

AVIATION BUSINESS JOURNAL

OFFICIAL PUBLICATION OF THE NATIONAL AIR TRANSPORTATION ASSOCIATION

4th Quarter 2011

ED KILKEARY, SR. DISCUSSES L.J. AVIATION

*A Family Business
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PAGE 42



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4th Quarter 2011
Issue 4 | Volume 9

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with Quality Values

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By Lindsey McFarren

Falsifying records is one of the FAA's deadly sins. It seems a discussion about falsification of records should start with, "It's bad" and end with "so don't do it." The issue is not quite that easy. Where is the line between correcting or "modifying" a record and actually "falsifying" information?

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NATA's 16th Annual Day on the Hill's purpose is to bring attention on Capitol Hill to the important issues faced by general aviation businesses. NATA members from across the country will meet with representatives of the U.S. House of Representatives and the U.S. Senate, along with their legislative staff, to discuss first-hand the legislative issues affecting their aviation businesses.

COMMITTEE MEETINGS

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My 2012 Political Forecast: Mostly Foggy

By James K. Coyne

Pilots like to have a good weather forecast. If I were to offer a forecast to my aviation colleagues about the political weather we face in the next twelve months, it wouldn't be pretty. America's aviation industry hasn't seen much sunshine in recent years and whenever our mood starts to brighten, along comes another wet blanket from the White House like their renewed campaign to vilify corporate aviation, impose user fees, overhaul aircraft depreciation schedules, and raise taxes on business owners or families earning over

\$250,000 a year. If they keep this up, I may start to get really angry.

Perhaps we can be consoled with the thought that it is all mere politics — and lately we've come to expect this kind of populist class warfare as a supposedly harmless feature of presidential election campaigns. But this time, I'm more than a little worried. The coming election cycle is not your ordinary struggle between two parties fighting for votes from undecided voters in the middle, each therefore trying to sound reasonable to centrist voters. 2012 is shaping up more like those bloody infantry battles of yore (think Waterloo or Gettysburg) where there aren't many "undecideds" on



the battlefield, and neither side sees a path to victory through compromise or conciliation.

The Prussian military analyst Carl von Clausewitz lamented that the outcomes of great battles were much less predictable than military strategists might expect because of something he called "the fog of war" — an uncertainty that arises from the chaos, confusion, and strategic vagueness of intense military confrontation. If current trends continue, the 2012 election will be a climactic political battle with enough chaos, confusion, and strategic vagueness to cover the electoral landscape with zero visibility and indefinite ceilings for months.

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President's Message

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The stakes couldn't be higher. After 33 months, the economic and political agenda of the Obama administration is much clearer than it was in the warm and fuzzy days of the 2008 election. Their support for Keynesian spending and 'stimulus' programs continues unabated, despite

dubious results. Their fealty to the agenda of powerful unions is steadfast, whatever the cost to the public purse. Their antipathy to private businesses is reflected in their rhetoric and their tax and regulatory proposals. Their faith in government's ability to choose winners in the private economy, from healthcare to solar energy to high-speed rail, is undiminished. And their criticism of "the rich" is a never-ending torrent.

Republicans have a starkly different vision of cutting the size of the federal government: dramatically restructuring the tax code, defunding public unions, creating a national energy policy (God forbid), slashing spending, and establishing a predictable and stable regulatory, fiscal, and monetary environment so businesses can reduce the government-induced uncertainties that confound them today. On these issues there is consensus, but on a range of other issues, from immigration to globalization, they find lots to debate. Still, on one thing they all agree: the curtain must fall next year on the Obama administration and all for which it stands.

Thus, the two sides are more polarized than I've seen in over 40 years of watching politics. It is, as they say, a watershed year, and after a hurricane and an earthquake in Washington in recent months, I'm battenning down the hatches for one heck of a storm next year.

Despite the fog, there are some apparent trends that are likely to continue and give rise to some cautious predictions. First, Republicans are, at this point, not only encouraged by polls but also by the evidence that their hard-core voters are more energized than they've been in decades. The Democratic base is diminished, somewhat disaffected, and deeply discouraged by the continuing high unemployment.

Also, important Democratic constituencies, e.g. Hispanics, may drift away, especially if the Republicans put someone like Senator Marco Rubio on the ticket.

In addition, the opening line-up for next year's Senate races heavily favors the Republicans (they are defending only 10 of the 33 seats at stake in 2012). Although "none of the above" would win most congressional elections if it were on the ballot, the "throw the bums out" mentality on Election Day should help Republicans win control of the Senate, even if it slightly reduces their majority in the U.S. House of Representatives.

But many questions remain and the fog continues to roll in to cloud our view of the horizon:

- Will Republicans nominate a presidential candidate that won't offend centrists (and will that matter as much this year)?
- Will class warfare rhetoric and economic envy mobilize Obama's base?
- Are the millions of Americans (nearly 50%) who receive government checks automatically voting for big government, even if it's bankrupt?
- Do the unemployed blame government or Wall Street for our economic difficulties?
- Will the various divisions within the Republican party all support a single (perhaps imperfect) candidate?
- Will seniors punish Republicans because they dared to suggest that entitlements like Medicare need to be reformed?
- Will Democrats be able, in the weeks before the election, to create an issue that distracts the voters' attention from the dismal economy?

If the election were held today, the Democrats would suffer their worst electoral defeat in decades, and time is quickly running out for the administration and its allies in the Senate to persuade voters that they deserve another chance. There's always a possibility that some unforeseen event will give them a ray of sunshine to brighten their prospects, but at this point my weather forecast, even with all the fog, favors the GOP. If they are victorious, the bigger question is: Can they govern according to their conservative principles or will they succumb once again to the pandering appeasement that marked their most recent period of political power? This may be their best (or last) chance to shine. **A**



The New Political Climate

By Eric R. Byer



For years, transportation issues, and more specifically aviation matters, were almost always a bipartisan affair. Democrats and Republicans would be happy to join the committees in Congress with jurisdiction over transportation issues because they could bring home the “pork,” otherwise known as earmarks. Members of Congress loved issuing press releases staking claim to securing \$25 million in federal funding to make safety improvements to a highway in that Member’s state or district or declaring victory in securing federal funding for new lighting at a local airport. And in return, Members of Congress would frequently receive recognition by having their name associated with part of a highway or a local municipal building or whatever else local and state politicians could do to repay those tireless efforts of that Member of Congress in securing federal funding.

During my brief tenure working on Capitol Hill as a congressional staff member, I saw this process take place all the time. But things have changed dramatically since then.

Earmarks are now taboo on Capitol Hill and not permitted within legislation. Thus, those “pork” projects are simply not there for the offering on aviation and highway trust fund legislation. Transportation spending is subject to budgetary constraints that in the past were sometimes ignored. Remember the term “off-budget?” Transportation spending is not immune to the budgetary cuts running rampant in all areas of the federal budget, and aviation spending is susceptible to reductions.

As a result, U.S. House of Representatives and U.S. Senate Members no longer have the desire to serve on congressional committees with jurisdiction over transportation and aviation issues. And, with decreasing numbers, the power of these committees diminishes. Take for example, the House Committee on Transportation and Infrastructure. The

committee had a great number of members in the mid-70s. Now, it has only 59 members. Of those 59 members there is a sizable group of freshman Republican Members who came into Congress during the mid-term elections last year promising to change Capitol Hill and the status quo. And boy, have they. There is not a committee chair in Congress who is not wary of failing at least to check in with, if not garner support from, first-term House Republican Members of Congress before offering new legislation, holding a hearing or even issuing a press release. Why? Because those 50 plus House Republican freshmen are the ones who helped the Republicans regain the majority in the House. And many in this group simply don’t care if they are re-elected in 2012. They are there to invoke change on Capitol Hill.

So when people ask me why there have been more than 20 extensions to a long-term FAA reauthorization bill, the answer is quite simple. There is a new political climate on Capitol Hill. And a climate that is not nearly as bi-partisan as it used to be. The old guard that made deals in the smoke-filled backrooms of restaurants on Capitol Hill no longer exists. Instead, for better or for worse, Capitol Hill has a new political climate that has Members of Congress deeply entrenched in their political views and unwilling to budge to find common ground on even the simplest of legislative issues. It is the reason that seemingly nothing gets accomplished on Capitol Hill nowadays, extensions and delays reign supreme, and Members of Congress are not willing to compromise.

To be sure, our nation is facing some tough fiscal choices. Aviation is not immune to close scrutiny, and it shouldn’t be. As a result, the aviation industry needs to be prepared to make a strong case for every dollar because we can no longer consider it a given that spending on aviation infrastructure and programs will garner support across the aisle as it has in the past. **A**



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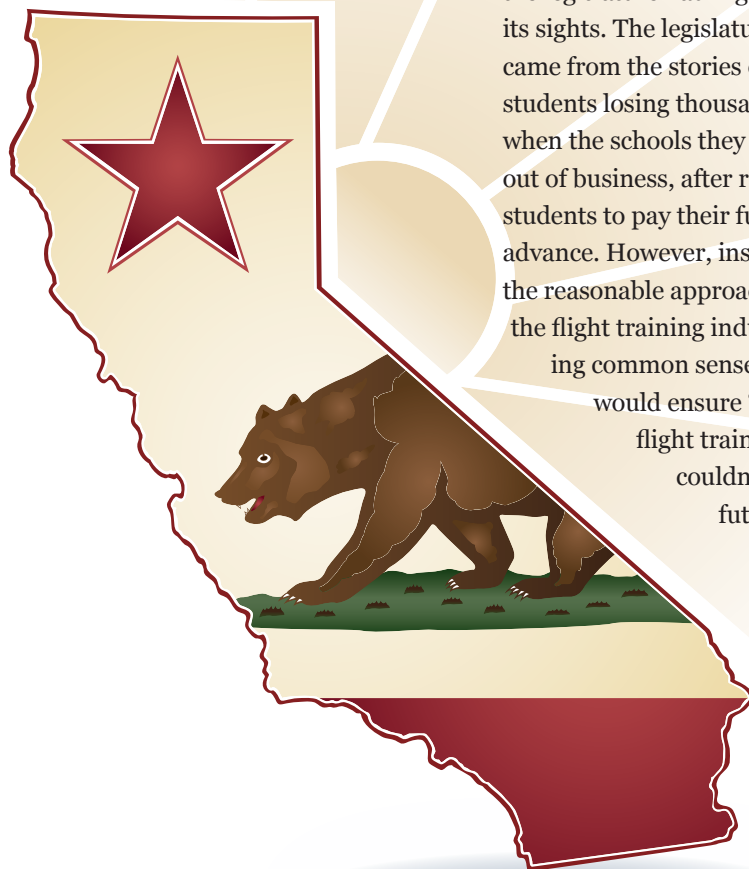
Battle to Protect California Flight Training Ends in Success

On September 20th California Governor Jerry Brown picked up his pen and brought to conclusion a battle that has consumed the California flight training industry for the past year and a half. The Governor's signing of Senate Bill 619 marks not just a victory for flight training and aviation, but also for everyone who believes that individuals and businesses have the right to be included in the discussion when the government chooses to regulate them.

As recounted in the 4th quarter 2010 edition of *Aviation Business Journal*, this saga began in 2009 when the California legislature took up legislation to reauthorize the Bureau of Private Postsecondary Education (BPPE), a California government agency that regulates private colleges, universities and trade schools. The flight training industry had been exempted from regulation in the previous incarnation of the BPPE by a memorandum of understanding with the Federal Aviation Administration. In 2009, however, the legislature had flight training in its sights. The legislature's motivation came from the stories of flight training students losing thousands of dollars when the schools they attended went out of business, after requiring the students to pay their full tuition in advance. However, instead of taking the reasonable approach and engaging the flight training industry in finding common sense solutions that would ensure "fly by night" flight training business couldn't put students' futures at risk, the lawmakers quietly wrote

their legislative language so broadly that almost every single flight school and flight instructor working in the state would be lumped in with the thousands of private colleges, universities and trade schools in terms of regulatory oversight. Under the new rules even the smallest flight schools and individual instructors would be required to pay thousands of dollars, including a percentage of their gross revenue, to the state, undergo an annual general accounting principles third party audit, and submit to voluminous recordkeeping and administrative regulatory requirements.

For the industry, the first indication that they were now regulated was when they received a letter from the BPPE in early 2010 telling them they had to comply with the new regulations and pay the enormous fees by July 1st. NATA began receiving calls from our members almost immediately, and the overwhelming feeling expressed was: "How can this happen? There is no way I can comply with these rules!" Business owners who had been faithfully serving students for decades were now faced with regulations that would likely force them to close their doors, all without ever having the opportunity to participate in fixing the "problem." In fact, an NATA industry survey indicated that up to 94% of flight training facilities would be forced to close under the new regulations. Due



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California's Flight Training

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to the time frames involved for compliance and the complexity of the California legislative process, NATA opted to pursue a two stage solution that involved getting a delay in the compliance date for flight training facilities and then using that time to educate lawmakers on the unique situation of flight training businesses. In October of 2010 the delay in compliance was achieved, giving the industry until July 1 of 2011 to find a long term solution.

