood or Robbins to discuss these technical issues:

Mr. Nicholas E. Pearson
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December 17, 1998

I trust that this has been responsive to your letters. Should you wish to discuss this matter more fully, EWA's Senior Management and I would be more than willing to meet with you and address your concerns. If this is the case, please contact Mr. Wood to arrange this meeting.

Very truly yours,

Kent T. Scott
President and Chief Operating Officer

Attachments

cc: Rene' Visscher
Terje Kristiansen
Ted Graves
Thomas Wood
Bruce Robbins
Robert Conlon
Michael Dworkin

EWA'S RESPONSE TO

LETTER DATED

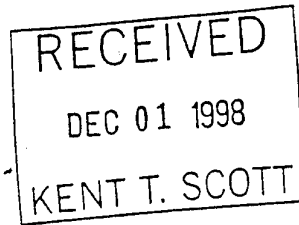
November 23, 1998

REFERENCED IN LIST ATTACHED

TO MEMO FROM EWA CMT



U.S. Department
of Transportation
**Federal Aviation
Administration**



*cc: Ned Haines
Leri Vissich
Tom Wood
War De Wase*

FLIGHT STANDARDS DISTRICT OFFICE
1250 Aviation Avenue
Suite 295
San Jose, California 95110-1130
[REDACTED]

November 23, 1998

CERTIFIED MAIL—RETURN RECEIPT REQUESTED
FILE NO. 99WP150016

MR. KENT T. SCOTT
One Emery Plaza
Dayton International Airport
Vandalia, OH 45377

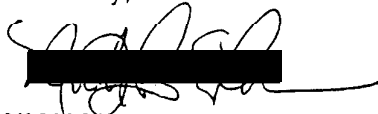
Dear Mr. Scott:

Personnel of this office are investigating an occurrence, which involved the operation of Emery Worldwide Airlines (RRXA) DC-8 aircraft on and prior to November 5, 1998.

On November 5, 1998 Mr. Thomas Wood was notified by telephone and e-mail, that this office had information that RRXA was operating some aircraft contrary to the requirements of the FAA approved Airplane Flight Manual Supplement (AFMS). Manuals that are required to be immediately available to the flight crew, were not on the aircraft. This is applicable to aircraft modified under Supplemental Type Certificate ST09336SC. Operations of this type are contrary to Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,


[REDACTED]

NICHOLAS E. PEARSON
Principal Avionics Inspector



December 14, 1998

Mr. Nicholas Pearson
Principal Avionics Inspector
San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130

Dear Mr. Pearson;

This letter constitutes Emery Worldwide Airlines, Inc. (EWA)'s formal response to your letter of investigation (99WP150016), addressed to EWA's President and Chief Operating Officer, dated November 23, 1998; and your letter to our Operations Manager Technical Publications dated November 30, 1998; and EWA's Operations Manager Technical Publications and Director Quality Control's telephone conference calls with you of November 5, 1998.

I would like to assure you that your letters have merited EWA's immediate and undivided attention as was demonstrated by the aforementioned EWA management.

EWA, as a certificated air carrier, and its management and employees are fully appreciative of their responsibilities arising under pertinent laws and under the Federal Aviation Regulations (FAR's) and strive to fulfill these responsibilities in a professional and conscientious manner.

You will find in the enclosed information: 1) a list of affected aircraft; 2) operation manuals on-board each affected aircraft and current revision status of each manual; 3) a "Aircraft Library Audit Sheet; 4) a Study Guide.

Upon notification from the PAI on November 5, Technical Publications responded immediately and inventoried all affected aircraft. On November 6, Operational and Installation procedures for the IS & S Digital Air Data System were installed on each affected aircraft as they trafficked through Dayton.

The Aircraft Operating Manual is being revised to incorporate those procedures found in the attached Study Guide per the Airplane Flight Manual

Mr. Nicholas Pearson
Page 2
December 14, 1998

to support flight crew accessibility. Currently, the IS & S System Operational and Installation Manuals are not assigned to affected aircraft. They are placed in identifiable one inch binders and installed in each affected aircraft library for crew accessibility. However, they are a part of Aircraft Library Audit Sheet. Each Sheet is hand scribed during the audit.

In addition to these manuals, specific operating instructions regarding the IS&S system as installed on the DC-8 were distributed to all flight crew members. This information was distributed from Flight Training prior to the first aircraft modified by this STC entering service.

Based on the immediate action taken by EWA Management to communicate to the FAA, and their initial training program implementation that addressed crew operating procedures, and that airworthiness or safety was not compromised, EWA believes this issue should receive closure by your office.

I trust that this has been responsive to your letters. Should you wish to discuss this matter more fully, EWA's Senior Management and I would be more than willing to meet with you and address your concerns.

Sincerely,



Ted Graves
Director Flight Operations

cc: Terje Kristiansen
Kent Scott
Rene' Visscher
Thomas Wood
Johnny Newsome
Robert Conlon
Michael Dworkin

EWA'S RESPONSE TO
LETTER DATED December 7, 1998
REFERENCED IN LIST ATTACHED TO
MEMO FROM EWA CMT



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of Transportation
**Federal Aviation
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San Jose Flight Standards District Office

*Cc: Tom Wood
Ted Graves
Rene Visscher*

San Jose International Airport
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December 7, 1998

CERTIFIED-RETURN RECEIPT
File No. 99WP150017

RECEIVED
DEC 14 1998
KENT T. SCOTT

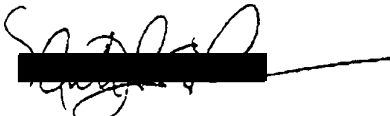
Mr. Kent Scott
Senior Vice President
Emery Worldwide Airlines, Inc.
One Emery Plaza
Vandalia, OH 45377

Dear Mr. Scott:

During routine surveillance of Emery Worldwide Airlines (EWA) Corporate Headquarters the week of November 16 through 19 it was discovered that EWA maintenance program is incomplete. Specifically, it was discovered that the required Maintenance Manual for maintenance of the Digital Flight Data Recorder (DFDR) system was never incorporated into Emery's continuous airworthiness maintenance program. This may be contrary to the Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action as warranted. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,



Nicholas E. Pearson
Principal Avionics Inspector



December 21, 1998

Mr. Nicholas Pearson
Principal Avionics Inspector
San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130

Dear Mr. Pearson:

This letter constitutes Emery Worldwide Airlines, Inc. (EWA)'s formal response to your letter of investigation (99WP150017), addressed to EWA's President and Chief Operating Officer, dated December 7, 1998, and your letter to me dated December 1, 1998. (See Attachment 1)

I would like to assure you that your letters have merited EWA's immediate and undivided attention. EWA, as a certificated air carrier, and its management and employees are fully appreciative of their responsibilities arising under pertinent laws and under the Federal Aviation Regulations (FAR's) and strive to fulfill these responsibilities in a professional and conscientious manner.

Your letter of investigation alleges that the required Maintenance Manual for maintenance of the Digital Flight Data Recorder (DFDR) system was never incorporated into EWA's continuous airworthiness maintenance program.

During your visit to our facility here at Vandalia, Ohio the week of November 16 through November 20, 1998, the Manager of Maintenance Training and I discussed your questions and recommendations to improve our existing DFDR maintenance program.

I also reviewed with you EWA's FAA accepted/approved program contained in the Maintenance Policy and Procedures, Chapter 3, Page 110. (See Attachment 2)

EWA's Continuous Airworthiness Maintenance Program (CAMP) is referenced in the Maintenance Policy and Procedure Manual (MP&P) Chapter 1, Page 1, and consists of the Reliability Program, Inspection Program (IPM) and Time Limits manuals. (See Attachment 3)

Maintenance manuals covering other requirements to support the EWA CAMP are: Maintenance Policies and Procedures, Weight and Balance, EWA Aircraft Maintenance Manual, Fueling Manual, and the Minimum Equipment List. Together these manuals make up the EWA CAMP and programs covering other maintenance in compliance with Federal Aviation Regulations 121 and 43.

Mr. Nicholas Pearson
Page 2
December 21, 1998

The DFDR is incorporated into EWA's CAMP program as referenced in the MP&P, IPM and Time Limits Manuals. (See Attachment 4) The DFDR components are merely part number upgrades and additional data pickups per the current FAR's, OEM or STC requirements do not require additional procedure as were previously FAA accepted/approved in EWA CAMP.

EWA's Maintenance Reliability Program serves to play a significant role in administering a system of continuing analysis and surveillance (C.A.S.S.) required by FAR 121.272. It outlines the means of continually monitoring the mechanical and operational performance of the entire aircraft, including the listed airframes, powerplants, appliances, and components.

EWA's FAA approved Maintenance Reliability Program has successfully managed the CAMP for over eight (8) years maintaining a consistent 98% mechanical dispatch reliability. An example of this performance is represented by the consistent decline of the Reliability ATA Alert Levels maintained by one standard deviation. These efforts are also demonstrated by the high reliability rating of the DFDR components reflected in ATA 31, of an initial Alert Level of 2.06, to a current decline of .59 (See Attachment 5).

January 16, 1998, EWA received a letter from you stating that you had reviewed the DFDR functional checks and found them acceptable (See Attachment 6).

EWA incorporated a functional test into the "C" Check program that will verify that all required DFDR parameters are being recorded, and that each parameter is working properly in support of the FAA Flight Standards Handbook Bulletin HBAW) 97-13B. (See Attachment 7) It is important to note the HBAW provides the FAA inspectors with policy/guidance on issues such as the DFDR maintenance program to ensure continued proper operation, but are not considered regulatory mandates changes in this case.

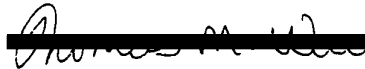
EWA has on two occasions this year sent you the DFDR readouts provided by EWA's DFDR component vendor for your review that represented the system was working properly. (See Attachment 8) The EWA MRB is currently incorporating your additional recommendations as of December 15, 1998 to ensure the EWA CAMP contains all of the HBAW 97-13B recommendations.

I trust that this information has been responsive to your letters. Should you wish to discuss this matter more fully, EWA's Senior Management and I would be more than willing to meet with you and address your concerns.

Mr. Nicholas Pearson
Page 3
December 21, 1998

As you have on numerous occasions this year discussed to length the DFDR with Mr. Bruce Robbins, I would urge you to continue your contact with him. Thank you for your support on this issue.

Sincerely,



Thomas M. Wood
Director Quality Control

TMW/re

Attachments

cc: Kent Scott
Rene' Visscher
Bruce Robbins
Robert Conlon
Michael Dworkin

EWAs RESPONSE TO
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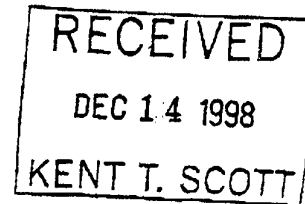
San Jose Flight Standards District Office

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1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

December 7, 1998

CERTIFIED-RETURN RECEIPT
File No. 99WP150018

Mr. Kent Scott
Senior Vice-President
Emery Worldwide Airlines, Inc.
One Emery Plaza
Vandalia, OH 45377



Dear Mr. Scott:

During routine surveillance of Emery Worldwide Airlines (EWA) Corporate Headquarters the week of November 16 through 19 it was discovered that EWA maintenance program is incomplete. Specifically, it was discovered that the required Maintenance Manual for maintenance of the Innovative Solutions & Support air data system (STC ST09336SC) was never incorporated into Emery's continuous airworthiness maintenance program. This may be contrary to the Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action as warranted. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

Nicholas E. Pearson
Principal Avionics Inspector



December 18, 1998

Mr. Nicholas Pearson
Principal Avionics Inspector
San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130

Dear Mr. Pearson;

This letter constitutes Emery Worldwide Airlines, Inc. (EWA)'s formal response to your letter of investigation (99WP150018), addressed to EWA's President and Chief Operating Officer, dated December 7, 1998, and your letter to me dated December 1, 1998. (See Attachment 1)

I would like to assure you that your letters have merited EWA's immediate and undivided attention. EWA, as a certificated air carrier, and its management and employees are fully appreciative of their responsibilities arising under pertinent laws and under the Federal Aviation Regulations (FAR's) and strive to fulfill these responsibilities in a professional and conscientious manner.

