[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No.: FAA-2011-1136; Amdt. Nos. 121-371 and 135-132]

RIN 2120–AJ33

Air Carrier Contract Maintenance Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Aviation Administration (FAA) amends the maintenance regulations for domestic, flag, and supplemental operations, and for commuter and on-demand operations for aircraft type certificated with a passenger seating configuration of 10 seats or more (excluding any pilot seat). The new rules require affected air carriers and operators to develop policies, procedures, methods, and instructions for performing contract maintenance that are acceptable to the FAA, and to include them in their maintenance manuals. The rules also require the air carriers and operators to provide a list to the FAA of all persons with whom they contract their maintenance. These changes are needed because contract maintenance has increased to over 70 percent of all air carrier maintenance, and numerous investigations have shown deficiencies in maintenance performed by contract maintenance providers. These rules will help ensure consistency between contract and in-house air carrier maintenance and enhance the oversight capabilities of both the air carriers and the FAA.

DATES: Effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] except for §§ 121.368 and 135.426 which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The FAA will publish a document in the Federal Register announcing the effective date.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see "How To Obtain Additional Information" in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Wende T. DiMuro, AFS-330, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, D.C. 20591; telephone (202) 267-1685; e-mail wende.t.dimuro@faa.gov.

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SUPPLEMENTARY INFORMATION:

Authority for this Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 447, Section 44701(a)(2)(A) and (B) and (5). Under that section,

the FAA is charged with prescribing regulations and minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances, and equipment and facilities for, and the timing of and manner of, the inspecting, servicing and overhauling the FAA finds necessary for safety and commerce. This regulation is within the scope of that authority.

In addition, Public Law 112-95 (February 14, 2012), the "FAA Modernization and Reform Act of 2012" (the Act), in section 319 (Maintenance providers), requires the FAA to issue regulations "requiring that covered work on an aircraft used to provide air transportation under part 121 . . . , be performed by persons in accordance with subsection (b)." Subsection (b), in addition to listing persons authorized under existing regulations, referenced additional terms and conditions in subsection (c) that would apply to persons who provide contract maintenance workers, services, or maintenance functions to a part 121 air carrier for covered work. The Act mandates that the contracting part 121 air carrier be directly in charge of covered work, as defined by the Act, being performed for the carrier under contract, and that the work be done under the supervision and control of the air carrier. These statutory requirements are addressed in this rule.

I. Overview of Final Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) §§ 121.368, 121.369, 135.426, and 135.427. These amendments apply to certificate holders who conduct domestic, flag, or supplemental operations under part 121, and to certificate holders who conduct commuter operations or on-demand operations with aircraft type certificated for a passenger seating configuration, excluding any pilot seat, of ten seats or

more[1] under part 135, if the carriers contract any of their maintenance, preventive maintenance, or alteration work to an outside source[2]. As required by the Act, this final rule addresses the performance of "covered work." It codifies the statutory definition of the term, and includes requirements for the performance of that work, to include that the certificate holder must be directly in charge of it; the covered work must be carried out in accordance with the certificate holder's manual; and that work must be carried out under the supervision and control of the certificate holder.

While the Act addresses only contracted work on aircraft operated by part 121 certificate holders, the FAA is also applying the same requirements to part 135 certificate holders who operate the larger aircraft, those with 10 or more seats. As stated elsewhere in this preamble, this rulemaking began before passage of the Act in 2012, and the FAA had proposed amendments to both parts 121 and 135. After the Act's passage, the FAA accommodated the new requirements. In addition to including the requirements mandated by the Act, this final rule requires that each certificate holder who contracts for such work must first have developed policies, procedures, methods, and instructions for the accomplishment of that work, and that if they are followed, the work will be performed in accordance with the certificate holder's maintenance program and maintenance manual. Each certificate holder will be required to ensure that its system for the continuing analysis and surveillance of that work contains procedures for its oversight. All of these policies, procedures, methods, and instructions must be acceptable to the FAA and be included in the certificate holder's maintenance manual. In addition, each certificate holder who contracts any of its maintenance, preventive maintenance, or alteration work

[1] For brevity throughout this preamble, we will refer to these aircraft as "10 or more seats" aircraft.
[2] For brevity throughout this preamble, we will refer to all of these classes of certificate holders as "air carriers."

to an outside source will be required to provide to its local FAA Certificate Holding District Office a list that includes the name and address of each maintenance provider it uses, and a description of the type of maintenance the contractor would perform.