That solution came about in early 2011 when State Senator Jean Fuller (R-18), an active general aviation pilot, introduced the NATA sponsored, Senate Bill 619. SB 619 was specifically crafted to exempt the vast majority of the flight training industry that posed no economic threat to students because they don't require pre-payment of large fees, something the legislature would have realized in their original legislation, had they taken the time to ask. Specifically any flight training provider that did not require students to pre-pay more than \$2,500 in fees and also did not require the student to enter into a contract that indebted the student to the facility would be exempted from regulation were SB 619 to be passed.

With NATA's lobbying effort in Sacramento and grassroots efforts across the state, as well as the support of many individuals and pilot groups, including the AOPA, the legislature was convinced that this was a sensible solution. SB 619 passed both houses of the legislature without a single dissenting vote and was signed into law by Governor Brown. The language of SB 619 provided that it would take effect immediately upon signature by the governor.

A short article such as this one cannot accurately represent the dedication and effort of the countless individuals who supported the flight training industry throughout this battle. In one sense, it is hardly surprising. Anyone familiar with our industry is well acquainted with the passion and love of aviation expressed by all those involved with flying. But it is also vital for us to remember that, despite the fact that general aviation is a critical economic tool in our state and national economies, not everyone understands that. Educating our lawmakers on the value that general aviation business brings to localities, states and the nation is imperative. Individual business owners must continue to stress the

importance of their business to job creation and economic growth. NATA is proud to be on the front lines advocating on behalf of the many flight schools, FBOs, maintenance facilities and aircraft charter operators that make up our membership. This battle over the future of flight training businesses in California was successful, but NATA understands that this will surely not be the last challenge that arises for general aviation. When necessary, NATA will once again be ready to fight for your business and the future of our industry. **A**

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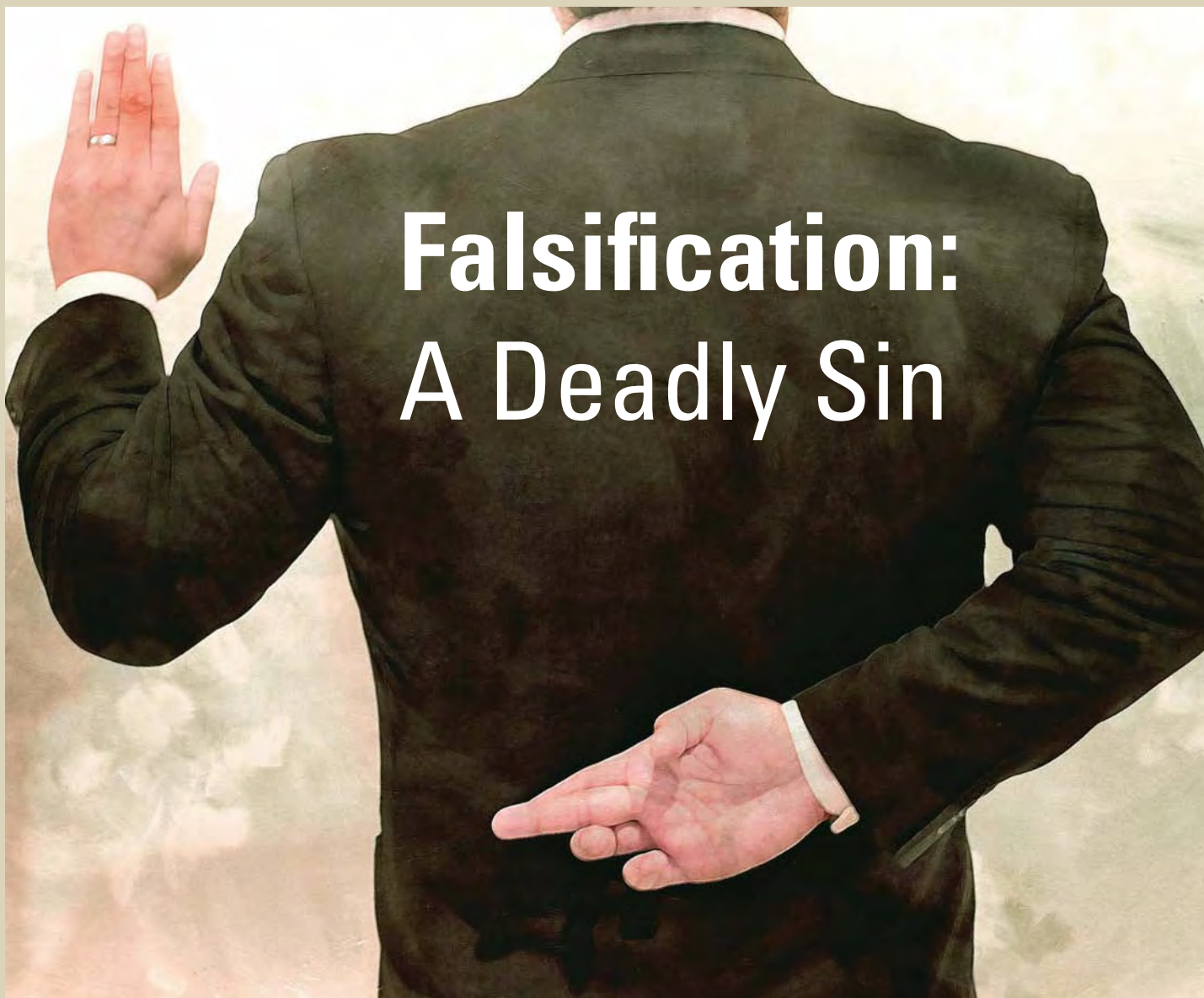

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Falsification: A Deadly Sin

Most aviators and other individuals involved in this industry would probably agree that falsifying aviation records is wrong. In fact, falsifying records is one of the FAA's deadly sins (that is, falsification of records is one action that can lead to permanent revocation of your FAA-issued certificate). It seems a discussion about falsification of records should start with, "It's bad" and end with "so don't do it." Simple, right?

The issue is not quite that easy. Where is the line between correcting

or "modifying" a record and actually "falsifying" information? Consider these hypothetical situations:

1. "I forgot to complete my weight and balance calculation prior to takeoff, and it turns out the plane was out of CG. I'll just change those numbers a bit and back date the manifest."
2. Scheduler: "We just sold a Part 135 trip to a small airport. The scheduling software says the airplane needs a longer runway to meet the 135 requirements than the runways available at that airport. Should we call the customer back and send them to another airport?"
Pilot: "No, let's just log this as 91. I've flown this airplane into much shorter runways before. The plane doesn't know it is being flown Part 135."
3. "I take a medication prescribed by my doctor. I don't have any bad side effects from it and it's no big thing. What are the odds the FAA will find out about the prescription? I'll just check the 'no' box for that question on my medical application. It doesn't

bother me or distract me from flying.”

Hopefully all of these scenarios cause you to at least stop and think; the very thought of any employee even considering the proposed solutions to be acceptable options should keep you up at night. You might think these issues are very clear, but I assure you some decent, reasonable people struggle with how to handle these scenarios every day.

(Author's disclaimer: I am not an attorney and this is not legal advice. Falsifying records or misrepresenting facts to the FAA is a very serious matter. When in doubt about recordkeeping and documentation, contact a qualified aviation attorney. This individual might or might not be the same lawyer who handles your management contracts and other business arrangements so be sure to ask your attorney about compliance enforcement experience and qualifications — especially if the FAA has already made falsification allegations against your company or you personally.)

The Federal Aviation Regulations 61.59(a)(2) say this about falsifying records: “No person may make or cause to be made ... [any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or exercise of the privileges of any certificate, rating, or authorization under this part.”

At NATA's Air Charter Summit earlier this year, Joe Conte of the FAA's Office of the Chief Counsel, Enforcement Division discussed

Terms You Need to Know:

ALJ: Administrative Law Judge – An official who presides at administrative hearings to resolve a dispute between a government agency and an individual.

MS: Martha Stewart – A home decorating and cooking maven who served time not for insider trading but for perjury (lying).

OIG: Office of the Inspector General – The arm of the Department of Transportation that deals with criminal actions. The FAA will refer an enforcement case to the OIG if criminal activity (i.e. fraud / falsification) is suspected.

PO: Probation Officer – The person to whom you could report for several months or years following incarceration for falsifying FAA records.

falsification of records. Conte provided the following example: Let's say a pilot logs second-in-command time in an aircraft that pilot is not qualified to fly. Is that a recordkeeping violation or falsification? Answer: It depends on the circumstances. An accusation of falsification should meet the following qualifications, known as the Hart test (see *Hart v. McLucas*, 535 F.2d 516, 519 [9th Cir. 1976]). The Hart case established these qualifications to substantiate a falsification claim: 1. The statement in question must be a false representation; 2. It must be in reference to a material fact; and 3. It must be made with knowledge of its falsity. If the pilot knew **or should have known** that he was not qualified to fly the aircraft, this could very well meet the burden for falsification.

Go back to our scenarios above. Just the thought that someone in your company might consider taking the actions in Scenarios 1 and 2 better cause you instant heartburn. Modifying a manifest or maintenance record in this manner is a pretty clear case of falsification. These two

scenarios meet the three qualifications of the Hart test. How do you handle a weight and balance error or an accidentally over-flown inspection? Consider calling your attorney. He/she will likely suggest you file a Voluntary Disclosure Report through the FAA's Voluntary Disclosure Reporting Program (VDRP). But remember, the VDRP will not cover a purposely over-flown inspection; it is intended to cover unintentional errors, not intentional decisions to violate regulations, so don't consider it your company's “fall back” plan.

The medical application scenario in number 3 above seems innocuous enough, but the FAA takes a very dim view of false claims on medical applications.

Several real cases of falsification are discussed below.

Real Case #1: Platinum Jet / Francis Vieira

It is official: Falsifying aviation records could land you in jail. “Falsification” is really a euphemism for “fraud”, which is a criminal offense. Francis Vieira, a

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Falsification

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pilot with now-defunct Platinum Jet Management, LLC, was recently sentenced to six months in prison for participating in a conspiracy to defraud charter customers and brokers and to impede and obstruct the FAA. He was also sentenced to six months of home confinement and three years of supervised release.

In case you have forgotten the notorious and infamous Platinum Jet, these are the same folks who brought you the operational control hysteria and revised Aoo8 Operations Specification in 2005 / 2006. Platinum Jet was operating the Challenger that crashed at Teterboro Airport in 2005, injuring 14 people. Platinum Jet had a cozy arrangement with Darby Aviation which held a Part 135 air carrier certificate. Platinum Jet used Darby's certificate to complete charter flights for hire but glossed over or "modified" a few critical details relating to the charter flights. Flight logs were falsified to indicate flights were conducted as private Part 91 operations instead of Part 135 for-hire operations. This was done presumably to cover up other Part 135 violations, like violations of duty and rest requirements and questionable weight and balance calculations.

Vieria's troubles are more directly related to his alterations of weight and balance documents. Fudging a weight and balance calculation is bad enough, but the reason for the modification is what helped the U.S. Attorney's Office make the conspiracy case. According to the Assistant U.S. Attorneys assigned to the case, Platinum Jet was running a fuel-tankering scheme, buying fuel on the

cheap at some locations and in doing so exceeding the aircraft's forward CG limits.

Moral of this story: Don't lie.

Real Case #2: JetSmart / James Howe

In another recent enforcement case, JetSmart, Inc. and JetSmart's owner, James Charles Howe, faced emergency revocation of both the air carrier certificate and Howe's own ATP certificate. The FAA alleged JetSmart operated a Lear 60 on several occasions to Sikorsky Airport (BDR) in Bridgeport, CT. The longest runway at BDR is insufficient for Part 135 operations in a Lear 60. JetSmart and Howe found a creative way around that little inconvenience: the charter flights were logged as Part 91 private flights.

It is important to note that precedent allows falsification to be proven by circumstantial evidence. But in this case, the FAA had sufficient evidence to prove the flights were for compensation or hire. Howe didn't quite cover all of his bases — he charged the passengers federal excise tax, which obviously wouldn't apply to Part 91 flights. JetSmart also had a contract with the main passengers on the BDR flight which stated, "all aircraft to be supplied to [passengers] hereunder using Sikorsky Memorial Airport in Stratford, Connecticut as a start point/base for the purposes of calculating flight hours hereunder."

