

March 13, 2013

Docket Operations
M-30
U.S. Department of Transportation (DOT)
1200 New Jersey Avenue, SE
Room W12-140
West Building Ground Floor
Washington, DC 20590-0001

Re: Docket No. FAA-2011-1136, Air Carrier Contract Maintenance Requirements

The National Business Aviation Association (NBAA) represents the aviation interests of over 9,000 Member companies that use business aircraft to support their company travel needs. Many Part 135 Operators are NBAA Members and we appreciate the opportunity to submit these comments.

NBAA's comments will center on the following points:

1. Applicability of this Rulemaking to Part 135
2. Costs Associated with this Rulemaking
3. Acceptability of Operator-developed Policies, Procedures, Methods, and Instructions for Performing Contract Maintenance
4. Issues with the List of Contract Maintenance Providers
5. The Degree of Supervision Required of a Contract Maintenance Provider
6. Concerns Over Manuals Not Being Shared Because of Proprietary Information
7. Maintenance Performed by Non-Part 145 Certificated Contract Maintenance Providers vs. Part 145 Certificated Maintenance Providers
8. Applicability to FBO Line Operations
9. Applicability to Part 135 Other Than "10 or More" Operators

Applicability of this Rulemaking to Part 135

The United States Department of Transportation (DOT) Inspector General Reports; FAA Modernization and Reform Act of 2012, Public Law 112-95, section 319; and examples provided in the Notice of Proposed Rulemaking (NPRM) specify applicability only to Part 121 operators. Because there are significant differences between Part 121 and Part 135 and FAA has not justified Part 135 applicability with respect to this rulemaking, it is NBAA's position that all Part 135 operators should be excluded from this rulemaking effort.

Costs Associated with this Rulemaking

NBAA solicited estimates from its Members and, based on this feedback, the compliance costs associated with this rulemaking for Part 135 operators will be significantly higher than those anticipated by the FAA in the NRPM. While we understand the Agency's desire to use standard hourly costs for the cost analysis for this rulemaking effort, this significantly skews the results. NBAA estimates the hours included in the analysis to be low by a factor of 2 for Part 135 operators. In other words, we would expect to double the hours as proposed in the NRPM required of Part 135 operators to arrive at more realistic time and cost figures.

Compounding NBAA's concerns about compliance costs is the reality that many Part 135 operators affected by this rule are small businesses with limited personnel and financial resources. As a result, some Part 135 operators may experience a proportionately larger impact as a percentage of the operator's work force, depending on the FAA's intentions with respect to the degree of supervision required of a contract maintenance provider. Further details are provided in our remarks on the degree of supervision required, covered below.

Acceptability of Operator-developed Policies, Procedures, Methods, and Instructions for Performing Contract Maintenance

To some extent, operators already have developed policies, procedures, methods, and instructions for performing contract maintenance that are acceptable to the FAA and currently include these processes in their maintenance manuals. "Acceptable to the FAA" is open to wide interpretation at the FSDO level. Further clarification on what is and what is not acceptable to the FAA is necessary in order to minimize the variability among FSDOs and ensure an equally competitive marketplace for Part 135 operators, no matter the FSDO to which an operator is assigned.

Issues with the List of Contract Maintenance Providers

Some Part 135 operators already are maintaining a list of all persons with whom they contract their maintenance as part of the operator's maintenance manual. This is provided to the FAA in the form of revisions to the maintenance manual for review and acceptance.

NBAA is concerned that a specific format is mentioned in the NPRM, but options are not detailed. What is a format that would be acceptable to the Administrator? Is it in a free text document or PDF file containing specific points of information, or alternatively a spreadsheet with specific columns of information? Given the FAA's intent to populate a database with this information, is this a database that operators would be able to enter data into directly, similar to those operators who have access to the FAA's WebOPSS database?

We also note that many maintenance providers have multiple addresses/locations where the work is actually being performed. Is the intent that a Part 135 operator would indicate all possible addresses for a given maintenance provider?