II. Background

A. Statement of the Problem

Air carrier maintenance has evolved from mostly an "in-house" operation to an extended network of maintenance providers that fulfill contracts with air carriers to perform their aircraft maintenance. Under §§ 121.363 and 135.413 each air carrier remains primarily responsible for the airworthiness of its aircraft regardless of whether the maintenance is contracted to another person. Any person performing maintenance for an air carrier must follow the air carrier's maintenance manual. However, air carrier general maintenance manuals often are geared toward in-house maintenance. They fail to provide the necessary instructions to maintenance providers to enable them to follow the air carrier's maintenance programs. This is exacerbated when an air carrier's manual contains proprietary data or other confidential information that an air carrier may not want to share with a maintenance provider. Often, the maintenance provider may also work on a competitor's aircraft. Consequently, air carriers often are reluctant to share such information, and therefore, often do not.

In addition, the FAA has found that, although an air carrier is required to list its maintenance providers and a general description of the work to be done in its maintenance manual, these lists are not always kept up to date, are not always complete, and are not always in a format that is readily useful for FAA oversight and analysis purposes. The FAA needs this information to be complete and readily available in order

to plan surveillance of air carrier maintenance programs and determine the extent to which maintenance providers are performing their work according to the air carrier's maintenance manual. Without accurate and complete information on the work being performed for air carriers, the FAA cannot adequately target its inspection resources for surveillance and make accurate risk assessments.

B. Summary of the NPRM

On November 13, 2012, the FAA published a Notice of Proposed Rulemaking (NPRM), Notice No. 12-07, entitled "Air Carrier Contract Maintenance Requirements," 77 FR 67584. The NPRM proposed to amend the maintenance regulations for domestic, flag, and supplemental operations, and for commuter and on-demand operations for aircraft type certificated with a passenger seating configuration of 10 seats or more.

In addition to proposing requirements pertaining to covered work as required by the Act, the FAA proposed to require operators to develop policies, procedures, methods, and instructions for performing contract maintenance that are acceptable to the FAA and to include them in their maintenance manuals. The NPRM also proposed to require the operators to provide a list to the FAA of all persons with whom they contract their maintenance. These lists would include the physical addresses where the work would be carried out and a description of the type of work performed at each location. The FAA proposed these changes because contract maintenance has increased to over 70 percent of all air carrier maintenance, and numerous investigations found deficiencies in maintenance performed by contract maintenance providers. The proposed changes were intended to help ensure consistency between contract and in-house maintenance and to

enhance the oversight capabilities of both the operators and the FAA. The NPRM comment period closed on February 11, 2013.

C. General Overview of Comments

The FAA received 43 comments. Twenty were from air carriers; nineteen were from Associations that represent air carriers and repair stations; and nine were from individuals involved in aviation. Several commenters disagreed with some of the proposals, and some suggested changes. These will be discussed more fully in the sections below.

The FAA received comments on the following general areas of the proposal:

- "Supervision and Control" and "Directly in Charge";
- Covered work;
- Redundancy in many areas;
- Exclusion of part 135 air carriers;
- Part 135 and Overall estimated costs;
- Reporting requirement.