Relevant flight logs were initialed by Howe and his chief pilot indicating the flights were released under Part 91. The chief pilot testified that a flight could not be released under Part 91 unless he or Howe first

approved of the operation. The chief pilot also testified that two pilots had told him operating the Lear 60 into BDR under Part 135 was impermissible. The chief pilot himself calculated the required relevant distances and determined that it was "almost impossible" to complete with Part 135 required runway lengths. JetSmart's solution to this discovery was that "they began operating flights under Part 91 to avoid the runway length issue." (Notice they didn't begin operating flights for no fees or compensation.) And BDR wasn't the only airport JetSmart considered playing a switch-a-roo with operating rules — JetSmart's former director of operations testified that Howe approached him to fly a trip to the Caribbean under Part 91 rather than Part 135 to avoid the runway length issue. While this is a creative approach, it's not exactly legal since JetSmart was receiving compensation for the flights.

Howe denied these claims, stating the chief pilot had been the main individual to release flights and any logging of flights as Part 91 operations was simply an error. Howe even called on the Hart test, noting the respondent's defense in that case was essentially that his carelessness excused him from liability for a falsification violation. (This is the equivalent of "I'm not dishonest. I'm just lazy and/or incompetent." It was actually reasonable for Howe to try to make this argument — being lazy and incompetent can get you civil penalties or maybe a certificate suspension or revocation. *Lying can send you to jail.*)

Continued on page 19



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Falsification

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The law judge who provided the initial decision did not buy Howe's claims of inadvertent carelessness.

"The evidence establishes that the flight was a Part 135 flight. It was billed as a 135 flight and payment for that flight was collected as a 135 flight. Taxes were collected and paid to the federal government as a 135 flight. Yet the flight duty record, which [respondent] signed, indicates that it was a Part 91 flight. It is logged in that record as another commercial flight and not a Part 135 flight. Mr. Howe testified he did not carefully review the document before he signed it. I did not find Mr. Howe's defense of carelessness to be credible. I find the evidence before me established by a preponderance of evidence that Mr. Howe made a false entry on his flight duty log. He had the opportunity to correct it. He had the knowledge to correct it. It was his responsibility to correct it and he did not. He offered no explanation on direct or cross-examination as to why the flight log indicates the flight was flown as a Part 91 flight."

Administrative Law Judge Montano found the FAA Administrator had proven that "James Howe entered or caused to be entered in the flight log information for the flight that the flight segment was conducted under Part 91 of the Federal Aviation Regulations." Further, the ALJ found the FAA Administrator had proven that "James Howe knew that the

flight was to or did transport passengers for compensation or hire in air transportation." The ALJ also found that "JetSmart, Inc. conducted flight operations in a careless or reckless manner so as to endanger the life or property of another."

Moral of this story: Don't lie.

Real Case #3: Charles Croston

Pilot Charles Croston learned the hard way in 2007 that falsifying statements on a medical application will not be tolerated by the FAA. The FAA revoked Croston's private pilot certificate and first-class medical certificate for violating 67.403(a)(1), which prohibits any person from making a "fraudulent or intentionally false statement on any application for a medical certificate or on a request for any Authorization for Special Issuance of a Medical Certificate (Authorization) or Statement of Demonstrated Ability (SODA) under this part."

Croston answered, "No" to a question on the application form which asked if "ever in [his] life [he] had any ... history of any conviction(s) or administrative action(s) involving an offense(s) which resulted in the denial, suspension, cancellation or revocation of driving privileges." In fact, Croston's driver's license had been suspended by the state of Florida five times from 1983 through 1996 for refusal to submit to a drug or alcohol test.

Croston claimed he interpreted the question as "Do you have any disqualifying conditions now?" and felt he could honestly answer "No", since his drinking issues had been addressed. Croston appealed the FAA revocation



to an ALJ. The ALJ decided the medical application question was "clear and unambiguous" and Croston "gave it the meaning he wanted it to have, not the meaning that is plainly stated on its face." Croston's misrepresentation was found to meet the three Hart test qualifications for intentional falsification, and Croston's certificate revocation was upheld.

Moral of this story: Don't lie.

Legitimate Errors in Recordkeeping

If you've discovered a legitimate error in recordkeeping, is there a way to change the record to reflect the truth without fear of reprisal? I am incredibly cautious in instructing any individual to alter an FAA record.

My first piece of advice is to call your attorney for official guidance. If you are absolutely certain a record is incorrect only because of a legitimate error in documentation and you decide to correct the record, be sure to change it properly. Pen-and-paper records should be modified by a single strike-through line of the pertinent information with the initials of the individual changing the information and the date of the change.

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Falsification

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This allows the original entry to still be read and identifies the individual responsible for the edit. It would also be prudent to include a note explaining the need for the modification and any supporting evidence or documentation. Any document that supports your amendment should be kept in case an FAA inspector or another official questions the modified record. If you need to change an electronic record, like those developed by flight management software programs, always include a detailed reason for the change and any supporting evidence should be retained. The FAA knows most of these software programs have audit trail functions so don't try to

game the system. Some of this advice might seem a little too conservative, perhaps a little dramatic. But if the FAA pulls your duty logs 10 months from now, do you really think you'll remember why you changed that document? Remember one of the critical rules of surviving an FAA investigation: The one with the most paperwork wins. If an FAA inspector asks questions about the record 10 months from now, you might be thrilled to have saved the fuel receipt, an email to your scheduling department reporting a customer service issue on the flight, or any other document that suggests your changes are the true record of the event.

Most of us learned as young children that lying is generally a bad thing. But in the hustle and bustle of every day operations, people make mistakes. People make bad judgment calls. People choose profits (or mere financial survival) over compliance. Be smart about your decisions so you never have to defend your business or yourself against falsification claims from the FAA. And remember the moral of the story: **DON'T LIE. A**

Lindsey McFarren is the president of McFarren Aviation Consulting, which specializes in compliance and safety consulting for Part 135 charter operators.

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Municipalities Competing with Private FBOs: Fair or Foul?

By John L. Enticknap, President, Aviation Business Strategies Group

Over the past couple of years, there has been an effort by a number of municipal airport authorities in the United States to enter the aviation services business where private enterprise providers already exist.

It's a political hot potato to be sure. No one is suggesting that municipal airport-managed FBOs should not exist. There have always been airport-managed FBOs providing essential services at small and large airports, and for good reasons.

The controversy arises when a municipal airport authority decides to either compete with or edge out an existing private FBO enterprise. This begs the question: Is it fair, or is it foul? To answer this question, let's examine both sides of the issue.

The case for municipally run FBOs

Here are some background statistics from the 2011 NATA general aviation fact book:

- Total number of civil private-use airports: 14,353

- Total number of civil public-use airports: 5,175
- Civil public use Part 139 airports: 551
- Civil public use non-Part 139 airports: 4,624
- Total number of FBOs in the United States: 2,987
- Approximate number of FBOs within chain operators: 250

As we can see by the above statistics, there are a large number of airports and a relatively low number of FBOs. Without going into details, for airports with low traffic figures that cannot support a profit-oriented FBO, municipal airport management can provide essential services — fueling, terminal operations, tie downs and hangars. Our general aviation industry would not operate efficiently if these services were not available.

The statistics above also show that the FBO business continues to be fragmented and major consolidation will continue to occur. Add to this the fact that only about eight percent of the FBOs in this country are part of a network or chain. In addition, the vast majority of the 14,353 civil

private airports are unable to support an FBO. At these airports, the operator of the airport must provide the essential services.

The thin gray line

In some recent incidents, some municipal airport authorities are muddying the waters by threatening free enterprises. With reduced budgets and reduced business, they are now looking at getting into the business of offering private aviation services as a way to increase income and defray operating costs.

What is most troubling is that, at some airports, the management is trying to displace existing private businesses.

Here are some scenarios that seem to be playing out:

- Existing privately held FBO's lease comes to end. Airport authority takes over FBO operations.
- Municipal airport authorities build FBOs with federal funds to compete against existing privately owned FBO.

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Municipalities Competing with Private FBOs

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- Existing FBO's long-term lease is coming to end. Airport wants to build new FBO with federal funds to displace FBO. Considers federal funds "free" money.

Obvious questions arise. Should a government entity be allowed to enter an existing free market and compete against an existing private sector FBO? Should a municipal airport authority be allowed to eliminate private enterprise under circumstances listed above and become the sole source of providing a product or service where a private enterprise is available and can more than qualify?

So what are we to do?

There are no easy answers. Sometimes when government takes over there is not much you can do. The government has sovereign immunity, and many attorneys will tell you that you do not have a realistic chance to win a lawsuit. In the majority of cases, litigation ends up being a costly waste of time.

Yes, you can do plenty to protect your business. But sustaining your FBO with a satisfactory long-term lease is not necessarily a purely business proposition. Rather, it requires an effort to pull together your political, business and legal skills.

First and foremost, you must participate in your airport and business community. That means being a part of and taking part in the airport management processes no matter what kind of management structure the airport operates under, whether run by the city, airport authority or county municipality. You, as a tenant

on the field, should be attending all public airport meetings, get to know the manager and board members, be part of the local business community and be involved in supporting local civic organizations.

These activities will give you information. You can get to know the thinking of the airport personnel, know the finances of the airport and know the political movers and shakers. By having knowledge of the local political and business community, you can get a sense of what you need to do to extend your lease.

Further, you should have an idea of the temperament of the airport authority. You should have a sense for whether it will negotiate a new lease, whether the airport is willing to have a Request for Proposals (RFP) process and what the "hot buttons" or issues are for the airport.

Get help!

- You might want to engage your attorney, who is no doubt a major part of the local business and political community. Engage some experienced industry consultants who have dealt with these complex issues before.
- Contact NATA. This organization is very involved in this issue. It has already engaged government officials on several levels to support private FBO businesses.
- Contact your senators and congresspersons to support the Freedom from Government Competition Act, H.R. 1474/S.785. This bill removes the unfair advantage

government has by subjecting commercial activities performed by government entities to market competition to benefit the taxpayer.

We have to be actively involved in our businesses and not only on the day-to-day operational issues. You must also be involved in the local business and political community. These are not easy issues to deal with. Remember, airports are businesses also. They are always seeking more traffic count and federal funding, and dealing with many environmental and political issues themselves. Be part of the solution for their issues.

Remember, don't be the FBO owner who wonders what happened. Be the owner who makes things happen!

FBO Success Seminar registration

The next NATA FBO Success Seminar is scheduled for Nov. 8-10 in Atlanta. Register at www.nata.aero **A**

John Enticknap founded Aviation Business Strategies Group in 2006 following a distinguished career in aviation fueling and FBO management, including president of Mercury Air Centers. He is the author of *10 Steps to Building a Profitable FBO* and was instrumental in developing NATA's acclaimed FBO Success Seminar Series. What do you think of this issue, or what you have done to protect your FBO? Send me an email at jenticknap@bellsouth.net.

(This article first appeared in ACUKWIK Alert.com, FBO Connection.)

2012 Spring Training Highlight:

FBO Finance Fundamentals Seminar

by Colin Bane



“One of the great things about our industry is that we frequently see people work their way up through the ranks from the line to management positions,” said Phil Botana, president of Tampa International Jet Center. “It’s the American dream writ large across the general aviation industry, but it also presents a challenge: These are good, hard-working people who deserve to be promoted, but they are frequently also people with no real financial management training. How do you give them opportunities to learn about the business side of things and give them the tools to empower them to be better managers? I made the mistake one day a few years ago of saying I might have some answers to that question, and here we are.”

Botana and Mark Chambers, managing partner at Aviation Resource Group International (ARGI) in Colorado, will present their FBO Finance Fundamentals seminar March 6-7, 2012 during NATA’s Spring Training in Las Vegas. The seminar places emphasis on understanding financial reporting, business flows, key ratios, and metrics, as well as business planning, budgeting and accounting, allocating costs, negotiating, and developing operating and capital plans.

Over the last six years Botana and Chambers have trained hundreds of new and seasoned managers from FBOs across the country, helping them better understand the key financial metrics of the business.

“The seminar was originally geared towards people at FBOs who have just been promoted or are in line for a promotion but just don’t have any background in finance and

business fundamentals, but what we’ve been finding is that *everybody* in management can benefit from the sessions,” Botana said. “We’ve had several hundred people come through this seminar, from CEOs and finance people to line managers and folks who are just getting into the charter or FBO business and want to understand it more. Our goal is not to make them all into accountants, necessarily, but to help them understand the numbers, what the numbers tell them about the business, and how they can use that information to make the business better.”