As you know, EWA is the Lead Airline in the DC-8 STC Modification that configures the aircraft to comply with the Reduced Vertical Separation Minimums (RVSM), working with DHL and Airborne.

Your letter of investigation alleges that Maintenance Manual for maintenance of the Innovative Solutions and Support Digital Air Data System (IS&S DADS) STC ST09336SC was never incorporated into EWA's continuous airworthiness program.

EWA's Continuous Airworthiness Maintenance Program (CAMP) is referenced in the Maintenance Policy and Procedure Manual (MP&P) Chapter 1, Page 1, and consists of the Reliability Program, Inspection Program, and Time Limits manuals.

Mr. Nicholas Pearson
Page 2
December 18, 1998

Maintenance manuals covering other requirements to support the EWA CAMP are: Maintenance Policies and Procedures, Weight and Balance, EWA Aircraft Maintenance Manual, Fueling Manual, and the Minimum Equipment List. Together these manuals make up the EWA CAMP and programs covering other maintenance in compliance with Federal Aviation Regulations 121 and 43.

My letter to you dated December 8, 1998, and Bruce Robbin's e-mail to you dated December 7, 1998, was in response to your letter dated December 1, 1998 regarding the submittal of the EWA IS&S Supplement Maintenance Manual and Wiring Diagram Manual. (See Attachment 2). These manuals were developed from the STC ST09336SC to provide maintenance instruction and return to service procedures. As Mr. Robbins and I informed you the original STC ST09336SC Installation and ICA procedures were provided to Maintenance Control in January 1998 with the first modified aircraft to be used for maintenance manual reference until the EWA supplement was developed, and accepted by you.

The delayed development and distribution time for this manual was due to several factors including information review, ongoing development and research of the system functions working in concert with the STC holder, OEM and yourself.

These components are merely part number upgrades and per the OEM or STC do not require additional maintenance procedures as were previously FAA accepted/approved. The IS&S equipment (components) is incorporated into EWA's CAMP program as referenced in the Time Limits Manual (See Attachment 3).

EWA's Maintenance Reliability Program serves to play a significant role in administering a system of continuing analysis and surveillance (C.A.S.S.) required by FAR 121.373. It outlines the means of continually monitoring the mechanical and operational performance of the entire aircraft, including the listed airframes, powerplants, appliances, and components.

In my letter to you dated October 19, 1998, I provided you a summary of the IS&S DADS fleet technical review, that represents a very high reliability performance.

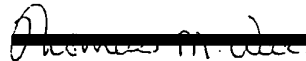
Mr. Nicholas Pearson
Page 3
December 18, 1998

EWA management also prides itself in the aggressive training program administered by Operations and Technical Service to ensure our Flight Crews and Mechanics are professionally trained on all new modifications. (See Attachment 4) Formal training was issued to all flight crew members and mechanics prior to any aircraft entering the fleet with the IS&S DADS system installed.

I trust that this information has been responsive to your letters. Should you wish to discuss this matter more fully, EWA's Senior Management and I would be more than willing to meet with you and address your concerns.

As you have on numerous occasions this year discussed to length the IS&S DADS with Mr. Bruce Robbins, I would urge you to continue your contact with him. Thank you for your support on this issue.

Sincerely,



Thomas M. Wood
Director Quality Control

TMW/re

cc: Kent Scott
Rene' Visscher
Bruce Robbins
Robert Conlon
Michael Dworkin

EWA'S RESPONSE TO
LETTER DATED December 7, 1998
REFERENCED IN LIST ATTACHED
TO MEMO FROM EWA CMT



U.S. Department
of Transportation
**Federal Aviation
Administration**

San Jose Flight Standards District Office

San Jose International Airport
1250 Aviation Avenue, Suite 296
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

December 7, 1998

CERTIFIED-RETURN RECEIPT
File No. 99WP150019

Mr. Kent Scott
Senior Vice President
Emery Worldwide Airlines, Inc.
One Emery Plaza
Vandalia, OH 45377

Dear Mr. Scott:

During routine surveillance of Emery Worldwide Airlines (EWA) Corporate Headquarters the week of November 16 through 19 it was confirmed that EWA could not produce requested aircraft record documents. Specifically, the required Digital Flight Data Recorder correlation and system conformity documents are not available. This may be contrary to the Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action as warranted. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

Nicholas E. Pearson
Principal Avionics Inspector



December 18, 1998

Mr. Nicholas Pearson
Principal Avionics Inspector
San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130

Dear Mr. Pearson:

This letter constitutes Emery Worldwide Airlines, Inc. (EWA)'s formal response to your letter of investigation (99WP150019), addressed to EWA's President and Chief Operating Officer, dated December 7, 1998, and your letter to me dated December 1, 1998. (See Attachment 1)

I would like to assure you that your letters have merited EWA's immediate and undivided attention. EWA, as a certificated air carrier, and its management and employees are fully appreciative of their responsibilities arising under pertinent laws and under the Federal Aviation Regulations (FAR's) and strive to fulfill these responsibilities in a professional and conscientious manner.

Your letter of investigation alleges that EWA could not produce requested aircraft record documents, specifically the required Digital Flight Data Recorder (DFDR) correlation and system conformity.

During your visit to our facility here at Vandalia, Ohio the week of November 16 through November 20, 1998, EWA did provide you the FAA approved data that installed the two types of DFDR's.

