



The Voice of Public Benefit Aviation

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The Air Care Alliance promotes, supports, and represents public benefit flying through communication and cooperation among organizations facilitating flights for health, compassion, and community service.

September 7, 2010

The Honorable Deborah A.P. Hersman
Chairman
National Transportation Safety Board
Washington, D.C. 20594

Re: A-10-102 through -104

Dear Ms. Hersman:

This will respond to your letter of June 9, 2010 containing Safety Recommendations A-10-102 through A-10-104 ("Recommendations") to the Air Care Alliance ("ACA"). The recommendations stem from the NTSB's investigation of four accidents between September 26, 2007 and August 12, 2008 ("Accidents").

Background:

The Air Care Alliance is a nationwide league of humanitarian flying organizations whose volunteer pilot members are dedicated to community service. Our members and the other groups we list are commonly referred to as Volunteer Pilot Organizations (VPO's). Their volunteers perform public benefit flying for health care, patient transport, disaster relief, educational experiences for youth, environmental support, and other missions of public service. Most ACA members are public charities as defined by Section 501(c)(3) of the Internal Revenue Code.

Although ACA does not have authority to prescribe specific practices to VPO's, ACA has been the primary forum through which VPO's collaborate regarding common concerns, define industry best practices, and mutually assist one another in meeting the public's needs through the generosity of volunteer pilots.

Safety issues have always been a primary concern of the ACA, its members, and VPO's generally, and the Accidents resulted in a re-examination of practices and procedures by all concerned.

On December 4, 2008 ACA convened a special meeting in Kansas City, Missouri to examine these issues. Representatives from VPO's across the nation took part in the meeting in person or by telephone. The meeting was moderated by Bruce Landsberg of the Aircraft Owners and Pilots Association (AOPA) Air Safety Foundation. There was a clear consensus that more needed to be, and could be done, to enhance safety.

Safety issues were also the focus of ACA's annual meeting in April, 2009 in Kansas City, the highlight of which was a presentation by Mr. Landsberg that addressed, among other things, the concerns ultimately expressed by NTSB in the Recommendations to ACA.

It is fair to say that at the time the NTSB Recommendations were issued, most VPO's had already re-examined their guidelines and procedures and many VPO's made substantive changes to enhance the safety of volunteer pilot operations.

ACA has distributed the NTSB recommendations to all known volunteer pilot organizations and solicited their input. ACA urged all VPO's to immediately review the Recommendations, provide comments and suggestions to ACA, and to begin addressing the NTSB's concerns even prior to ACA's formal response.

ACA concurs with the concerns raised by NTSB and will implement its Recommendations as set forth below.

ACA has received and considered substantial feedback from VPO's, all of which are in general accord with the substance of the Recommendations.

ACA recognizes, however, that there is no single solution that can apply to every VPO. Each satisfies different and varied needs, has different resources available, and operates in different climates and geographic conditions. Each VPO's requirements and policies must vary accordingly.

Finally, there are considerations, such as the operational control requirements of Part 91 which NTSB noted in the Recommendations, and which constrain a VPO's ability to address safety issues that are the responsibility of the pilot in command. These considerations will be discussed more fully below.

In light of the above, ACA has issued the following to its members and all other known volunteer pilot organizations in order to address the NTSB's Recommendations:

1. NTSB Recommendation A-10-102: Require voluntary pilot organizations to verify pilot currency before every flight.

ACA's Response:

The Air Care Alliance ("ACA") will recommend and urge that every Volunteer Pilot Organization ("VPO") institute procedures to (1) reinforce requirements for pilot currency under Federal Aviation Regulation 61.57 and (2) verify pilot currency by, at a minimum, requiring written or electronic self-certification of currency by the pilot in command before every flight.

2. NTSB Recommendation A-10-103: Require that voluntary pilot organizations inform passengers, at the time of inquiry about a flight, that the charitable medical flight would not be conducted under the same standards that apply to commercial flight (such as under 14 Code of Federal Regulations Part 121 or Part 135).

ACA's Response:

ACA will recommend and urge that every VPO disclose to passengers at the time of inquiry or early during the intake process that the flights are operated by volunteer pilot and are not commercial flights (airline or charter) and that the pilots, aircraft and flights are not required to meet the same standards as commercial flights. ACA will also make available to all VPO's examples of language that may be used to so inform passengers.

3. NTSB Recommendation A-10-104: In conjunction with your affiliate organizations and other medical transport organizations, develop, disseminate, and require all voluntary pilot organizations to implement written safety guidance, best practices, and training material for volunteer pilots who operate charitable patient transport flights under 14 Code of Federal Regulations Part 91. The information should address, at a minimum, aeronautical decision-making; proper preflight planning; pilot qualification, training, and currency; and self-induced pressure.

ACA's Response:

- (1) *ACA has embarked on a project with the AOPA Foundation's Air Safety Institute to develop and disseminate appropriate written safety guidance, best practices, and training materials for volunteer pilots operating charitable transport flights as recommended by NTSB. ACA will recommend and urge that each VPO utilize these materials and other materials appropriate for their operations so as to achieve an enhanced culture of safety among its pilots. At a minimum the information will address aeronautical decision-making; proper preflight planning; pilot qualification, training, and currency; and self induced pressure.*

ACA will also coordinate with FAA to assure that completion of this program will entitle the pilot to credit under the FAA's WINGS pilot proficiency program.