Botana and Chambers draw a distinction between financial accounting and what they call “management accounting,” the process of identifying, measuring, reporting, and analyzing information about key business metrics, understanding those numbers and where they come from, and using those metrics to develop solid business plans to improve business performance. And while the seminar focuses on timeless tips and tools, Botana believes those business fundamentals are even more important in a down economy.

“Before you price your product you really need to know what the true cost structure of that product is,” Botana said. “It’s absolutely shocking to me how few people really understand cost structures and total operating costs, you know, ‘What portion of the sale of a gallon of fuel goes to pay my people, my rent, my insurance, my facility costs and so forth?’ It’s key to know that information before you’re negotiating with a customer so you don’t end up selling it for less than it actually costs you to provide it. And it’s even

Fundamentals are just that: Fundamental.

more critical now, when there's less business out there and you need to size your business appropriately."

It's critical for anybody in a management position to be exposed to the practical side of financial management.

"This course is really aimed at people in our industry, and there a lot of them, who have been working in line positions and are moving up to management positions that put them at the table with other managers, talking about all things financial," Chambers said. "The line manager wants to know, to the degree that he can control things, how much money he is making, how to read a financial statement and how to talk intelligently in a management meeting. When the president of the company turns to you and asks you a question about profitability — 'Why is it high? Why is it low?' — you need to be able to answer that with confidence, and to do that you need to be able to speak the language. You need to understand the metrics involved. Our seminar is a pretty intense couple of days, but you'll come out of it knowing how to talk intelligently in a management meeting and knowing how to read a financial statement."

It is also important to learn how to use the numbers in a financial statement to move the business forward.

"The way a lot of managers learn to read financial statements is like learning to drive a car using the rear-view mirror," Chambers said. "There's a real tendency to look back and lament the numbers, and then keep heading in the wrong direction. The leap we try to get them to make — and admittedly they're drinking out of a firehose during our two-day seminar — is to start talking about how you practically manage your business going forward using some basic rules of thumb and some key metrics that are the targets you want to hit as a manager on a day-to-day and week-to-week basis."

Fundamentals are just that: Fundamental.

"Yes, the economy is down and the business landscape is always changing, but the fundamentals stay the same," Chambers said. "In the summary description for this seminar the title is 'FBO Finance Fundamentals for New and Seasoned Managers Responsible for the Bottom Line in Aviation Services,' but for the line manager it's really the middle line that we're trying to hit. The manager of the line department shouldn't be worried about larger business

decisions he has no control over, but he can learn to understand his revenue line and his cost of sales line and focus on producing enough gross profit in his department to make it make sense. What we're asking of these managers doesn't vary a lot in up or down economies: Give us the middle line and let the president of the company manage the rest of it. These middle-level managers have to be in there watching the middle line on a deal-by-deal basis, they have to have the financial tools to talk about it and make a compelling argument. They're the heart of our business and they should be empowered to improve it." **A**

For more information



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Hit a homerun... with NATA's FBO Finance Fundamentals Seminar (March 6-7). One of the great things about our industry is that we frequently see people work their way up through the ranks from the line to management positions. It's the American dream writ large across the general aviation industry, but it also presents a challenge: These are good, hard-working people who deserve to be promoted, but they are frequently also people with no real financial management training to speak of. Give them opportunities to learn about the business side of things and give them tools to empower them to be better managers.

Meet the team... As part of the Safety 1st Trainer seminar (March 7), trainers will learn how to engage different students, increase learning retention, effectively present lesson plans, identify student verbal and nonverbal cues as well as many other vital training skills. NATA's own PLST Online program and admin experts will walk participants through the trainee and trainer functions of PLST Online and answer questions about the program as well as the administration. When you call NATA's Safety 1st with a question about PLST Online, they are the professionals you will talk to and are among your most valuable PLST Online resources.

Cover your bases... NATA's Environmental Compliance Seminar (March 8) is designed to provide FBO, Air Charter, Corporate Flight department and airport facility managers and staff with the latest information and techniques for ensuring that their facility remains fully compliant with State and Federal environmental regulations.

Slide into home... attend all the seminars for full coverage of safety, environmental, training and financial issues.

On the field... stop by NATA's booth to meet the Spring Training Week team and participate in the "Sports Trivia Challenge."

For more information



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Illegal Charter



Squelches Suspicious Activity

The FAA/NATA Illegal Charter Hotline has been in operation since 2008. The hotline is funded by a grant from the FAA and is a toll-free hotline for certificated operators to report suspected illegal commercial activity.

Some hotline callers cite business reasons for reporting: a non-certificated entity that steals the air carrier's business by undercutting prices. Business self-preservation is certainly a legitimate and reasonable impetus for making a report, especially in our industry's current financial climate.

Other callers suggest safety concerns as their reason for calling. The following are just a few situations which may cause a caller to suspect illegal activity:

- A customer requests a Part 135 flight to an airport with insufficient runway length for a Part 135 flight in the given equipment. The legitimate air carrier explains the problem and recommends a different airport or aircraft but loses the customer. The air carrier then notices the flight takes place exactly as requested by the customer – same destination airport, same type of equipment – but by an individual who does not hold an air carrier certificate.
- An air carrier has one aircraft on its Operations Specifications. The owner of the company also owns a smaller aircraft and operates it under Part 91. An observant outsider notices that every time the Part 135 aircraft

is down for maintenance the smaller aircraft is suddenly very active including, coincidentally, a trip from the airport at which the Part 135 aircraft had a mechanical problem.

- A charter operator stumbles upon a Web site on which an aircraft is offered for "lease". The passengers may choose any one of the company's three pilots. (In this case, it seems the company is trying to circumvent Part 135 requirements and wet leasing restrictions by allowing the customer to "choose" a pilot. But choosing from an established pool of pilots supplied by the company that owns the aircraft does not pass the sniff test.)

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Illegal Charter Hotline

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These activities are not just detrimental to your bottom line: they could pose a safety threat to the flights in question. The safety concerns of landing with insufficient runway length are pretty clear, but what about operating the small aircraft that isn't listed on the air carrier's Operations Specifications? Or conducting flights under the creative "lease agreement"? It is unlikely that the aircraft are maintained to the stringent requirements of Part 135. The pilots might or might not receive training regularly or the training might not be as robust as that required by Part 135. And how about rest requirements? The list of safety concerns with these examples could go on and on.

An accident on one of these illegal charter flights could result in negative attention towards the charter industry as a whole. The average *USA Today* reader is unlikely to differentiate between a legal Part 135 charter flight and an illegal Part 91 flight masquerading as Part 135.

Any employee or agent of a Part 135 on-demand certificate holder can call a special toll-free hotline, 888-759-3581 or 888-SKY-FLT1, to file a report of suspected illegal commercial flights, where an aircraft operator without an FAA Part 135 certificate is accepting compensation for transportation, in violation of both FAA and Department of Transportation regulations.

The hotline is staffed by an independent third party with knowledge of the air charter industry. Reports can be filed anonymously if desired, and all reporters will be provided with a case code for follow-up. The FAA will be provided with details to initiate an investigation, and NATA will regularly contact the FAA to ensure that cases are being followed-up for appropriate action.

Hotline Report Guidelines

Call during office hours. Call the hotline during normal office hours. If you receive the voicemail, leave a message with contact information so the hotline agent can return your call. The hotline agent does not work for the FAA or for NATA and always asks callers if they prefer contact information be kept confidential. If you prefer not to be contacted, leave a message with as much information as you have available.

Provide details. The more details you can provide in the report, the more likely the FAA will be able to successfully investigate the situation. Provide the tail number of the aircraft in question; information about the operator or pilots; specific flights you think were or will be operated illegally; and the reason you believe flights are being operated illegally.

Consumer Education

NATA has created two free consumer publications, "Chartering and Aircraft, A Consumer Guide" and "Risks of Illegal Charter," to aid consumers in both choosing a legitimate on-demand air charter operator and avoiding illegal operators. Both publications are suitable for printing and are available for download online at NATA's Web site by visiting the NATA store at www.nata.aero/store and clicking the search button. Legitimate air charter operators should provide these publications to their prospective and current clients, especially if a client is receiving solicitations or quotes from questionable aircraft operators. **A**



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Just in Time for Winter

by Colin Bane

Updates to De/Anti-Icing training module – part of NATA's Safety 1st Professional Line Service Training

In September 2011, the National Air Transportation Association (NATA) released an updated version of its 2010 Safety 1st winter weather De/Anti-Icing training module, after calling upon NATA members and industry experts to review the online training program. “The updates include an improved section on communication between crews and deicing technicians, clearer information about the proper sequence of procedures, and updated FAA 2011/2012 Holdover Time Tables linked directly from the training module,” said Steve McNeely, manager of safety management systems at Jet Solutions, LLC.

McNeely was part of a team that included Troy Meryhew, director of franchise operations at Million Air, and that was responsible for reviewing and providing input from different perspectives for the updated training module, which is part of the Safety 1st Professional Line Service Training (PLST Online). McNeely hopes the easily accessible new training module helps standardize critical winter weather safety procedures across the industry. The De/Anti-Icing module

was first launched just over a year ago, but the updates were needed.

“These updates add enormous value to an already tremendous training resource,” McNeely explained. “It’s great to have that resource if you have new people on the ground or if you need to brush up on your winter weather training after the long summer.”

NATA’s Safety 1st modules are all online (visit www.nata.aero/plst for a demo video and more information), which means they can be launched at any time or used as refresher training.

“We had our chief pilot and three or four crews go through the training, and found that the information was accurate, accessible, and very well presented,” McNeely said. “As an operator we’re using it to familiarize our pilots with what they can and should expect from the FBOs, and it’s going to be an assurance to our pilots to have the comfort level of knowing that the de/anti-icing will be done right at any FBO that has implemented this training.”

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Just in Time for Winter

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“Jet Solutions, LLC, a founding member of the Air Charter Safety Foundation (ACSF) and the first air carrier to be recognized as meeting the ACSF’s Industry Audit Standard, boasts an unblemished safety record thanks to a complete Safety Management System that exceeds the FAA voluntary program,” said McNeely. When pilots, other air carriers, and FBOs across the industry relax on de/anti-icing protocols, he refers them to the ACSF safety standard that requires operators to have documented policies and procedures regarding aircraft de/anti-icing operations.

“This is a critical safety issue and de/anti-icing is a simple, proactive protocol that ought to be standardized, but too often we hear stories that it’s being done improperly or not at all,” McNeely said. “I think one of the real strengths of this training is its emphasis on communication, so that everyone involved knows the procedure and protocol and is communicating about the proper holdover times. It’s pretty simple, but that communication is essential and there needs to be an established protocol for it.”



The updated training module helps establish clear and direct communications with ground personnel tasked with icing fluid operations using a pre-fluid application plan, fluid application communications, and post-fluid application communications, and establishes a role for an icing coordinator to lead these communications. The training clarifies communication about the exact holdover tables for deicing and anti-icing procedures and establishes communication protocols in case of aircraft or ground emergency.

McNeely emphasizes that better training, planning, and preparation at FBOs reduce operational risk. Safety is good business, particularly as the winter weather season is upon us. **A**

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The ACSF audit standard is administered by leading independent audit providers that are trained and accredited by ACSF. ACSF reviews and verifies the results of the audit and subsequently places charter providers who meet IAS requirements on the ACSF Registry.

Environmental Protection Agency's SPCC Rule

By George Gamble & Michael France

Where are we today?
How did we get here?
Where are we going?



Most FBO or aviation facility managers have at least heard of the Environmental Protection Agency's (EPA) Spill Prevention, Control and Countermeasure (SPCC) plan requirements. Some managers also know that the rules affecting SPCC plan development and implementation have undergone several changes over the last nine years and that the deadline for compliance is November 10, 2011.

SPCC compliance is probably one of the most important pieces of environmental regulation that affects the operation of an on-airport aviation service facility or FBO. Fully understanding the history, current state and future of the SPCC rules will allow managers to ensure that their facility is in compliance.

A Little History

Through the 1960's, lakes, rivers, and streams of the United States were becoming more and more polluted. Dead fish were common in many areas and it was not recommended to eat fish caught in many rivers and streams. The pollution of our nation's waters was getting out of control. President Richard Nixon issued an executive order to establish the EPA and on December 2, 1970, after much debate in Congress, the EPA opened its doors.

The Clean Water Act was passed in 1977 and significantly strengthened existing environmental regulation. These new, strengthened regulations dealt with existing polluters of streams and rivers and provided a regulatory framework to begin the storm water permit process. However, one of the most important laws recognized the potential danger

posed to our nation's streams and rivers from the proliferation of Above Ground Storage Tanks (ASTs). This recognition came in the form of the first Spill Prevention, Control and Countermeasure (SPCC) rules. Early requirements included a written SPCC Plan, including requirements for sized secondary containment and overfill protection for tanks to provide protection for leaks and catastrophic failures.