III. Discussion of Public Comments and Final Rule

A. "Supervision and Control" and "Directly in Charge"

The FAA proposed definitions for "directly in charge" and "supervision and control" in new §§ 121.368(a)(3) and (4), and 135.426(a)(3) and (4), but is adopting only the former term. As proposed in the NPRM, this new rule defines directly in charge to mean: "having responsibility for covered work performed by a maintenance provider. A representative of the certificate holder directly in charge of covered work does not need to physically observe and direct each maintenance provider constantly, but must be

available for consultation on matters requiring instruction or decision." The proposal would have defined supervision and control to mean "that a representative of the certificate holder must be available to personally observe the covered work being done to the extent necessary to ensure it is being done properly; and when the representative was not physically present to observe the work, the representative would have had to be available for consultation on matters requiring instruction or decision." The FAA is not adopting its proposed definition of "supervision and control" for reasons discussed below.

Several commenters—FEDEX, NetJets, Transportation Trades Department (TTD), Aeronautical Repair Station Association (ARSA), and others—objected to the proposed definitions of "directly in charge" and "supervision and control." They found the definitions confusing and maintained they were not mandated by the Act. The commenters stated they are confused as to whether and how the representative was required to be "available." The National Business Aviation Association (NBAA) was concerned that some part 135 operators would be required to send the operator's one and only maintenance person to be available on-site anytime an aircraft of the operator was being repaired or undergoing routine maintenance. Ameriflight stated that the term "available" is vague, and may be interpreted as widely as "in the immediate vicinity of," "by telephone," or "by internet," etc. The Professional Aviation Safety Specialists (PASS) stated that the proposed definitions should be more stringent, and that air carriers should be physically present to observe the work being performed. PASS believed that the definitions proposed were contrary to the intent of the Act because, without

modification, there would be no change from current practices. TTD expressed the same concerns.

Aviation Technical Services (ATS) stated that the term "to the extent necessary" is insufficient. It believed this term provides no standards for an air carrier, but establishes that the amount of supervision is at the air carrier's discretion until that supervision proves inadequate and a noncompliance occurs. This commenter suggested that this term should either be amended or deleted.

Upon review, the FAA agrees that the proposed definition of "supervision and control" lacks clarity. Accordingly, we are withdrawing this definition because it is not necessary in view of the "directly in charge" requirement, although the regulations will contain the phrase consistent with the Act's use of it. Nearly constant presence for personal observation of work by an air carrier would seem to be required by the proposed "supervision and control" definition, with unfettered discretion by the air carrier to determine the meaning of "to the extent necessary." Moreover, the last clause in the definition is nearly identical to that in the proposed and adopted definition of "directly in charge." The FAA acknowledges that physical presence at the maintenance site is unnecessary for two reasons. One, with the state of information technology today, a person can acquire sufficient data to make a reasonably accurate decision or provide adequate instruction without having to be on site. Two, to require the physical presence of an observer at all locations where contracted covered work is performed would be extremely cost prohibitive. As such, the commenters' concerns regarding confusion between the two definitions, and over the interpretation of "to the extent necessary," are resolved.

On the other hand, the FAA does not believe that the definition of "directly in charge" is confusing. A similar and consistent definition is in §§ 121.378 and 135.435(b) since at least 1966, and in § 145.3 since 2001. That phrase has not caused confusion in all the years it has been in these regulations. Therefore, we believe the definition proposed in the NPRM is clear.

Finally, regarding possible meanings of the term "available," the FAA notes that Ameriflight is correct that the term could be broadly interpreted. However, this term is not intended to be a limiting factor of the rule. Broad interpretation of "available" allows an air carrier the flexibility to use numerous information technology methods—such as high resolution photographs, text messaging, or the internet—to acquire the information necessary to make decisions and provide instructions. Therefore, this term is retained in the definition of "directly in charge."

