

conformity/records review (for the 88 aircraft) to a consulting company (CAVOK). Without validating the consulting company's process and without having any controls in place, SWA relied on the procedures of the consulting company's aircraft record reviews in determining compliance with the aircraft conformity process and the applicable regulatory requirements.

My discovery led to a full records review by SWA of all 88 aircraft. On December 26, 2018, via letter WN 1805:4163, SWA informed our office that they had completed the records review for all 88 aircraft with the following findings:

- 360 Major Repairs were found that were previously unknown to SWA because they were missed by their contractor (CAVOK) during their initial records review of the conformity process. Immediate action was required on some of these aircraft in order to bring them back to compliance with the Airworthiness requirements of the Federal Regulations.
- 44 Alternate Means of Compliance (AMOCs) were found covering six Airworthiness Directives (ADs): AD 2007-06-09, AD 2007-25-03, AD 2009-01-02, AD 2010-26-06, AD 2013-19-23, AD 2013-23-04. These were also previously unknown to SWA because they were missed by their contractor (CAVOK) during their initial records review of the conformity process.

I understand that the SWA's position is that these aircraft have Airworthiness Certificates issued by FAA Designees - Airworthiness Representatives (DARs), however; since then, it has been substantiated that the records of these aircraft do not represent the actual status of the aircraft and vice versa. In addition, based on the fact (that some of the aircraft, while operating in revenue service) their records were still in a foreign language and had to be translated when we raised our Airworthiness concerns, support my belief that the DARs that issued the Airworthiness Certificates did not follow the required process in ensuring these aircraft met their Type Design (Airworthiness Regulatory requirement). What is concerning, is the fact that after all that, the FAA leadership still supports the SWA's position that these aircraft are Airworthy based on the issuance of the Airworthiness Certificates despite the plethora of evidence that makes them questionable.

Currently (while these aircraft are operating in revenue service), SWA is in the process of performing the physical inspections of these aircraft while they are going through the 2 year Checks.

According to the SWA's quarterly report, WN 1805:4163, dated October 4, 2019, SWA has physically inspected 39 (out of the 88) aircraft and found 30 UNDOCUMENTED REPAIRS (had no records), some of these Repairs are **Major Repairs** and did not meet the Regulatory Airworthiness requirements. In addition, the physical inspections of these aircraft found 42 documented **Major Repairs** (installed/documented by the previous foreign operators) that DID NOT MEET AIRWORTHINESS REQUIREMENTS either.

In reviewing the latest findings associated with the thirty nine (39) aircraft (that were physically inspected), the findings include **Major Repairs** that required immediate corrective actions to bring the aircraft into compliance with the regulatory Airworthiness requirements. This elevates the risk and makes the Airworthiness status of the remaining forty nine (49) aircraft questionable. These findings raise operational safety concerns due to the fact that an improper installation of a **Major Repairs** and failure to comply with the inspection requirements associated with that repair have a negative impact on the Airworthiness and safe operation of an aircraft, which could cause a catastrophic event (below, please see the Regulatory definition of a **Major Repair**).

United States Code Reference: 49 U.S.C. 106, 40113 and 44701.

Authority: 49 U.S.C. 106(g), 40113, 44701.

14 CFR Part 1 - DEFINITIONS AND ABBREVIATIONS

Major repair means a repair:

- (1) That, if improperly done, might appreciably affect weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness.

Taking the position that there is no risk with the 49 remaining aircraft because the Aircraft Certification Office (ACO) stated that they see no safety issue based on the findings on the 39 aircraft, it is baseless, and comparing apples and oranges. These 88 aircraft came from all over the world (16 foreign operators) and some of them were operated by more than one foreign operator, under deferent operating environments, culture, maintenance programs, regulatory requirements etc. Using the cookie cutter approach, in establishing the Airworthiness Status of these aircraft, is not in the best interest of safety.

As I stated during our telecom, in order for an aircraft to be used in revenue service the Federal Regulations require that that aircraft has to be in an Airworthy Condition, in addition of being safe. An aircraft that is just safe (not Airworthy) can only be used for a non-revenue ferry flight.

I believe that the below stated Federal Regulations are crystal clear and mandate the requirement of Airworthiness:

Airworthy (Title 49 USC Section 44704)

The aircraft conforms to its type certificate and, after inspection, is in condition for safe operation.

14 CFR Airworthiness requirements:

§ 91.7 Civil aircraft airworthiness.

(a) No person may operate a civil aircraft unless it is in an airworthy condition.

§ 121.153 Aircraft requirements: General.

(a) Except as provided in paragraph of this section, no certificate holder may operate an aircraft unless that aircraft:

(2) Is in an airworthy condition and meets the applicable airworthiness requirements of this chapter, including those relating to identification and equipment.

When I questioned under what authority is the FAA allowing SWA to keep operating these aircraft in revenue service, I was told that the FAA Administrator gets his/her Authority from Congress and uses that Authority to establish policies/procedures and allowing these aircraft to remain in service is permitted under the Process described in FAA Order 8900.1 Volume 3, Chapter 60 (known as the 24/7 Process).

For the record, the 24/7 Process, was designed to review, analyze available/applicable data and make a decision based on factual data. For example, if the Airworthiness requirement calls for support clamps every 10 inches, and the operator installed them every 12 inches, or a Repair requires a .015 of an inch thick metal and the operator installed a .012 of an inch thick metal, in both of these examples, there is available data to be used for analysis and come up with an informed decision. However, in the case of these aircraft, other than knowing that the aircraft records do not represent the actual status of these aircraft and vice versa, the FAA decision of allowing SWA to keep flying them, was based on the unknown. This puts the unknown risk, right on the shoulders of the flying public.

Regarding the FAA's authority to provide exemptions to Regulatory Requirements, USC Title 49, Section **44702**, SUB. VII, PART A (air commerce and safety) under EXEMPTIONS States:

“The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this Section or any sections **44702-44716** of this Title if the Administrator finds **the exemption is in the public interest**”.

Please note: The Administrator has no Authority to grant an exemption for Section **44701**.

USC Title 49, Section **44701**, SUB. VII, PART A (air commerce and safety) States:

“The Administrator shall consider the duty of an air carrier to provide service with the highest possible degree of safety **in the public interest**”.

Even though, you call this a Technical noncompliance, I do not believe that operating aircraft in an unknown Airworthy condition provides service with the highest degree of safety and definitely it is not IN THE PUBLIC INTEREST!

Currently, SWA is aware of the problem (unknown Airworthy condition of these aircraft), other than flying these aircraft in revenue service, and fixing them at their convenience (with the FAA concurrence until July 2020), SWA and the FAA have not taken any proactive action to immediately address the unknown Airworthy condition of these aircraft. Bringing these aircraft into compliance with the Regulatory requirements, while flying them in revenue service, in an unknown Airworthy condition, jeopardizes the lives of the flying public and it is not in the best interest of safety.

As an Inspector, I have done everything I could, I just pray that one of these unknown or nonconforming **Major Repairs** do not cause a catastrophic event, while people are sitting on the information containing the identified risk regarding the unknown Airworthiness of these aircraft.

Sincerely

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