In January 1988, a 4-million gallon diesel oil storage tank split and collapsed at an Ashland Oil storage facility located in Floreffe, Pennsylvania, near the Monongahela River. The oil was carried by the Monongahela River into the Ohio River, temporarily contaminating drinking water sources for an estimated one million people in Pennsylvania, West Virginia, and Ohio. The pollution also contaminated river ecosystems, killing

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Environmental Protection Agency's SPCC Rule

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thousands of wildlife, damaging private property, and adversely affecting businesses in the area.

In 1989, the Exxon Valdez disaster occurred in Alaska. That vessel spilled 10.8 million U.S. gallons of crude oil into the waters of the Prince William Sound causing one of the most publicized environmental disasters of recent history and raised the environmental awareness of the nation as a whole.

Resulting from these two major events, Congress enacted the Oil Pollution Act (OPA) in August 1990. The OPA improved the nation's ability to prevent and respond to oil spills by establishing provisions that expand the federal government's ability, money and resources to respond to oil spills.

Major Changes to the SPCC Rule - 2002

The EPA also began working on new requirements for the SPCC rule following these two major spill events. After much work and public comment, the EPA published the 2002 revisions to the SPCC rule. These revisions included new threshold

requirements for tank systems, new requirements for brittle fracture evaluations, a changed time period after which plans must be formally reviewed, and several other items. The EPA required the regulated public to modify their plans to incorporate these new rules and subsequently extended the requirement for compliance to November 10, 2011.

Refueler Trucks

One item that the aviation industry had particular issues with in this newly revised SPCC rule was the EPA's stand on mobile refueler trucks. After the 2002 regulations were published, the EPA inspected several aviation facilities and cited those facilities with improper secondary containment for their refueler trucks. At that time, the EPA considered refueler trucks to be basically the same as any other tank and required the full protection of the secondary containment rules. They cited that refueler trucks must have secondary containment to contain the largest truck parked plus freeboard for precipitation. They recognized that refueler trucks did not require

containment while in operation or while staged for operation; however, when stationary, the trucks would require full secondary containment. Several aviation facilities in Texas and Michigan were cited and were required to install expensive containment structures for their trucks.

Several aviation associations combined their efforts to form the Aviation Coalition to lobby the EPA to provide some relief for this refueler truck issue. The Coalition included the National Air Transportation Association, the Air Transport Association, the American Association of Airport Executives, and several other organizations. This group worked closely with the EPA on several issues, but none more important than the refueler truck issue. After much work, the EPA issued revisions to the SPCC rule in 2006 that allowed the simpler "general secondary containment" provisions to be used for refueler trucks. Under this new rule mobile refueler trucks used exclusively on airport property were exempt from the stringent "sized

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Environmental Protection Agency's SPCC Rule

Continued from page 37

secondary containment" provisions of the rule.

Most Recent Changes

In December 2009, the EPA again issued several new changes to the SPCC rule, including:

- A revised definition of "facility"
- A new definition of "loading/unloading racks"
- Amendments to the facility diagram requirement
- Amendments to the integrity testing requirement to allow for easier use of industry integrity testing standards

The EPA also provided additional streamlined provisions for smaller facilities. Under the previous rule published in December 2006, facilities that store up to 10,000 gallons of total aggregate oil storage could prepare and certify their own SPCC Plan without having a Professional Engineer certify the plan. Under this new rule, if a facility has up to 10,000 gallons of aggregate storage AND no container greater than 5,000 gallons (and several other requirements), then the facility is allowed to utilize a streamlined template provided by the EPA to prepare their self-certified SPCC Plan. This approach is much easier for smaller facilities and could apply to many smaller airports and smaller airport tenant operations.

Important Compliance Dates

November 10, 2011 is the implementation date for all these new revisions dating back to 2002. This means that facilities, built before August 2002, are required to modify their SPCC Plans to incorporate these new regulations. If a facility was

built after August 2002, it has until November 10, 2011 to prepare a plan. It is important to note: if a facility built before August 2002 has not prepared a plan yet, it is out of compliance and should prepare a SPCC Plan as soon as possible to comply with the regulations.

Aviation Industry Perspective – Where is this going?

Where does this leave the aviation industry? Many facilities across the nation still do not have proper SPCC Plans. The EPA provided some significant relief for smaller facilities that may not have had the financial resources to hire a Professional Engineer. This may help a small percentage of facilities, but is it uncommon for aviation facilities to have less than 10,000 gallons of total capacity or any single container less than 5,000 gallons. Most on-airport aviation service facilities are required, due to the size of their storage tanks, to have a Professional Engineer certify their plans.

The bigger issue across the aviation network is proper compliance with the refueler truck rules. Many facilities simply have no containment whatsoever and often do not have proper discussion in their SPCC Plans. The Certifying Engineer has some significant latitude in prescribing proper containment, so facilities should be working closely with their Certifying Engineers to begin installation of any needed devices. It is very important that the SPCC Plan properly discusses the containment provisions for the trucks and also provides adequate protection.

What can we expect from the EPA in the future? The EPA has been relatively quiet with their inspections of aviation facilities. But at the same time, the EPA has very limited resources in this program. After the November 10th compliance deadline, it would be reasonable to expect EPA inspections of aviation facilities to increase. Fines can be significant and inspectors can issue fines on the spot or can utilize higher fines as they progress up the EPA management ladder. EPA inspectors can also simply issue a Notice of Violation (NOV) and require the facility to correct deficiencies within a certain time period. The NOV may or may not include a fine. Recent fines for SPCC rule violations have ranged from a few thousand dollars to more than \$100,000.

It is possible that the EPA will have future modifications to the SPCC rule and facilities will face even more stringent rules in the future. But for now, make sure you have a current, valid SPCC Plan, train your staff in its implementation and maintain all the required paperwork.

For more information on SPCC compliance, contact Michael France, Director Regulatory Affairs, NATA at mfrance@nata.aero **A**

George Gamble is a Licensed Professional Engineer and is the founder of 2G Environmental; an environmental compliance consulting company that specializes in SPCC compliance for aviation facilities. Mr. Gamble can be reached at gsgamble@2genvironmental.com

Low and No-Cost Promotion

Did you know there are ways you can market your FBO with little or no out-of-pocket expense?

At our NATA FBO Success Seminars, we examine various aspects of marketing for an FBO. One of the most popular sessions is *Marketing and Communications for Any Size FBO*.

Many FBOs that attend our seminars believe they can't compete with the big FBO chains because they don't have the money and resources. To that, I kindly say, "Bunk." There are plenty of ways you can 'shake hands' with your customers or potential customers without breaking your budget or robbing your kids' piggy banks.



Getting down to basics

In the business of running an FBO, there are basically two ways to increase your business and, thus, the amount of fuel you sell.

1. Increase the number of base customers you service.
2. Increase the number of transient customers you service.

For the purpose of this article, we will concentrate on the second item of reaching out to the transient customer. However, if you are having trouble filling your hangars and think you can do a better job of increasing your base customer population, read on. There are tips for you as well.

Here is what I call the Level One, or Basic Communications, Checklist. You might be already doing these, but they are worth the review. These are not all free, but we'll get to those shortly:

- **A listing in a major FBO directory and Web site**, such as AC-U-KWIK and acukwik.com. There are various listings and offerings to choose — some at little or no cost. You need to create some kind of awareness at the most basic level.
- **Fuel supplier listing.** Most FBOs have a relationship with a major fuel supplier. Make sure you are listed accurately in everything they produce, including their Web site and other promotions.

- **Basic Web site.** By now, most FBOs have built at least a basic Web site. Believe it or not, though, some companies forget to put their phone numbers up front to make it easy for the customer to make contact. Instead they bury it on an obscure page. It's good to have your phone number in multiple places, not just the *Contact Us* page.

You must remember the most basic reason for a Web site is to provide information quickly. Therefore, you don't need a lot moving pieces, fancy graphics, etc. Also, you should test the viability of your Web site in terms of search engine optimization by doing a Google search of keywords for your area and business segment. Keep in mind keywords a customer would use to do a Web search. Some keywords for the fueling side of the business are obvious. Here are a few examples using Dallas, TX as the home base:

- FBO Dallas, TX (your city and state) and FBO DAL (your airport identifier)
- FBO Dallas Fort Worth (or) FBO North Texas
- Aviation Fuel Dallas, TX (or) Jet A Dallas, TX (or) Jet A DAL

Note: If your facility does not appear at or near the top after keyword searches, you need to look into rewriting the copy for your Web site to include keywords and phrases for your business segment and geographic locations. There are numerous free articles on the internet that can help you.

Web Site Tip: Refresh your copy on a regular basis. Keep keywords and phrases intact, but create something new that will be of interest. And don't forget to post any press releases or news articles that may have been published. Look for ways to post your press releases to the free aviation sites, such as acukwik.com. Do some research, and create a PR database to which you may send your news.

- **Get Social.** Create a business Facebook page, list with LinkedIn, and investigate Twitter but only if you are serious about keeping social networks active and up to date with frequent posts.
- **Distribute Giveaways.** Don't be afraid to put out a bunch of low-cost pens or other freebies at the customer service desk or in the pilots' lounge. What's the worst

thing that could happen? So what if they disappear? That's a good thing. They just might get back to the customer's home base where a dispatcher gets a hold of one and, presto, your brand is right there, top of mind!

The really free stuff

As mentioned, there are a number of things you can do that really don't cost anything except some time and effort.

- **I Spy Program.** One of the techniques we teach at the FBO Success Seminars is creating your own I Spy Program. This is simply building a database of potential customers by tracking the transient customers who use your airport, or surrounding airports, but don't come to your facility.
- **Spy the Sky.** In the old days, you would simply use a pair of binoculars and scope out your competitor's ramp and record the aircraft registration numbers. Now there are a number of electronic programs you can access that track flights into and out of your area. Usually a registration number is associated with the flight, and you can then cross-reference this registration number with a database of aircraft owners and operators. Some of these databases do cost money, but most that use these services do find them to be worthwhile.
- **Offer Incentives.** Once you've started to build your database, send out a postcard to the potential customer offering an incentive to come to your facility on the next occasion. Incentives can be a one-time fuel discount, lav cleaning, interior cleaning, a fruit tray, etc. Note: Most of the time, one contact will not do the job. You need to be consistent and aggressive in making frequent contacts.
- **Pick up the phone.** Sounds simple, but if you can track a potential customer with an address, you should be able to get a phone number. Don't be afraid to ask for their business.



- **Be aware of customers who haven't been back in a while.** Getting customers to come back is like finding new customers. Again, pick up the phone, and find out why they haven't been back. Ask them if you did something wrong, and offer an incentive to get them back in the fold.
- **Be aware when a new customer does come in.** Have your line service personnel and CSRs become aware when you do attract a new customer. Then be the restaurant owner. Meet, greet, thank him or her for the business, etc.
- **Write hand-written notes.** It doesn't cost anything to write a note thanking customers for their business. Anytime you can keep a customer coming back time and time again is one fewer customer you have to replace.
- **Network, and be a part of the community.** FBO owners, operators and general managers should use opportunities for community involvement to raise awareness for your facility amongst local aircraft owners and operators and their flight department staff. There are usually high-profile clubs, fellowships and non-profit organizations that rely on high-net worth individuals as volunteers. Moving in the right circles can strengthen these relationships and help provide referrals. This is a great way to increase your base customer prospect list.

And because business aviation is such a small niche market, you never know who a pilot for a new base customer knows. Chances are they know more pilots at other companies who just might give you a try.

These are just a few strategies and tactics we teach at our FBO Success Seminars. If you have something that works for your FBO, please let me know by emailing me at Ron@thejacksongroup.biz. The next FBO Success Seminar: Fuel Summit 2011, is scheduled for November 8-10 in Atlanta, GA. For more information and to register, go to www.nata.aero. **A**

Ron Jackson is co-founder of ABSG and president of The Jackson Group, a public relations agency specializing in aviation and FBO marketing. He has held management positions with Cessna Aircraft and Bozell Advertising and is the author of *Mission Marketing: Creating Brand Value* and co-author of *Don't Forget the Cheese!*, the Ultimate FBO Customer Service Experience.

(This article first appeared in ACUKWIKAlert.com, FBO Connection.)

L.J. AVIATION

A Family Business with Quality Values

By Paul Seidenman & David J. Spanovich

More than 30 years after he founded L.J. Aviation at Latrobe, Pennsylvania's Arnold Palmer Regional Airport (LBE), Ed Kilkeary, Sr. takes pride in the fact that his company has remained an independent family enterprise, focused on providing high quality aircraft charter, management, sales, and FBO services — in an era of industry consolidation and economic uncertainty.