Finally, regarding the list of contract maintenance providers, are operators required to add a contract maintenance provider to the list prior to use? The NPRM speaks to monthly updates provided to FAA by the last day of each calendar month. Is that simply a minimum update interval, for which an operator must provide to the FAA, in said format, an updated list that includes a new provider prior to utilizing that new provider?

NBAA recommends FAA craft and implement this rule and subsequent guidance that would allow operators to provide an updated list once a month. Part 135 operators bear the responsibility for ensuring that their maintenance program is complied with and that a provider is suitable for the work being performed. Providing an updated list, especially if the operator does not have direct access to an online database, becomes difficult in an AOG situation outside of normal business hours.

The Degree of Supervision Required of a Contract Maintenance Provider

NBAA is concerned that the proposed supervision requirements are very open to interpretation by FAA Inspectors. As discussed above in our comments regarding the FAA's projected costs of this rulemaking, NBAA is concerned that Part 135 operators would be required to send an individual, who may be the operator's one-and-only maintenance personnel, to be available on-site anytime an aircraft of the operator is being repaired or is undergoing routine maintenance.

If such is the intent of this rulemaking, we do not believe that these costs are included in the FAA's analysis and emphasize that this position would constitute a significant expense for Part 135 operators to which this rule change would apply, with no articulated benefit. While NBAA maintains that this rulemaking should not apply to Part 135 operators, if the FAA justifies applicability to on-demand charter operators, an alternative option must be considered. NBAA proposes that operators be able to designate an "agent" that is an employee of the contract maintenance provider who will be an on-site representative of the operating certificate holder. That individual would supervise the work in accordance with the operating certificate holder's maintenance program and would be responsible to the operating certificate holder.

Concerns Over Manuals Not Being Shared Because of Proprietary Information

Regarding the FAA's concerns that applicable portions of maintenance manuals are not being shared with contract maintenance providers because of proprietary concerns, we note that this appears to be an issue specific to Part 121 operators as it has not been brought to NBAA's attention as a problem within the Part 135 community.

Maintenance Performed by Non-Part 145 Certificated Contract Maintenance Providers vs. Part 145 Certificated Contract Maintenance Providers

NBAA has some concerns with how much of this rulemaking is being driven by maintenance being performed by non-Part 145 certificated maintenance providers vs. Part 145 certificated maintenance providers. There are many Part 135 operators that exclusively use Part 145 repair facilities. NBAA suggests the FAA create an exemption to this requirement for operators that exclusively use Part 145 repair facilities, since the FAA's concerns primarily appear to be with the use of non-certificated repair facilities.

Applicability to FBO Line Operations

The NPRM is lacking specific detail with respect to the threshold of "maintenance provider" that would be covered by this rule. For example, if a Fixed Base Operator (FBO) line service person adds oil to a covered operator's aircraft, would the operator be required to have this individual listed as a provider?

Applicability to Part 135 Other Than "10 or More" Operators

Many existing regulations in Part 135 specify applicability using the aircraft's current passenger seating configuration as opposed to the aircraft's type certification. For example, Bombardier Challenger 600 series aircraft are type certificated with more than 10 passenger seats, but many are currently configured with 9 or fewer passenger seats. If the FAA intends to continue to pursue the applicability of these requirements to Part 135 operators, NBAA urges that the language of this proposed rule be harmonized with the existing language in Part 135 to specify operators of aircraft currently configured with a passenger seating capacity of 10 seats or more in lieu of the proposed language based on the passenger seating capacity per the aircraft type certification.

In the event that the FAA continues to use the passenger seating configuration per the aircraft type certification, NBAA believes that the number of affected operators, and therefore associated costs of the rulemaking, will be substantially higher, depending on how the Agency derived the number of affected operators.

Thank you for the opportunity to submit these comments. Please contact me if NBAA can provide any additional information.

Sincerely,



Douglas Carr
Vice President
Safety, Security, Operations & Regulation