I also reviewed with you EWA's FAA accepted/approved program contained in the Maintenance Policy and Procedures, Chapter 3, Page 110. As I promised you in our meeting on November 20, 1998 in my office, the Quality Control Section researched your request and their findings and recommendations are as follows.

The Correlation Test Data required by FAR 25.1459(c) was input into Regulatory Requirements on February 2, 1966 (AMDT 25-8). All EWA aircraft (except N991CF) were manufactured after the amendment date. This test data would have been a delivery requirement of the manufacturer to meet Type Certificate requirements.

The FAR requirement for the operator to retain these records did not exist prior to FAR 121.343, AMDT 121-191, dated March 25, 1987. Please note this is a span of approximately 11 years that the operators were not required to maintain this data.

Mr. Nicholas Pearson
Page 2
December 18, 1998

EWA currently has two DFDR installations; the majority of the fleet has STC SA3166SO installed and the DC-8-71 series aircraft have an ASM installation approved via DER per a FAA 8110-3 Form. The correlation test for STC SA3166SO was accomplished at each installation for all 11 parameters (See Attachment 2). The ASM installation only performed correlation testing of the expanded parameters, and the original six parameters were not required to be tested as this was accomplished prior to aircraft delivery by the manufacturer.

Rather than try to obtain this outdated test data from Boeing for the ASM installation, EWA has elected to perform Correlation Testing of all eleven parameters, thus exceeding the FAR requirement of airspeed, altitude and heading. EWA expects to have this accomplished no later than January 15, to which we will maintain on file and provide you a copy.

In addition, please note that a "Correlation Document" is not required until FAR 121.344 is complied with. As I informed you during your visit, EWA will also have this data provided when we install the new 18 parameter requirement on our fleet this year.

I trust that this information has been responsive to your letters. Should you wish to discuss this matter more fully, EWA's Senior Management and I would be more than willing to meet with you and address your concerns.

The Manager of Quality Control and Manager of Maintenance Training will keep you advised concerning this issue. I would urge you to continue your contact with them to provide you technical information.

Thank you for your recommendations and support in this matter.

Sincerely,



Thomas M. Wood
Director Quality Control

TMW/re

Attachments

cc: Kent Scott
Rene' Visscher
Bruce Robbins
Edward Jones
Robert Conlon
Michael Dworkin

EWA'S RESPONSE TO
LETTER DATED March 18, 1999
REFERENCED IN LIST ATTACHED TO
MEMO FROM EWA CMT



U.S. Department
of Transportation
**Federal Aviation
Administration**

San Jose Flight Standards District Office

San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

*cc: Tom Wood
T. Wood
D. Higgins
D. Roberts
J. [unclear]*

RECEIVED
MAR 22 1999
KENT T. SCOTT

March 18, 1999

CERTIFIED-RETURN RECEIPT

Mr. Kent T. Scott
President and Chief Operating Officer
Emery Worldwide Airlines
One Emery Plaza
Vandalia, OH 45377

Dear Mr. Scott:

File No. 99WP150038

This letter is in response to my action item of our meeting in Los Angeles on March 15, 1999 and to the request from Mr. Tom Wood, dated March 11, 1999. This letter is to further identify the items that pertain to the FAA Letter of Investigation, dated March 4, 1999 sent to you.

This EIR was initiated due to the results of the Western Pacific Regional Aviation Safety Inspection Program (RASIP) conducted February 1 through 5, 1999. During that time frame several aircraft ramp inspections were performed by FAA Inspectors at various locations with unsatisfactory results. It is alleged that EWA operated aircraft under their operational control in an unairworthy condition. Specifically, all aircraft identified in RASIP findings 2.11.01 and 2.11.02, for not conforming to their Type Certification and/or Supplemental Type Certification basis. This may be contrary to the Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

[Handwritten signature]
[Redacted signature]

Nicholas E. Pearson
Principal Avionics Inspector

cc: Mr. Thomas Wood
Mr. Rene Visscher

[Handwritten mark]



U.S. Department
of Transportation
Federal Aviation
Administration

San Jose Flight Standards District Office

RECEIVED
MAR 09 1999
KENT T. SCOTT

San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

CC: Tom Wood
Gene Visscher
Ted Graves
Dan DeWeese
Jim Owens
Dick Nagquist

March 4, 1999

CERTIFIED MAIL—RETURN RECEIPT REQUESTED
FILE NO. 99WP150038

Mr Kent Scott
Emery Worldwide Airlines Inc.
One Emery Plaza
Vandalia, OH 45377

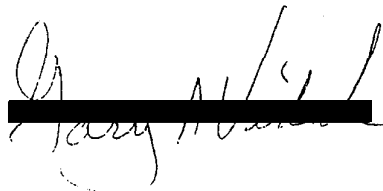
Dear Mr. Scott:

Personnel of this office are investigating the results of a RASIP inspection conducted at LAX, DAY, SEA, PDX, NWK, and ORD on February 2, 1999 through February 5, 1999. This focus of this inspection was on cargo handling procedures.

The results of this inspection indicate that Emery employees and contract personnel are not complying with your F.A.A. accepted Aircraft Loading Manual. Operations of this type may be contrary to Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,



Gary A Vidak
Aviation Safety Inspector SJC FSDO



April 2, 1999

Mr. Nicholas Pearson
Principal Avionics Inspector
San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130

Dear Mr. Pearson:

This letter constitutes Emery Worldwide Airlines, Inc. (EWA's) initial formal response to your letters of investigation (99WP150038, 99WP150037 and 99WP150008) addressed to EWA's President and Chief Operating Officer, dated March 18, 1999.

As per our previous discussion March 24, 1999, at your office, EWA will respond to these letters with the formal RASIP response.

Thank you for the descriptive letters. We have been working on the RASIP findings since receipt, and are nearing completion.

Please call if you have any questions.

Sincerely,

A handwritten signature in black ink, which appears to read "Thomas M. Wood".