"I think that being a family business has contributed considerably to our success," said Kilkeary, whose wife and five adult children — three sons and two daughters — are employed by L.J. Aviation full time. "Many people feel more comfortable working with a family-operated company, because they have a greater

opportunity to build a relationship with the ownership."

And that has proven to be a successful formula. With annual revenues in excess of \$50 million and a staff of 121 employees, L.J. Aviation has carved out a formidable niche in aircraft management and charter, including a fleet of 30 turbine-powered business aircraft based at LBE, and four satellite locations in the U.S. But the intercontinental range jets on the company's charter certificate give it a global reach. Its full service FBO is one of two remaining at LBE, where once the airport — located 50 miles east of Pittsburgh — had as many as four.

Just elected an NATA board member, and appointed to Embraer's advisory board, Kilkeary also sits on the board of the Arnold Palmer Regional

Airport Authority and the advisory board of Hawker Beechcraft.

Kilkeary's roots in aviation go back to the 1960s and the Vietnam War. "I went into the Army right after high school, trained as a helicopter pilot, and flew Bell UH-1 helicopters in Vietnam, with the First Infantry Division," Kilkeary explained. "But after getting out of the service in 1970, I found there were no jobs for helicopter pilots — except for flight instructing which didn't pay very well."

Falling back on his experience working summers for an excavating company during his high school years, Kilkeary was familiar with trucks and construction equipment. "With no flying jobs available, I bought my own truck and trailer. For the next four years, I was in the trucking business, mainly hauling



“Many people feel more comfortable working with a family-operated company, because they have a greater opportunity to build a relationship with the ownership.”

ED KILKEARY, SR.

steel between Pittsburgh, Chicago and other Midwest cities,” he said.

Trucking, as it turned out, was Kilkeary’s ticket back into aviation. In 1974, one of his customers, William Stefan, purchased a Bell 206 Jet Ranger and hired Kilkeary as his full-time pilot. “The helicopter was used to transport him as well as small parts to the coal mining properties he owned throughout western Pennsylvania and West Virginia,” said Kilkeary. “Mr. Stefan was my mentor — a great gentleman — and the one who started my civilian aviation career.”

No longer involved with long-haul trucking, Kilkeary flew the Jet Ranger out of LBE until 1980. During that time, the charter business began to come together. “We put the helicopter under a charter certificate, so

that it could earn money when Mr. Stefan wasn’t using it,” explained Kilkeary. “For example, one of my customers was WTAE, the ABC affiliate in Pittsburgh, for which I flew the helicopter on news reporting assignments.”

By 1980, opportunity knocked again, when one of the helicopter charter clients decided to lease a business jet to transport him to various U.S. locations. “To serve that client, we purchased a low-time, one-owner, Learjet 25D, which was built in 1978,” said Kilkeary. “Mr. Stefan and I, respectively, owned it 51-49 percent. We based it at LBE and added it to our charter certificate.” With the move into jets, L.J. Associates, d.b.a. L.J. Aviation, was established. The L.J. in the name stands for Learjet.

Although the lease was not renewed after two years, Kilkeary explained that the Learjet still found plenty of work. “In the mid 1980s, the Pittsburgh Area hospitals became very well known as organ transplant centers,” he said. “As a result, we found a ready market transporting human organs from throughout the country to Pittsburgh.”

The Learjet also flew, under charter, to the Latrobe-based cutting tool manufacturer, Kennametal, which had a plant in the Raleigh-Durham area and required a shuttle service. “We probably averaged seven trips per week to Raleigh,” said Kilkeary.

Within its first five years, the charter fleet was further expanded with the addition of a King Air F90 twin

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turboprop, managed by L.J. Aviation for a local business. At the same time, a Falcon 100, owned by a natural gas drilling company joined the managed fleet and was made available for charter. By 1990, L.J. Aviation had acquired two King Air B100 turboprops

"People come back to us because they know about the high quality of service and the response we will provide. You can call us at four in the morning, and we'll answer on the first ring."

ED KILKEARY, SR.

for its own portfolio, as the business continued to grow.

The first of the two King Airs, Kilkeary explained, was chartered to Alcoa, Inc. for a shuttle run between Knoxville, Tennessee and Evansville, Indiana. "I bought the second King Air to replace the King Air F90 we managed, after it was sold," he said.

Kilkeary pointed out that with the Knoxville-Evansville charter for Alcoa, L.J. Aviation expanded its operational base beyond LBE for the first time. Today, four aircraft in the managed fleet are located at remote satellite bases. They include a Challenger 300 at La Crosse Municipal Airport in Wisconsin; a Learjet 60 at Richmond International in Virginia; a Falcon 50 at Pittsburgh

International Airport; and a Falcon 2000EX at Washington-Dulles International Airport. The L.J. Aviation crews responsible for those aircraft work out of FBOs at those locations.

Currently, the company's owned and managed aircraft range in size from a Bell 407 helicopter through a Global Express 5000. Specifically, L.J. Aviation owns six aircraft—two Citation Ultras (built in 1998, and the oldest members of the fleet), one Citation Encore, one Citation Bravo, one King Air B200 equipped with a Rockwell-Collins Pro Line 21 cockpit, and the Bell 407 — all available for charter.

In fact, Kilkeary reported that of the total fleet of owned and managed



aircraft, 20 are available for charter, which accounts for the company's second largest source of revenue. "Aircraft management is in first place, with the FBO and aircraft sales, respectively in third and fourth place," he pointed out.

Interestingly, Kilkeary refers to the company's FBO business as something that he "essentially backed into" some 17 years ago.

"At the time, we were managing a Falcon 100 and a Bell 206 helicopter for a client, who passed away, and his widow wanted to sell the hangar that he owned at LBE," he noted. "I saw this as an entrée to the FBO business, so I purchased it and the ground lease from her in 1994."

Kilkeary added that a major incentive to become an FBO was to realize

"We are really concerned about quality, as well as safety which is why we are NATA Safety 1st PLST participants and have an ARG/US Platinum and Air Charter Safety Foundation rating."

ED KILKEARY, SR.



some savings on fuel costs, which he reported was his largest expense item. But in order to open an FBO, he had to show the airport authority that he had the physical plant in place. At 12,000 square feet, the recently purchased hangar helped him to qualify. By 1999, the company opened its present 5,000 square foot terminal building, and in 2007, installed a new, above-ground, double-wall, 50,000 gallon capacity fuel farm.

The FBO is a branded AvFuel dealer, which pumped 1.65 million gallons of Jet A in 2010, with a projected 1.8 million gallons for 2011. Of the 2010 total, about 350,000 gallons were sold to transient aircraft, with the remainder to the L.J. Aviation owned and managed fleet, as well as to the owners of 10 tenant aircraft. The fuel is transported from the fuel farm in three, 5,000 gallon capacity fuel trucks, which dispense the product directly into the aircraft. All L.J. Aviation line service staff are NATA Safety 1st certified.

Given the company's heavy focus on turbine-powered aircraft, no avgas is sold. "We will refer any piston

operator needing fuel to Vee Neal Aviation, with whom we have always had a good relationship, even though they are our competitor on the field," Kilkeary noted.

He added that the FBO terminal is a 24/7 operation, offering "all of the standard amenities" including a kitchen, conference rooms, and offices. It is the designated FBO at LBE for nearly all of the fractional aircraft ownership plans.

"Our plan is to expand the terminal within the next few years, probably through the addition of a second level," Kilkeary revealed. "It gets especially crowded in the early morning when most of the aircraft fly out, which is why we know we'll need to provide additional space for our passengers and pilots."

Hangar capacity has been progressively increased, with the newest, 29,000 square foot structure opened in 2009. That has given L.J. Aviation a six-hangar complex, totaling 90,000 square feet, and the capability to accommodate up to 50 aircraft. The largest of the hangars can store

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L.J. Aviation

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an aircraft up to the size of a Global Express XRS, while ramp capacity can comfortably park up to five Gulfstream IV jets. Kilkeary reported that under current planning, an additional 29,000 square foot hangar will be opened within the next two years.

The company also has an FAR Part 145 repair station certificate, however, as Kilkeary stressed, the maintenance operation, which is staffed by 16 mechanics, is almost exclusively for the owned and managed fleet.

“Because of the number of aircraft we have under management, and the amount of flying we do — about 11,000 hours per year — we simply do not have the capacity to solicit outside work — and we don’t advertise it,” he said. “However, we will assist a

“While we are growing, we want to do this in a way that we can continue to maintain the very high quality standards for which we have become known. We pay a lot of attention to detail.”

ED KILKEARY, SR.



transient operator if he has a maintenance issue at our airport.”

Maintenance assistance has been provided on an on-call basis to Spirit Airlines, which flies Airbus narrow-bodied transports, and is the only remaining scheduled airline at LBE with just two daily flights. However, Kilkeary said that the company does not have a ground handling or into-plane fueling contract with the carrier. At times, L.J. Aviation has helped them with some Minimum Equipment List (MEL)-related items. But even with the growth of the FBO complex, Kilkeary reiterated that the management and charter of turbine powered aircraft remain L.J. Aviation’s main lines of business.

“Our typical management client is an individual business owner that uses an aircraft for business purposes, and with whom I deal directly,” Kilkeary said. “For example, I have three automobile dealers who are among my managed clients.”

On the charter side, he reported that about 70 percent of the company’s customers are also individual business people, with many involved

in the coal, oil and natural gas industries. The other 30 percent are large corporations, including some Fortune 500 companies. An active pilot in his charter business flying some 250 hours per year, Kilkeary holds an ATP certificate on both helicopters and fixed wing airplanes, and is type rated on 14 aircraft, the largest of which is a Challenger 604. To date, he has racked up 13,000 hours flying fixed wing aircraft, and 11,000 hours of helicopter time.

The charter operations are both domestic and international. In fact, the company is now doing about two trips monthly to China. During mid-August, the company had an aircraft positioned in Australia. Typically, though, most of L.J. Aviation’s charter customers are what Kilkeary termed “day trippers, who are working executives.”

“They are not so much chairmen and CEOs, but middle management people who are taking clients and customers on business trips, with the idea that they will be home for dinner on the same day,” he noted. “That

Continued on page 49



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market represents about 90 percent of our charter business, because that's not the kind of thing you can do on the airlines, given most of the places where we fly. Yes, we do some leisure trips, but it's the day trippers flying on business that represent the direction that the charter business is generally headed."

In that regard, Kilkeary said that he prides himself on serving a clientele culled mostly through private referrals. "They are respectful of our crews and equipment, and if there is a hiccup, they understand, and they are agreeable. I have no interest in people who will treat our crews like taxicab drivers, or those who put a higher priority on cost over safety."

In fact, Kilkeary stated that, given the high bar he has set in terms of safety and client service, L.J. Aviation is not a low-priced operation. "People come back to us because they know about the high quality of service and the response we will provide," he said. "You can call us at four in the morning, and we'll answer on the first ring."

Because of the company's excellent service reputation, Kilkeary reported that his charter business is strong, though somewhat off given the economy.

"What has helped us is that we are really concerned about quality, as well as safety," explained Kilkeary, "which is why we are NATA Safety 1st PLST participants and have an ARG/US Platinum and Air Charter Safety Foundation rating. Our 61 pilots and two flight attendants train exclusively at FlightSafety International, and all of our captains hold an ATP, as well as many of our first officers."



In 2005, at the suggestion of his family, Kilkeary further enhanced his product line with the establishment of OnFlight, a prepaid jet card. Deliberately structured to cater to a regional market, it is offered to those customers living within 75 miles of Pittsburgh, since this minimizes repositioning costs and customers pay only for the legs they fly. "We really view this as a boutique program, because we don't want to compete with the fractionals and the major prepaid programs," he explained.

At this time, OnFlight has 30 members, with many using the service to fly leisure trips to Florida and other East Coast destinations. Many members are retired chairmen and CEOs who, because of their

retirement, can no longer use their company aircraft, but still want to fly in a private aircraft. "Today, in fact, about half of our OnFlight members were referred by the flight department managers of companies they once ran," he said.

In addition to charter and management, L.J. Aviation's aircraft sales business provides aircraft brokerage and consulting, specializing exclusively in turbine powered aircraft. The company provides a turnkey service, helping customers select, purchase, and resell an aircraft. "This includes all of the market research to see what is available in terms of fitting their individual needs," Kilkeary explained.

Interestingly enough, from the day it was founded, L.J. Aviation did not adhere to a prepared script.

"I did not have a grand plan when I went into business. I just worked hard and continued moving forward by dealing with nice people," Kilkeary said. However, he does admit to having identified a specific niche that will continue to be the foundation for further growth.