B. Covered Work

Until this rule, the FAA's maintenance regulations did not define "covered work." With one change from what it proposed, the FAA now defines "covered work" exactly as set forth in the Act[3] in §§ 121.368(a)(2) and 135.426(a)(2). "Covered work" means any of the following: "(i) Essential maintenance that could result in a failure, malfunction, or defect endangering the safe operation of an aircraft if not performed properly or if improper parts or materials are used; (ii) Regularly scheduled maintenance; or (iii) A required inspection item on an aircraft." While it was the FAA's intent to propose

[3] The FAA's proposed, and final, definition contains one other difference from that set forth in the Act. Sections 121.368(a)(2)(iii) and 135/426(a)(2)(iii) state: "A required inspection item on an aircraft," whereas the Act's definition states "A required inspection item (as defined by the Administrator." The FAA's definition, however, comports with that in the Act, because the agency has limited (*e.g.*, in Operations Specifications paragraph D-091 and Advisory Circular AC 120-16F) a Required Inspection Item (RII) to encompass only "on-wing" maintenance or alterations. Accordingly, by including the phrase "on an aircraft" in the rule's definition, the Act's mandate of "as defined by the Administrator" is satisfied.

without change the definition in the Act, the term "parts or" was inadvertently omitted in front of the word "materials" in subparagraph (i). This omission is corrected in this final rule.

Several commenters requested clarity on two of the terms used in the definition of "covered work": "essential maintenance" and "regularly scheduled maintenance." With respect to essential maintenance, ARSA stated that when terms are not defined in the legislation, the agency must rely on current usage.

Regarding ARSA's comment, we note that paragraph (d) of Operations Specifications paragraph D-091. Requirements: Air Carrier Maintenance Providers, provides that "essential maintenance" is "on-wing" maintenance. Nothing in this rule, or in the Act's definition of "covered work" expands essential maintenance to include "off-wing" maintenance. Therefore, the agency is relying on current usage for this term. Paragraph d of Operations Specifications paragraph D-091 states:

> Essential maintenance encompasses any Required Inspection Item on-wing accomplished after any maintenance or alteration. This maintenance, if done improperly or if improper parts or materials were used, would result in a failure effect that would endanger the continued safe flight and landing of the airplane. Essential maintenance is the accomplishment of the air carrier designated inspection item on wing. Essential maintenance does not encompass any off wing maintenance.

We also note that neither the Act nor the FAA's proposed rule attempted to define the term "essential maintenance." When Congress defined "covered work" in section 319(d)(1) of the Act, one of the three items it included (in subparagraph (A)) was

"essential maintenance." The modifying text limits the scope to maintenance that "could result in a failure, malfunction, or defect endangering the safe operation of an aircraft if not performed properly . . . ." This limiter was excerpted from the FAA's definition found in operations specifications paragraph D-091 and in Advisory Circular AC 120-16F.

Airbus, Airlines for America (A4A), Aerospace Industries Association (AIA), United Parcel Service (UPS), and a private citizen expressed concern over whether "essential maintenance," as defined in proposed §§ 121.368(a)(2)(i) and 135.426(a)(2)(i), includes on-wing maintenance but not off-wing maintenance. AIA stated that AC 120-16F defined "essential maintenance" as not encompassing any off-wing maintenance. A4A believes "essential maintenance" traditionally excludes off-wing maintenance, and that expanding the scope to include off-wing maintenance would significantly impact air carriers, and requested the FAA to clarify that "essential maintenance" applies only to on-wing maintenance. Southwest Airlines stated that the lack of "on an aircraft" in the definition for essential maintenance and regularly scheduled maintenance renders the definition over-broad. In addition, various commenters stated there is no justification for on-wing maintenance to be more stringent than off-wing maintenance.

The Act is silent as to whether the maintenance at issue was meant to be restricted to on-wing maintenance or whether off-wing maintenance was also contemplated. The Act's definition of "covered work," especially in view of its inclusion in subparagraph (C) of: "A required inspection item (as defined by the Administrator)," makes clear that Congress did not intend to change the FAA's longstanding definition of "essential maintenance" to include all off-wing maintenance under the heading of covered work.