Thomas M. Wood
Director Quality Control

TMW/csh

Attachments

cc: Kent Scott
Rene' Visscher

EWA'S RESPONSE TO
LETTER DATED

LOI(S), REFERENCED IN
LIST ATTACHED TO MEMO
FROM EWA CMT.

FAA LOI(s) Received From Geographic Inspectors

Continued

STATUS	LOI DATE	INFORMATION
EWA RESPONDED 12-14-98	24. 11-20-98	<ul style="list-style-type: none"> • File No. 1999SO170005 • Flight Operations, cargo net discrepancies. • Jim Owens sent response 12-14-98.
EWA RESPONDED 01-12-99	25. 12-31-98	<ul style="list-style-type: none"> • File No. 1999SO170014 • Flight Operations, cargo weight discrepancies. • Jim Owens sent response 01-12-99.
EWA RESPONDED 01-19-99	26. 01-06-99	<ul style="list-style-type: none"> • File No. 1999SO170017 • Flight Operations, pallets not properly secured. • Jim Owens sent response 01-19-99.
CLOSED 04-10-00	27. None received	<ul style="list-style-type: none"> • File No. 1999WP150043 • Maintenance - No Record of Receipt • Requested letter status through David Aaron and Hogan & Hartson. • Hogan & Hartson contacted FAA LA Carmen Everett 01-20-00, to which she did not have this LOI, but would check with SJC. • No acknowledgement of issuance received, <i>closed, no action.</i> • Bill Elder, <i>Hogan & Hartson</i>, discussed the status of this LOI with Carmen Everett, <i>FAA LA Counsel</i>, 06-08-00, to which she stated this case is circulating at the FAA and is related to the NASIP LOI 1999WP150038.
CLOSED 04-10-00	28. None received	<ul style="list-style-type: none"> • File No. 1999WP000001 • Maintenance - No Record of Receipt • Requested letter status through David Aaron and Hogan & Hartson. • Hogan & Hartson contacted FAA LA Carmen Everett 01-20-00, to which she did not have this LOI, but would check with SJC. • No acknowledgement of issuance received, <i>closed, no action.</i> • Bill Elder, <i>Hogan & Hartson</i>, discussed the status of this LOI with Carmen Everett, <i>FAA LA Counsel</i> 06-08-00, to which she stated this case is circulating at the FAA and is related to the NASIP LOI 1999WP150038.

EWA'S RESPONSE TO
LETTER DATED July 15, 1999
REFERENCED IN LIST ATTACHED
TO MEMO FROM EWA CMT



U.S. Department
of Transportation
**Federal Aviation
Administration**

San Jose Flight Standards District Office

San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

July 15, 1999

CERTIFIED RETURN-RECEIPT

FILE NO. 99WP150077

Mr. Kent Scott
President & Chief Operating Officer
Emery World wide Airlines, Inc.
One Emery Plaza
Dayton International Airport
Vandalia, OH 45377

Dear Mr. Scott:

Personnel of this office are investigating Emery Worldwide Airlines (EWA) failure to comply with the Administrator's mandate to revise EWA's Continuous Airworthiness Maintenance Program (CAMP) as required under 14CFR §121.373(b).

On December 10, 1998, EWA was notified by certified mail that EWA CAMP required changes to insure compliance with the Federal Aviation Regulations (FAR). This letter identified seven specific areas that required immediate attention. The issues identified in the Certificate Holding District Office (CHDO) letter dated December 10, 1998, are complex, and require technical review for correction. Therefore the CHDO has allowed considerable latitude in the compliance deadline as stated in the December 10, 1998 notice. However, as of this date, EWA has complied with only one of the identified issues.

On April 9, 1999, EWA was notified by certified mail that the EWA policies and procedures required changes to insure compliance with the FAR. This letter identified issues concerning the operation of EWA aircraft with inoperative systems and equipment under the authority granted by Operations Specifications paragraph D-95. As of this date, EWA has not submitted changes to EWA's programs to insure compliance with the FAR.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,


Shawn A. Skaggs
Assistant Principal Avionics Inspector

cc: Thomas Wood/Rene Visscher



July 29, 1999

Mr. Nicholas Pearson
FSDO-SJC
1250 Aviation Ave., Suite 295
San Jose, CA 95110

Dear Mr. Pearson:

This letter constitutes Emery Worldwide Airlines, Inc. (EWA's) initial formal response to Mr. Shawn Skaggs letter, File Number 99WP150077, addressed to EWA's President and Chief Operating Officer dated July 15, 1999 (reference attachment 1).

I would like to assure you that this letter has merited EWA's immediate and undivided attention. EWA, as a certified air carrier, it's management and employees are fully appreciative of their responsibilities arising under pertinent laws, and under the Federal Aviation Regulations (FAR's), and strive to fulfill these responsibilities in a professional manner.

In demonstration of this professional compliance attitude, the Director of Engineering, Technical Analysis and myself visited your office in March, and discussed these issues directly with you. An agreement was made at that time for additional improvements to be made to EWA's maintenance program.

During the referenced March meetings, the Director of Engineering and I developed a renewed open line of communication with you that we felt has been very productive since then as we have had several telephone conference calls that have been very productive.

EWA is very disappointed in the receipt of this letter from Mr. Skaggs, as it countermines the open line of communication and did not include all previous action taken between the Director of Engineering, yourself, and your agreements.

The Director of Engineering responded to Mr. Skaggs fax dated July 15, 1999 by letter to you dated July 19, 1999 (reference attachment 2). It is my understanding that these issues have been closed or pending your review, as is referenced in your April 30, 1999 letter to Mr. Rene Visscher, page 2 item 2 (reference attachment 3). To hopefully resolve this

issue without further letters and providing you reams of technical support previously sent to you, we request you contact the Director of Engineering by phone at your earliest convenience to discuss this matter and agree to a resolve for all parties.

Based on this telephone call results, a final letter will be submitted to you. I can speak in concert for the EWA Management in our appreciation of your open line of communication by telephone and most of all your support as EWA's assigned Principal Avionics Inspector.