"We are focused on what we do really well, which is aircraft management and charter," said Kilkeary. "While we are growing, we want to do this in a way that we can continue to maintain the very high quality standards for which we have become known. Our company could grow at three times [its present rate] but if we were to do that, we might lose our focus on quality. We pay a lot of attention to detail." **A**



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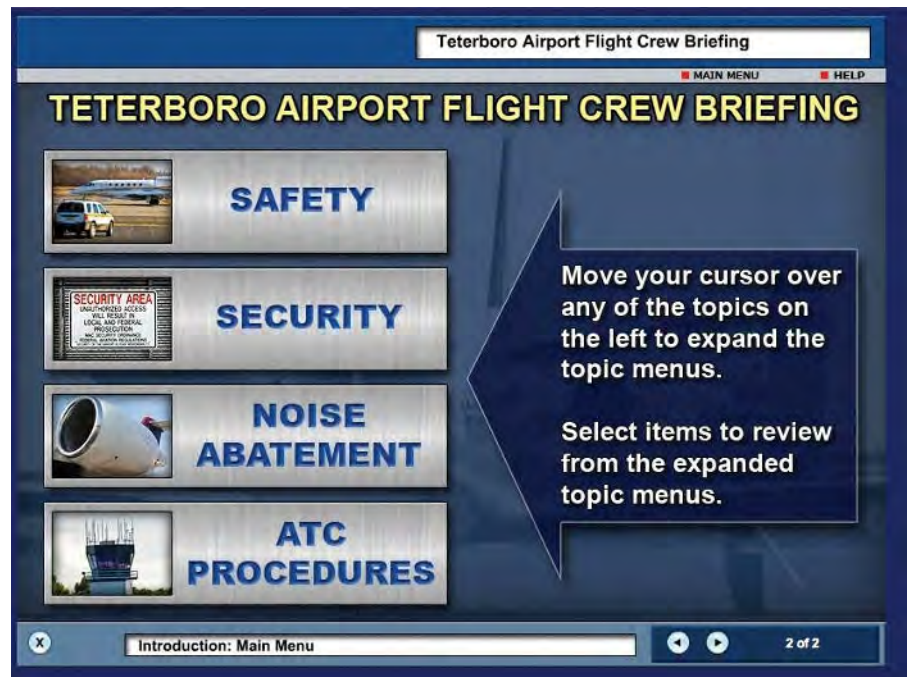
New Teterboro Flight Crew Briefing Procedure

Before your pilots fly into Teterboro, they need to review the updated Teterboro Flight Crew Briefing that reviews vital safety information about flying into and out of Teterboro at www.airportflightcrewbriefing.com/teterboro.

Recently, the Runway 19 Dalton Departure was changed and pilots should review the Teterboro briefing again for the latest updates. Experts at Teterboro have identified crucial safety issues about the Runway 19 Dalton Departure since Teterboro departures fly directly below, and in close proximity to, heavy jet aircraft descending on final approach to land at Newark. Additionally, past incident data related to this procedure disclosed that pilots on occasion have exceeded the facility's 1,300 foot altitude restriction and have violated Class B airspace.

In addition to the Teterboro briefing, NATA Safety 1st also offers a Flight Crew Briefing for Newark Liberty International.

Flight Crew Briefings are customized online training tools that give pilots and other flight crew members



flying into and out of an airport access to critical safety information about the airport, including its location, layout, operations, regulations, and safety and security procedures. The Briefing allows pilots to hear advice and guidance from airport management, based pilots, and other flight crew members who are familiar with an airport.

A Flight Crew Briefing takes approximately 20 minutes to complete depending on the pilot's familiarity with the airport. The informational training includes four main topic areas pertaining to safety, security, noise abatement and ATC procedures specific to the airport. The

safety briefing consists of an airport safety overview, runway incursion hot spot review, surface area movement problems and recommended practices for the airport. The security section includes an airport security program overview, identification requirements, escort procedures/vehicle access procedures and overnight securing of aircraft requirements. The noise abatement briefing covers the city/town/local rules and regulations, noise abatement procedures and airport updates. And finally, the Air Traffic Control (ATC) segment covers an overview of ATC procedures, departures and VFR operations applicable to the airport. **A**



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Shell Aviation



State Advocacy Network

Protecting Aviation Interests at the State and Local Levels

By Kristen Moore

Not many people would argue against the importance of government advocacy in supporting and defending aviation interests. In fact, in 1940, the National Air Transportation Association (NATA) was founded on the principal of advocating for general aviation by working with Congress to reverse the government's approach to civilian aviation. In doing so, NATA saved the Civilian Pilot Training Program (CPTP), created by President Franklin D. Roosevelt to increase the pilot population, by teaching thousands of college students to fly.

While NATA's primary focus has been federal government advocacy, the association continually supports its members' interests on the state level. For example, NATA was instrumental in protecting flight training schools in the state of California from being eliminated in the state due to an onerous regulation that would have put almost all flight training schools in the state out of business. NATA joined a coalition of California flight schools in advocating for legislation to remove flight training as part of this regulation. The legislation was signed into law on September 21, 2011. For more information on the

flight training victory in California read the article titled "Senate Bill 619 Unanimously Protects California's Flight Training."

As part of the association's efforts to strengthen its government advocacy, NATA has established the State Advocacy Network (SAN) to better serve its members at the state and local level. NATA has reached out to association members in certain regions throughout the country to serve as regional volunteers whose focus will be on building relationships with state and local government. These relationships encourage more support for the local aviation communities while fostering the credibility of the volunteer and their aviation business. In addition, these relationships are essential to gaining critical knowledge of issues that may be acted on as soon as possible to protect aviation business interests. To augment the efforts of these regional volunteers, the association is seeking additional volunteers. NATA's government affairs staff will manage SAN and facilitate regular video conferences to keep volunteers engaged and up-to-date on other issues affecting the industry. As the network grows, we anticipate a yearly meeting to gather all

volunteers to reevaluate SAN's goals and objectives.

SAN will benefit its members at the state and local level by:

- Protecting general aviation businesses from unnecessary state and local legislation or regulation
- Preventing unnecessary state taxation on aviation businesses
- Promoting, protecting, and defending our community airports
- Maintaining sufficient state and local funding for general aviation airports and infrastructure

As you know, aviation businesses are confronted with a host of issues including airport and land use, security, taxation, aircraft noise and emissions, and other priorities that arise. Volunteers will play an important role in the association's efforts to stimulate and encourage greater involvement among its members with the goal being to build a strong network to defeat unwarranted policies.

NATA looks forward to working with talented SAN volunteers as we strive to promote and protect aviation businesses throughout the state and local communities. To learn more or serve as a volunteer, please send an email to SAN@nata.aero. **A**

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NATA 2012 EVENTS SCHEDULE

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28-29 Air Charter Safety Foundation, Safety Symposium, National Transportation Safety Board Training Center, Dulles, VA

MARCH

5-8 Spring Training Week at the Cygnus Aviation Expo (CAE) – Las Vegas Convention Center, Las Vegas, NV (Cygnus Aviation Expo March 7-9)

5-6 Line Service Supervisor Training (LSST)

6-7 FBO Finance Fundamentals

7 Safety 1st Trainer

8 Environmental Compliance

26-27 FBO Success Seminar, DoubleTree, Arlington, VA

28-29 FBO Leadership Conference, Hyatt on Capitol Hill, Washington, DC

28 NATA Industry Excellence Awards Dinner

29 Day on the Hill Luncheon and Congressional Visits

30 Spring Committee meetings

MAY

15-16 LSST Seminar, New England Air Museum, Windsor Locks, CT

17 Safety 1st Seminar, New England Air Museum, Windsor Locks, CT

JUNE

11-13 Air Charter Summit, Marriott Westfields, Dulles, VA

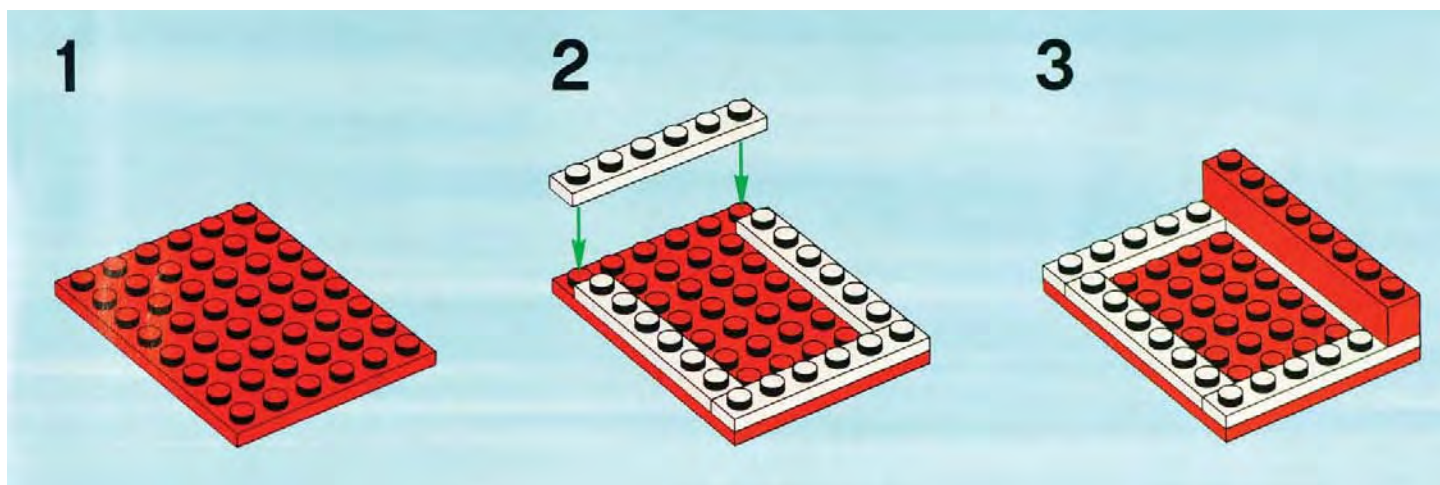
AUGUST

TBD Commercial Operators Tax Seminar





NATA Maintenance Perspectives



By Carol E. Giles

If you are an operator, a maintainer, and even an owner, this article is for you. You may have spent a good portion of your professional life struggling with the Federal Aviation Administration's (FAA) definition of technical data.

Depending on the circles you socialize in and the company you keep, I am sure you have had many discussions regarding technical data: how it is used and how it becomes approved. These questions may not be as important to some as the meaning of life; however, they are vital to those who operate and maintain aircraft. Over the years the aviation industry — specifically operators and maintainers — have struggled with what the FAA envisioned the term “technical data” to mean.

If you look in Title 14 CFR part 1, the FAA's dictionary of regulatory definitions, you won't find “technical data” defined. However, in another

part of the regulations, Title 14 CFR section 21.31, the FAA does provide insight to the term “type design” as:

“...drawings and specifications, and a listing of those drawings and specifications, necessary to define the configuration and the design features of the product shown to comply with the requirements...”

You can read the rest for yourself. If you do this homework, you'll begin to realize that these words form the foundation for the term technical data.

In 2002 a group of industry and FAA folks got together to convert the language from CFR section 21.31 into an Advisory Circular entitled *Maintenance and Alteration Data*, AC-120-77. The workgroup members primarily had air carrier maintenance backgrounds so the advisory circular has an obvious air carrier slant. However, there is good information there for the rest of the industry.

The advisory circular takes the definition of type design from CFR section 21.31 and introduces the FAA's intended meaning of the term “technical data” to define it as: “Drawings and specifications, including a list of drawings and specifications needed to define the configuration and design features of a particular article, repair, or alteration.” It goes on to state that this typically includes information on materials, dimensions, and processes necessary to define structural strength, any required airworthiness limitations, and any data necessary to determine the airworthiness of the altered or repaired aircraft.

The final part of the definition of technical data in the advisory circular includes test data and engineering analyses as well as other engineering information, such as engineering handbooks or approved military or industry specifications. Operational and service experience, maintenance and alteration experience, reliability

What in the World is Technical Data?

data, and other documented factual information that can be shown to be directly applicable to the airworthiness of the article is also included.

So, now that we have a working definition of technical data, what happens when we start to apply it to the art of performing maintenance?

Well, the regulations are chock full of locations where maintenance requirements are discussed. Our old friend, part 43, “MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION,” comes to mind first. We all know that one. This part sets the minimum standards that all persons authorized to perform maintenance, preventive maintenance, rebuilding and alterations must follow.

We should all be familiar with section 43.13(a), which is part of the performance rules, that states in part, “Each person performing maintenance, alteration, or preventive

maintenance...shall use the methods, techniques, and practices prescribed in the current manufacturer’s maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator.”