- (2) *ACA will recommend and urge that every VPO require each pilot to obtain recurrent training annually, which may include flight training, attendance at seminars, or use of web-based training materials.*
- (3) *ACA will recommend and urge that every VPO coordinate and cooperate with the Federal Aviation Administration, and specifically the "FAAST" teams at their local Flight Standards District Offices, to sponsor, participate in, and encourage attendance at seminars which highlight the areas of concern listed in the recommendation, i.e. aeronautical decision-making; proper preflight planning; pilot qualification, training, and currency; and self-induced pressure.*

Comments:

General:

As stated by NTSB in the Recommendations, flights by volunteer pilots are operated by the pilot in command under Part 91 of the Federal Aviation Regulations (FAR's). The pilot in command maintains operational control of the flight and makes all decisions pertaining thereto. Thus VPO's are constantly balancing legal and regulatory concerns with the desire to foster the highest possible level of safety.

Although NTSB has never determined that a VPO was the operator of a flight, this was a point of serious contention in a prior accident investigation¹.

Since the NTSB acknowledges that the pilot is responsible for volunteer flight operations under Part 91, we feel it safe to assume that the NTSB would not conclude that a VPO had assumed operational control of a flight as a result of implementing the NTSB's Recommendations.

In drafting its response ACA has been careful to address the NTSB's concerns while avoiding actions that might cause VPO's to be deemed operators by either the NTSB or FAA.

A-10-102:

Clearly no pilot should ever operate an aircraft unless he or she meets each and every applicable requirement under the Federal Aviation Regulations, including currency. Although this is ultimately the pilot's responsibility, it is reasonable to expect a VPO to make efforts to assure that pilots meet minimum standards as set by the FAA.

As a practical matter, however, it is unreasonable to expect a VPO to independently verify currency. Currency can change with every day and logbook entry. It is not reasonable to expect VPO's to track the logbooks of hundreds of

¹ NTSB ID: SEA02FA171, September 9, 2002, Arlington, WA.

pilots and to have personnel with the knowledge to ascertain each aspect of currency for a given pilot on a daily basis.

Furthermore, in any rare instance that a non-current pilot consciously intends to fly, he or she could just as easily falsify flight times as falsely certify currency.

ACA's recommendation builds upon a common existing practice among VPO's, whereby they receive an annual pilot certification to the effect that the pilot was current and would not accept a flight if not current at the time of the flight. Implementation of ACA's recommendation will result in a self assessment and a written or electronically communicated certification of currency prior to each flight.

ACA believes that the NTSB's concern is adequately addressed by having each VPO require self-certification by the pilot for each flight. This makes the pilot consciously examine his or her currency status and either not accept the flight or attain currency beforehand. It is reasonable to rely on the self-certification of a volunteer who is bearing the full cost of the flight, has no financial incentive for the flight and whose motivation is primarily to assist others in need.

A-10-103:

ACA does not believe that there is a common misperception among passengers that flights arranged by VPO's are commercial flights. Passengers understand that the pilots are volunteers who have other vocations. They are generally picked up at smaller airports and typically are flown in four to six seat aircraft with no commercial markings. There are none of the trimmings of commercial operations (uniforms, tickets, gate agents, security, etc.). Nonetheless, ACA also believes that there is no reason why a VPO should not take steps to assure that such a perception does not occur.

It should be noted that VPO's may receive inquiries about flights for patients from different sources (social workers, physicians, media exposure, friends, and internet) and that the intake process varies among VPO's. Also, some flights are "donated" by certificated operators which may, depending on the circumstances, actually be operating under Parts 121 or 135.

Therefore, while ACA will assist VPO's in meeting this requirement and share the solutions of other VPO's, ACA believes that it is better not to prescribe specific language but rather to allow each VPO to develop disclosures that are most suitable to its operations.

A-10-104:

In this case ACA seeks to strike that balance between leaving all decision making in the hands of the pilot in command, while still providing the tools through the VPO's to assist them to make better decisions. The intent is to rely on

the FAR's for requirements but also to provide the pilots with the tools to assess what is reasonable for their level of proficiency and the demands of the flight to be undertaken. The materials to be developed with the Air Safety Institute are intended to meet this need.

ACA also recommends a practice in use by some VPO's that requires every pilot to certify that they have taken part in some type of recurrent training every year. In many cases, this may not be required by FAA requirements, but ACA believes that this is a reasonable measure indicating a pilot's commitment to safe flight.

Finally VPO's often work with FAA local safety program managers to sponsor seminars that address topics of specific interest to volunteer pilots. ACA wishes to further encourage this practice thus increasing safety awareness.

Because the ultimate responsibility of proficiency in all instances remains with the pilot, and ACA and the VPO's are only facilitating the means by which the pilot fulfills this responsibility, ACA believes that this approach avoids the issue of "operational control".

ACA has always viewed safety as the primary objective for all volunteer pilot operations. We truly appreciate the NTSB's insights on how safety in these operations can be improved. We also recognize that safety concerns need to be addressed on a continuing basis, not just when accidents occur.

In conclusion, the Air Care Alliance believes that the actions as outlined above will meet the objectives of the NTSB's Recommendations and enhance the safety environment for everyone involved in volunteer flying.

Sincerely,

AIR CARE ALLIANCE

By:



ROL MURROW, Chairman



LINDY KIRKLAND, President