Sincerely,



Thomas M. Wood
Director Quality Control

attachments

cc: Kent Scott
Rene' Visscher
Bruce Robbins
Jay Howard
Shawn Skaggs

TMW/lc

EWA RESPONSE TO
LETTER DATED April 8, 1999
REFERENCED IN LIST ATTACHED
TO MEMO FROM EWA CMT



U.S. Department
of Transportation
Federal Aviation
Administration

San Jose Flight Standards District Office

San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

April 8, 1999

File Number: 99WP150045

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Kent Scott
President & Chief Operating Officer
Emery Worldwide Airlines, Inc.
One Emery Plaza
Dayton International Airport
Vandalia, OH 45377

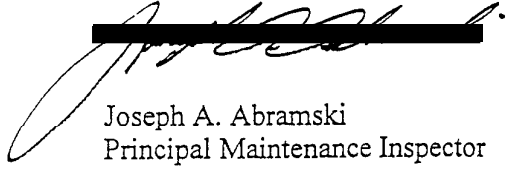
Dear Mr. Scott:

On March 24, 1999, an inspection of Emery Worldwide Airlines (EWA) DC-8 aircraft records was conducted at your Vandalia, Ohio, facility by Aviation Safety Inspectors. Specifically, seven aircraft heavy maintenance check records were reviewed for the reporting compliance requirements of Airworthiness Directive (AD) 92-22-07, Corrosion Prevention and Control Program, applicable to DC-8 series aircraft.

As a result, the inspection of those records revealed the downgrading of maintenance inspection corrosion level determinations, which may be contrary to the provisions of Federal Aviation Regulations.

This letter is to inform you that Emery Worldwide Airlines, Inc., the holder of Air Carrier Certificate Number RRXA558B, may be in violation of Federal Aviation Regulations, and that this matter is under investigation by the Federal Aviation Administration. We offer you the opportunity to submit a written statement to this office regarding this matter, which should be accomplished within ten (10) working days following receipt of this letter. Your response should contain all pertinent facts and extenuating or mitigating circumstances that you believe may have a bearing on this matter. Should you elect not to respond within the specified time, our report will be processed without the benefit of your statement.

Sincerely,



Joseph A. Abramski
Principal Maintenance Inspector

cc: Rene P. Visscher - EWA
Thomas M. Wood - EWA



April 13, 1999

Mr. Joseph Abramski
FSDO-SJC
1250 Aviation Ave., Suite 295
San Jose, CA 95110

Dear Mr. Abramski:

This letter constitutes Emery Worldwide Airlines, Inc. (EWA's) initial formal response to your letters File Number 99WP150045 and 99WP150044, addressed to EWA's President and Chief Operating Officer, and myself, dated April 8, 1999. (Reference Attachment 1.)

As the Director of Quality Control for EWA, I am disappointed in the receipt of these letters for three primary reasons that were previously communicated to you;

1. EWA's proactive demonstration of performing the Corrosion Prevention and Corrosion Control (CPCP) program since 1990, three years prior to the requirement of the Airworthiness Directive (AD) 92-22-07.
2. This subject was discussed, with you, during my visit to your office March 23, 1999, when I informed you of the misapplied corrosion finding levels by the Quality Control Representatives, and that I had authorized them to be changed to the original level assignment that day, (March 23, 1999), which was accomplished by the Manager, Quality Control and they were reported per the AD requirements to Douglas and yourself, by fax on that day. (Reference Attachment 2.) This was also provided to you in writing, in meeting minutes, Item Number Nine (9). (Reference Attachment 3.)
3. This same subject was again addressed to Mr. Jay Howard, in Mr. Bruce Robbins, Director of Engineering's letter dated April 2, 1999, Page 11, Item K. (See Attachment 4.)

As you are aware, EWA received FAA approval to provide information regarding applicability, methods, and procedures for performing corrosion prevention and control, in accordance with EWA's equivalent program, per Airworthiness Directive 92-22-07, as represented in EWA's Inspection Program Manual, Volume III.

I can assure you that EWA has maintained compliance of their program regarding all aspects, including the reporting requirements of the subject AD.

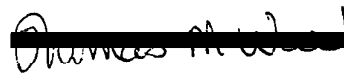
I trust I will have the opportunity to discuss this during your visit to our office this week, and to provide you this initial information.

Mr. Joseph Abramski
Page Two
April 13, 1999

I will compile the historical data of EWA's equivalent program, that will substantiate compliance of AD 92-22-07, and submit to your office, no later than April 26, 1999, (within ten (10) working days of receipt of your letters).

As always, I look forward to resolving your concerns in an expeditious manner, and promoting an open line of communication with the first opportunity face-to-face.

Sincerely,

A handwritten signature in black ink, which appears to read "Thomas M. Wood". The signature is written over a thick black horizontal line that has been drawn through it.

Thomas M. Wood
Director, Quality Control

Attachments

TMW/csh

cc: Kent Scott
Rene' Visscher
Jay Howard
Bruce Robbins
Edward Jones
Robert Conlon
Michael Dworkin
Ted Ellet

EWA'S RESPONSE TO
LETTER DATED OCT. 7, 1999
REFERENCED IN LIST ATTACHED
TO MEMO FROM EWA CMT



U.S. Department
of Transportation
**Federal Aviation
Administration**

San Jose Flight Standards District Office

RECEIVED
OCT 12 1999
KENT T. SCOTT

*cc: Tom Wood
Rene Visser
Ted Graves
Rick Haggart
Dan Revere*

San Jose International Airport
1250 Aviation Avenue, Suite 295
San Jose, CA 95110-1130
Phone: (408) 291-7681
FAX: (408) 279-5448

October 7, 1999

CERTIFIED-RETURN RECEIPT
File No. 2000WP150001

Mr. Kent Scott
Senior Vice President
Emery Worldwide Airlines, Inc.
One Emery Plaza
Dayton International Airport
Vandalia, OH 45377

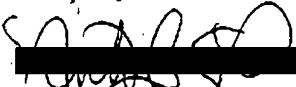
Dear Mr. Scott:

Personnel of this office are investigating an occurrence, which involved the operation of Emery Worldwide Airlines (RRXA) DC-8 aircraft, with improperly deferred inoperative instrument and equipment.

