

Recent Developments:

Safety and Punishment, a New EU Law Removing Judicial Constraints From Accident Investigations.

Building on its 1994 Directive, with 604 votes (only 11 against), the European Parliament believes new legislation on air accident investigation, creating a European Network of Civil Aviation Safety Investigation Authorities, will help remove the interests of judicial authorities from those of the safety inquiry.

With the ultimate goal of ensuring that safety investigations are carried out free of pressure from regulatory and other authorities, under the new law, statements taken from individuals by a safety investigator, as well as voice and image recordings inside cockpits and air traffic control units, will be used only for safety investigation, unless there is an “overriding reason” requiring disclosure.

“While the regulation will not affect the prerogatives of the national courts and competent judicial authorities of member states, it will ensure that accident investigators have immediate access to evidence material and information which may be relevant for the improvement of aviation safety... It will require that member states guarantee co-ordination between

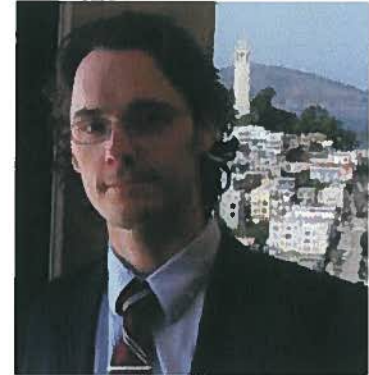
accident investigations and judicial proceedings.”

Additionally, the new law allows passengers to provide emergency contact information in case of emergencies, requires airlines to produce a list of all dangerous good on-board and provide the passenger manifests within two hours of an accident. Further, each member state will be required to have a civil aviation accident emergency plan in place and ensure that all airlines based within its territory have a plan to assist victims and relatives.

New Rules Addressing Pilot Fatigue

On September 10, 2010 the FAA released a new proposal modify current flight times limitations and crew rest requirements (75 FR 55852). The new requirements, if adopted, would eliminate the current distinctions between domestic, flag and supplemental operations and would aim to be more situation oriented and no longer an attempt at having a one-size-fits-all approach to preventing the dangers of pilot fatigue.

The FAA last proposed updating the rules in 1995 but, based on industry comments, the rule



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was not adopted. So, after years of various hearings and attempts at making changes to current requirements, the crash of Continental Connection Flight 3407 near Buffalo, N.Y., on February 12, 2009 (Please see the article below for more on Flight 3407) where the NTSB found that both pilots were suffering from fatigue, while not a direct cause of the accident, has given the FAA a renewed interest in drafting this proposal.

The new flight time structure
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depends on various items such as the number of scheduled flights, time of day, flight types and time zones, all of which may result in the pilot having additional or reduced flying time.

Also noteworthy, pilots mandatory rest period between work days will be increased from the current eight hours to nine hours.

The comment period ends November 15, 2010. For more information, visit <http://federal-register.gov/a/2010 22626>.

Continental Airlines Connection Flight 3407 - Cases Moving Forward

With trial not set until March, 2012, the estates of two passengers on Continental Airlines Connection Flight 3407 which crashed on February 12, 2009 killing all 49 passengers and one person on the ground, settled

their wrongful death cases.

The exact terms remain confidential. U.S. District Judge William Skretny, Western District of New York, in one of the two cases signed an order on August 19, 2010 sealing the terms, stating “confidentiality is a fundamental component of the accord...financial terms of the settlement are of no value to the public... Disclosure of the settlement agreement would not advance public understanding of the crash of Flight 3407 nor serve any other public interest sufficient to outweigh the parties interest in confidentiality”.

The March 2012 trial is likely to revolve around the NTSB’s February 2, 2010 findings that the crew failed to monitor air-speed resulting in the aircraft’s speed slowing such that a stall warning was triggered and the

Captain’s incorrect response in pulling back on the control column, sending the plane’s nose up and putting the aircraft into a stall that led to the crash.

American Airlines Receives \$24.2 Million Fine, the FAA’s Biggest Ever

After American Airlines grounded 300 aircraft and cancelled 3,000 flights, the FAA has proposed its largest civil penalty ever, \$24.2 million dollars for allegedly failing to properly inspect and correct the spacing of wire bundle clips in the wheel wells of its MD-80 fleet.

It still remains to be seen where this proposal will go as American and many industry experts believe the proposed fine is “unwarranted” and was only an issue of “improperly spaced clips that held wires together in bundles”. ■