Now, here is where you really need to pay attention. You’ll notice the term technical data is nowhere to be found in this section. That’s because there is a difference between technical data (drawings and specifications) and methods, techniques, and practices (performance standards). We tend to mix these two terms up or use them interchangeably. Even though they have been used synonymously, each statement has a distinct and very different meaning in the regulations.

The methods, techniques, and practices referenced in section 43.13(a) are the step-by-step instructions better known as the “how-to”

instructions for performing maintenance (including inspections), preventive maintenance, and alterations. These instructions are what we see when we refer to manufacturers’ maintenance manuals and other service documents, such as overhaul manuals. They are generally based on approved technical data that was developed by a type certificate (TC) holder. These manuals may also contain technical data if the manual specifies required materials, dimensions, or other design information.

The FAA approves technical data through the certification process under part 21 when the FAA issues a design approval such as TCs, supplemental type certificates (STC), parts manufacturer approvals (PMA), etc. For the entire list of design approvals, please refer to part 21.

Major repairs and alterations are another example where technical data

Continued on page 59

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NATA Maintenance Perspectives

Continued from page 57

that supports the methods, techniques, and practices used to perform maintenance, preventive maintenance, and alterations must be approved. Examples of this are Designated Engineering Representative (DER) approval on an FAA Form 8110-3, Statement of Compliance, or an Organization Designation Authorization (ODA) approval on FAA Form 8100-9, even a field approval by an FAA inspector by signing block 3 of FAA Form 337.

When a design approval holder (DAH) incorporates a repair into its instructions for continued airworthiness (ICA), maintenance manual or other service documents, consideration must be given to CFR section 43.13(b). This is where the technical data — which was approved during the certification process — comes into play. The DAH will consider the original design features (technical data) to ensure the repair will be at least equal to its original or properly altered condition with respect to dynamic function, structural strength, resistance to vibration, deterioration, and other qualities affecting airworthiness. The objective is to return the product to a state that may not be identical to, but is at least equal to its original or properly altered configuration, that is, its “type design.”

In the last few years, the FAA has put out additional information regarding technical data and its relationship to methods, techniques, and practices. In April 2011, the FAA published a revision to the FAA Order 8900.1, better known as the Inspector’s Handbook, regarding maintenance provider’s technical data.

The document provides information about the data used by individuals performing maintenance, preventive maintenance, and alterations IAW part 43. It is closely aligned to AC 120-77 since it reiterates the definition of technical data and the relationship to the methods, techniques, and practices acceptable to the FAA. The handbook guidance outlines when the technical data must be approved as well as the availability and currency of the data as it relates to the work being performed.

In general, technical data provides a configuration baseline for a repair or alteration and would in most cases not be sufficient to meet the intent of CFR section 43.13(b) as it may lack the how-to instructions. Technical data alone would not ordinarily contain instructions for disassembly, cleaning, or inspection of an article. This is why it is so important to understand the role that each of these two terms provide. Although the methods, techniques, and practices

or “how-to instructions” are sufficient to perform a maintenance or alteration task, you can bet there is technical data that justifies it.

While you may think this article is a prescription for someone with a sleep disorder, remember this topic is the foundation of all maintenance, preventive maintenance, and alteration activity. The FAA has published ACs, orders, and even legal interpretations (posted on the FAA website) to provide guidance in this area. Besides making for good reading, the safety and operational results are better than warm milk and cookies. Sleep tight! **A**

Carol E. Giles is President of Carol E. Giles & Associates, an aviation safety consulting company.

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Gain knowledge about the industry — NATA's respected industry publications are free to members and include the Aviation Business Journal, NATA Aviation Resource & Membership Directory, and ASC Update, eToolkit, NATA Safety 1st Flitebag, Training Times, weekly NATA News and Member Update newsletters.

Register for NATA Safety 1st Professional Line Service Training (PLST Online) — NATA's PLST Online program enhances safety by improving the knowledge and skills required of professional line service personnel and assuring their competence through training and testing. The NATA Safety 1st Management System for Air Operators and NATA Safety 1st Management System for Ground Operations are systematic, comprehensive programs for the management of safety risks.

Participate in NATA's Workers' Compensation Program — More than 700 members have reduced the cost of their insurance premiums by thousands of dollars through NATA's Workers' Compensation Program. Qualifying NATA members are eligible for an annual "good experience return" yields (rebate check) averaging more than 19 percent since program inception. The program is underwritten by USAIG.

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NOTE: Offer applies for new customers and existing customers who renew their contract. Some restrictions apply. Offer expires 12/31/2011.

Continued on page 63

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NATA's 2012

Spring Training Week

March 5 - 8, 2012 Las Vegas

Save the Dates!

The National Air Transportation Association (NATA) is looking forward to its 4th annual Spring Training Week in conjunction with the Cygnus's Aviation Expo (formerly the Aviation Industry Expo). Spring Training is a continuing education training camp featuring all-star seminars designed to enhance safety practices, provide major league knowledge and help you coach your team to a winning season.

Here's the 2012 training line-up:

March 5-6th Line Service Supervisor Training Seminar (LSST)

March 6-7th FBO Finance Fundamentals

March 7th NATA Safety 1st Trainer Seminar (Train the Trainer)

March 8th Environmental Compliance Seminar

We've included descriptions of each seminar, who should attend, the benefits of attendance and the industry experts who will be speaking during each seminar. It's a great one-stop educational experience that your employees will never forget.

Line Service Supervisor Training Seminar (LSST)

Gain confidence in handling day-to-day interactions with the right amount of power and influence through the new LSST Seminar.

This seminar, specifically designed for Line Service Supervisors, provides the training needed to become more proficient in strategic planning, supervising staff, motivating others, communicating and coaching a team. This high-impact, high-energy seminar includes guided group interactive discussions and various case studies designed to take you to a new level of leadership. You will also take part in self-assessments to explore your strengths and weaknesses and their effect on your management style.

Seminar Benefits

- Share your challenges and triumphs with colleagues and speakers.
- Discover your strengths and weaknesses through invaluable self-assessments.
- Learn to promote safety and synergy through teamwork.
- Instill a culture based on trust, partnership and respect at your FBO.
- Begin interacting more positively with your employees, other supervisors and senior management.
- Discuss various legal compliance issues to help prevent lawsuits.
- Review and discuss the technical information crucial to performing your job.
- Ensure top-notch customer service at your company.
- Make your FBO more efficient by learning how to engage and motivate your staff.

Who Should Attend

- Line Supervisors & Managers
- Line Service Technicians
- Fuel Company Representatives

Topics**

- Line Service Supervisor Technical Review
- Creating a Healthy Safety Culture by Promoting Teamwork and Synergy
- Leadership and Supervisor Essentials
- Legal Compliance as a Leader
- Attendee Self Assessments
- Employee Engagement
- Team Building Exercises

- Coaching Leadership
- Managing Technical Procedures Through Your People
- Simple Steps to Ensuring Top-Notch Customer Service

Featured Speakers (speakers subject to change)

- Walter Chartrand, Air BP Aviation Services
- Todd Dewett, Ph.D., President, TVA Inc.; Professor & Assistant Dean, College of Business, Wright State University
- Mike France, National Air Transportation Association
- Reed Fuller, Ascent Aviation Group
- Leonard Kirsch, Esq., McBreen & Kopko
- Amy Koranda, National Air Transportation Association
- Mario Martinez, Ph.D., ServiceElements

**Training includes NATA's PLST Online Fire Safety module, fulfilling the requirements of Federal Aviation Regulation §139.321(e)(1) of Title 14 of the Code of Federal Regulations for supervisory personnel.

FBO Finance Fundamentals — *for New and Seasoned Managers Responsible for the “Bottom Line” in Aviation Services*

Successful managers understand the financial metrics of their business. Metrics are key indicators, numbers or relationships between key numbers, which help managers recognize changing trends and take appropriate actions to adjust activities to the ever-changing aviation environment. Good managers know on the last day of the month if they had a good month financially without waiting weeks for their financial statements. Do you and your managers know if your business made money?

This seminar will help you develop a level of competence in Management Accounting as opposed to Financial Accounting. Management Accounting is the process of identifying, measuring, reporting and analyzing information about the economic events of an organization. We do not intend to make you into an accountant. We do intend to help you use the information accountants provide to make decisions and develop strategies that improve financial performance of your department, location, division or company. You will gain a better understanding of the “Numbers” and where they come from. We will help you develop tools that will allow you to do your job better.

Seminar Benefits

- Gain an understanding of the “Numbers” and where they come from.

- Learn valuable tools and techniques for evaluating your “Numbers” and comparing them to past performance and other benchmarks.
- Understand how your decisions affect the balance sheet as well as the income statement.
- Learn ways to develop your own metrics and measurements for tracking business performance improvement.
- Learn the key steps to a solid business plan.
- Exposure to many helpful forms, examples and pertinent articles provided to stimulate your thinking.

Who Should Attend

- Department managers looking to expand their understanding of the “Numbers”
- Senior managers wishing to find new financial management tools to improve performance
- Entrepreneurs looking to own and run a successful aviation business
- Financial managers wishing to review the latest tools and techniques

Topics

- Understanding Financial Reporting
- Understanding the Business Flows
- Key Ratios
- Understanding Metrics
- Business Planning
- Budgeting
- Operating Plan and Capital Plan
- Allocating Costs
- Negotiations
- Accounting and Other Important Details

Featured Speakers

- Phil Botana, Tampa International Jet Center
- Mark Chambers, Aviation Resource Group International

NATA Safety 1st Trainer Seminar (Train the Trainer)

One hallmark of the best FBOs is the professionalism of the line service specialists on the ramp. A key component of ramp safety, security and efficiency is the guidance provided by designated FBO line service trainers. NATA's Safety 1st Trainer Seminar delivers the in-depth instruction necessary to make them more effective line service supervisors and instructors.

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In the seminar, trainers will learn how to engage different students, increase learning retention, effectively present lesson plans, identify student verbal and nonverbal cues as well as many other skills.

The seminar also includes instruction on the industry's premier program for initial and recurrent training of line service specialists — known as Professional Line Service Training or PLST Online. NATA's Safety 1st Trainer Seminar was designed specifically to enhance PLST Online program training via cutting-edge teaching techniques.

Seminar Benefits

- Learn the benefits of online PLST training.
- Return eager to implement proven PLST Online training tips and techniques to make your FBO better and safer.
- Strengthen your training skills.
- Realize the benefits of a highly organized and coordinated training process.
- Participate in peer networking opportunities.

Who Should Attend

- Line Supervisors/Managers
- Line Service Technicians
- Fuel Company Representatives

Topics

- Structuring a Training Program
- Keys to Successful Training
- How to Properly Prepare
- How to Engage Students
- Implementing Various Teaching Techniques
- Energizing the Learning Environment
- Recognizing and Utilizing Resources
- Setting Goals
- Staying Consistent
- Keeping it Simple
- Utilizing Your Experience
- Making the Most of PLST Online
- Learning and Practicing with Your Peers

Featured Speakers

- Walter Chartrand, Air BP Aviation Services
- Mike France, National Air Transportation Association
- Amy Koranda, National Air Transportation Association

Environmental Compliance Seminar

The NATA Environmental Compliance Seminar for Aviation Facilities is the only event that focuses solely on environmental compliance issues confronting FBOs and general aviation airports. With mounting pressure from the media, the federal government and the public at-large, this seminar is designed to ensure that FBOs and general aviation airports are complying with environmental mandates that affect their daily operations.

Seminar Benefits

- Increase awareness of all applicable regulations
- Ensure compliance with new environmental mandates
- Avoid costly errors and negative press
- Discuss best management practices
- Review procedures, equipment and requirements
- Receive a training certificate

Who Should Attend

- FBO Owners/General Managers
- Aviation/Airport Managers
- Regulatory Compliance Managers
- Environmental Compliance Managers

Topics

- Spill Prevention, Control and Countermeasures (SPCC) regulations and the new parts that will take effect on November 10, 2011
- Storm Water Permitting and Storm Water Pollution Prevention Plans
- Newly proposed de-icing requirements from the EPA
- Waste Issues (hazardous waste, universal waste, waste oil and waste fuel)
- Underground Storage Tanks (USTs)
- EU Emission Trading Scheme – current requirements in Europe and what to expect in the future for the U.S.

Featured Speakers

- Mike France, National Air Transportation Association
- George S. Gamble, PE, 2G Environmental, LLC

NATA's Spring Training is a must attend educational event! Take advantage of aviation specific training opportunities that will change the course of your experience. See you in Vegas the week of March 5-8th in 2012. **A**

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