On September 8, 1999, routine surveillance was performed at the RRXA Dayton Hub Maintenance Control area. During this surveillance, it was discovered that RRXA had deferred two DC-8 aircraft, N8084U and N796FT, Class E Cargo Compartment Smoke Barrier Curtain contrary to the RRXA approved Minimum Equipment List and D95 - Operation Specification. RRXA then operated these two DC-8 aircraft, N8084U and N796FT, in revenue service from the period of August 16, 1999 through September 8, 1999. This is contrary to the Federal Aviation Regulations.

This letter is to inform you that this matter is under investigation by the Federal Aviation Administration (FAA). We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation and any subsequently prescribed sanction or corrective action. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,



Nicholas E. Pearson
Principal Avionics Inspector



October 29, 1999

Mr. Nicholas Pearson
FSDO-SJC
1250 Aviation Ave., Suite 295
San Jose, CA 95110

Dear Mr. Pearson:

This letter constitutes Emery Worldwide Airlines, Inc. (EWA's) formal response to your letter, dated October 7, 1999, File Number 2000WP150001, addressed to EWA's President and Chief Operating Officer (see attachment 1).

EWA formally responded on April 30, 1999 to Mr. Jay Howard regarding the letter of investigation, dated March 18, 1999, concerning this subject that was previously addressed by LOI 99WP150008 (see attachment 2).

Substantiation of FAR Compliance

- I. EWA received your letters of September 10, 1999 and October 7, 1999 referencing my response letter dated October 1, 1999 regarding this subject. My letter provided you with the proactive steps EWA has taken in working with you to resolve your concerns, by actions taken to receive FAA approved Douglas maintenance procedures provided for repair of the smoke curtains, and the receipt of Authority from Douglas to fly the aircraft "if the courier seats were unoccupied and the smoke curtain was damaged or removed". This procedural request has been received from Douglas upon request for our DC-8-71F/73F Douglas freighters, as was specifically issued when requested for aircraft N602AL (fuselage #380, DC-8-73F) and N8076U (fuselage #317, DC-8-71F). The subject aircraft referenced in your September 10, 1999 letter, N8084U (fuselage #368, DC-8-71F) and N796FT (fuselage #488, DC-8-73F) are like aircraft in EWA's fleet (see attachment 3).
- II. EWA Quality Control worked in concert with Douglas in May 1999 to receive a smoke curtain repair procedure. As referenced in my October 1, 1999 letter, item 1. "EWA received FAA approved repair procedures for smoke curtain from Douglas to provide maintenance with procedures. All EWA line stations have been provided repair material to perform these repairs". This repair procedure was not part of the

Douglas Maintenance Manual or contained in their TR Revisions. This procedure has been added to the EWA Aircraft Maintenance Manual revision (see attachment 4).

- III. EWA performs maintenance, per FAR 43, as prescribed in the manufacturer's maintenance manual or instruction for Continued Airworthiness prepared by the manufacturer, EWA's FAA accepted 121 Air Carrier Maintenance Manual that provides a continuous airworthiness maintenance and inspection program, FAA approved data and/or other methods, techniques, and practices acceptable to the administrator.

Following the aforementioned procedures, EWA deferred the smoke curtain by means of the MEL which deferred the courier seat, and an additional control added by assigning a Maintenance Planning Discrepancy List number (Non-MEL) to track the repair, which did not affect safety or airworthiness. This practice was acceptable to the Administrator (Principal Maintenance Inspector) for nearly ten (10) years until it was found not to be acceptable by you, upon issuance of the LOI 99WP150008, dated March 18, 1999. Until this time, EWA received no notice of non-compliance of this procedure to which was inspected and found in compliance during a NASIP, RASIP, and DOD inspections.

Instruction for continued airworthiness prepared by the manufacturer (Douglas) was requested by EWA and received in writing due to your concern of alleged non-compliance regarding the requirements of the courier module smoke curtain damage. I have attached the "No Technical Objection" policy from Boeing for your review and understanding.

A positive proactive step was performed by EWA in requesting and receiving the manufacturer's instruction. This policy states "Douglas will not provide a no technical objection if they have information that indicates the proposed repair or modification could cause damage and/or degrade the performance or function of the airplane." Based on this statement, EWA cannot be considered in non-compliance of the alleged FARs (see attachment 5).

- IV. In reference in my October 1, 1999 letter to you, item 2, I provided you information that EWA Engineering was working with Douglas Engineering to provide FAA approved data for an EWA Maintenance Authorization (MA) for a deactivation procedure of the smoke curtain, for the purpose of tying it to the courier seat MEL when it is necessary to remove it for repair.

Attached you will find the letter to Boeing formally requesting this, and also their formal response. Boeing states "in review of your request, Boeing does find the procedure viable and we have no technical objections to its use".

Based on not receiving an FAA Form 8110-3 approval, as this is considered a minor alteration, EWA has submitted this Minor Alteration for FAA DER Systems approval. This action is over and above what is required, but has been mandated by your October 7, 1999 letter requiring FAA approved data be provided to you (see attachment 6).

- V. The aforementioned Boeing response dated October 4, 1999 to EWA regarding their acceptance of EWA's Deactivation/Reactivation of the courier seats due to smoke barrier damage or removal for repair, recommends that EWA submit this request to be included in the DC-8 MEL to which Boeing would support, as it is, referenced in the DC-10 and MD-11 MELs.

The FAA Master Minimum Equipment List (MMEL) for the DC-8, Chapter 25 Equipment/Furnishings does not or since issuance include the smoke curtain. From the MMEL conception to date after over thirty (30) years of operation, this component of the courier seat module was not considered necessary in the interest of airworthiness or safety under all operation conditions, therefore not included in the MMEL.

EWA does agree with Boeing regarding the addition of the smoke curtain to the MMEL and will peruse this through the DC-8 FOEB, however believes from substantiation provided herein is not in non-compliance by the absence of the MEL item (see attachment 7).

- VI. In reference to your letter dated October 7, 1999, you state "EWA is advised that only items to be placed on the Maintenance Planning Discrepancy List are those items that contain a condition or limitation in an FAA approved/accepted source, such as the SRM". Up to this point, EWA has not had any procedures for this program mandated by your office.

Your previous LOI request for removal of EWA's Non-MEL Item Policy and Procedure from the MPP because alleged non-compliance 121.373(b), "does not contain adequate procedures and standards for Continuing Analysis and Surveillance (CASS)", is not founded reasonable, fair, or prudent.

Mr. Joseph Abramski, Principal Maintenance Inspector, requested EWA to compare their Non-MEL procedures with other 121 Air Carriers, for the purpose of comparing EWA's procedures with these other operators in an effort to resolve your concerns. This comparison was made and improvements were added to EWA procedures to reinforce the management controls. The results of this comparison was forwarded to you along with revisions to EWA's program, to which continues to be delayed in acceptance.

Industry Sample Comparison Summary:

EWA's Non-MEL procedure contains Industry Standard adequate procedures and standards per the applicable FARs, therefore is not or has not ever been in our ten (10) year history in violation of FAR 121.373(b) as alleged by the SJC FSDO.

The cease and desist order imposed by you on EWA, April 9, 1999, was based on allegations of non-compliance despite no proof, which therefore EWA receive policy imposed by the SJC FSDO that is outside the minimum standards requirement. This unjustified imposition of the SJC FSDO has caused undue hardship to EWA, and placed restrictions on aircraft operations that our competitor Cargo Operators do not receive. The PMI and yourself provided a like procedure to the Director of Engineering on April 16, 1999 called the "Maintenance Planning Discrepancy List (MPDL)" to use until the Non-MEL Procedures could be revised. This SJC CHDO MPDL authorization was re-addressed in the PMI's fax, dated July 14, 1999, to which Mr. Kent Scott and Mr. Rene' Visscher was copied (see attachment 8).

EWA's letters to Mr. Jay Howard, dated September 24, 1999, and Mr. Joseph Abramski, dated September 15, 1999, substantiates EWA's procedures contains Industry Standard adequate procedures and are in compliance with the applicable FARs, therefore, is not or has not ever been in our ten (10) year history in violation of FAR 121.373(b) as alleged by the SJC FSDO.

To-date, several Maintenance Policy and Procedure Manuals proposed revisions to the Non-MEL Procedures have been sent to your office, only to be continually not accepted by you, as the PMI and Assistant PMI recommendations and concerns were addressed and satisfied. Your received required changes to this procedure on October 18, 1999, do not reflect FAR mandates or other previously provided 121 Operators, and denotes your developed procedure for EWA to incorporate into our manual. This action is contrary to the FAA policy and procedures regarding your authority as a Principal Avionics Inspector (see attachment 9).

In addition, EWA formally responded to your previous LOI File No. 99WP150008 on December 22, 1998, and again formally responded to your expanded LOI on April 30, 1999, regarding this Non-MEL subject.

This duplication of enforcement, assignment of continuing letters of investigation, without EWA receiving closure to the open LOIs, does not meet with current FAA Compliance and Enforcement Program Policies, and is not reasonable or prudent in dealing fairly with EWA. Due to this applied undue action by your office, EWA has referred this to our Legal Counsel for support in this matter.

- VII. Your cease and desist order on the use of EWA's ten (10) year Non-MEL procedure, based on allegations of not being in compliance with the FARs, has caused undue hardship to EWA, as the second largest DC-8 Operator Worldwide. This was analyzed in the August Reliability Report with the ATA Chapter 25 Equipment and Furnishings as being over par.

The Reliability Analyst stated in the report, page 4, that during the review of the PIREPs on this chapter some of the items were corrected by placing them on the Maintenance Planning Discrepancy List (MPDL). These items were placed on a Non-MEL in the log book in the past. Due to the fact that there is no procedure for recording the MPDL information in the log book the pilots are not able to review the items previously placed on the MPDL. The pilots continue to write-up the same items over and over causing as many as four or five PIREPs in this Chapter and any other Chapter where a PIREP is corrected by placing on the MPDL (see attachment 10).

The result of this seven (7) month delay in accepting the revision to the Non-MEL Procedures by a Temporary Revision (TR), has caused this lack of notification of maintenance items to maintenance and operations.

- VIII. During our telephone conversation on October 20, 1999 we discussed this LOI and specifically the CAR4b 383(e)(4) requirements for the subject Douglas freighter aircraft.

Quote:

"Means shall be provided to exclude hazardous quantities of smoke, flames, or noxious gases from entering the flight crew compartment".

EWA has been advised by Boeing that the cockpit door meets the certification requirement of this regulation. This is reinforced by the recent acceptance of EWA's Deactivation/Reactivation of the smoke curtain MA.

Summary:

EWA, for over ten (10) years, has and continues to exercise a high degree of care, judgement, and responsibility as a holder of a Part 121, Scheduled Cargo Carrier.

It's Management has persevered to maintain a professional line of communication and compliance attitude with you during the past seven (7) months of your review/acceptance of the revision to the Maintenance Policy and Procedure Manual (MPP), Non-MEL procedure. This compliance attitude was continued even though unnecessary undue restrictions were taken against EWA's successful compliant operation. EWA is extremely disappointed in that the respect that was given to you may not have been reciprocative to EWA management. It also is understood that during this period, you were out of the office for an extended period, however, the FAA workload issues should not adversely effect the required support of the air carrier in its ability to perform business in providing service to our customers and the public.