The FAA's longstanding guidance and practice has been that required inspection items (RII) are safety of flight items on an aircraft that require a "second set of eyes," that is, an additional inspection and sign off for the item. The provision that covered work includes RIIs "as defined by the Administrator" contemplates continued consistency in this area. Indeed, the NPRM proposed, and this final rule includes, in §§ 121.368(a)(2)(iii) and 135.426(a)(2)(iii): "A required inspection item on an aircraft." Although this subparagraph is separate from and in addition to the inclusion of "essential maintenance" in the Act's subparagraph (A) of § 319(d)(1), the overall context is clear that essential maintenance is meant to continue to apply only to on-wing maintenance.

We agree with ARSA that that when terms are not defined in this legislation, the agency should rely on current usage. Accordingly, the term "essential maintenance," as used both in the Act and in this final rule, is restricted to on-wing maintenance. We note, however, that covered work also includes "Regularly scheduled maintenance." This term necessarily includes some "off-wing" maintenance. This would occur, for example, in cases in which a component (e.g., an engine, landing gear, etc.) is scheduled for removal and overhaul, or when other off-wing maintenance is scheduled at some regular interval. Covered work, for purposes of §§ 121.368(b), (c), and (d) and 135.426(b), (c), and (d), does not include other non-scheduled or non-routine off-wing maintenance.

Several commenters stated that the proposed regulations do not address non-scheduled maintenance. The FAA notes that covered work, both as proposed and in this final rule, includes both essential maintenance and required inspection items, both of which include non-scheduled maintenance. In addition, the other new requirements that address both covered work and all other contracted maintenance, such as the

requirements for air carriers to develop policies, procedures, methods, and instructions for accomplishing all contracted maintenance, necessarily include both scheduled and non-scheduled work.

C. Exclusion of Part 135 Air Carriers

Part 135 contains nearly identical requirements to those in part 121 for maintenance performed on certificate holders' aircraft. For example, similar to the authorizations in part 121, part 135 permits persons other than the certificate holder to perform maintenance on aircraft operated under that part. (See, e.g., §§ 135.425 and 135.437.) Also similar to requirements in part 121, part 135 requires that a certificate holder's manual contain the maintenance program that must be followed when maintenance is performed on the certificate holder's aircraft. (See § 135.427(b).) Further, similar to the requirement in § 121.369(a), § 135.427(a) requires each certificate holder to put in its manual a list of persons with whom it has arranged for the performance of its maintenance.

Even though both parts 121 and 135 require that the certificate holders' maintenance manuals and programs be followed for both in-house and out-sourced maintenance, as we explained in the NPRM, both the FAA and the Office of Inspector General found that too often certificate holders' programs were not followed by contract maintenance providers. The FAA is adopting this final rule in an attempt to close this gap. The agency believes that by requiring certificate holders to develop policies, procedures, methods, and instructions for the accomplishment of contract maintenance in accordance with the certificate holders' programs, contract maintenance providers will be better equipped to more closely follow them. Moreover, by enhancing the existing

requirement that certificate holders provide a list of their maintenance providers to the FAA, to now include each provider's physical address where the work is being performed and a description of the maintenance being done at each location, the FAA's ability to provide meaningful surveillance will be enhanced. The need for these enhancements applies equally to both part 121 and part 135 certificate holders.

D. Estimated Costs

Several commenters stated that the FAA erred in assuming the estimated costs of compliance would be less for part 135 operators than for part 121 operators. The FAA agrees, and to address this issue the FAA is using the same cost estimating methodology for both part 121 and part 135 air carriers. The cost estimates included in the regulatory evaluation for this final rule are based on entity size (large vs. small) rather than on whether a certificate holder operates under part 121 or part 135, because entity size is a more relevant parameter for cost estimation than the part under which an air carrier operates.

Several commenters believed the cost estimates for the proposal did not take into consideration added administrative costs, people resources, technology development, data systems, and publications infrastructure. The FAA does not agree. The agency believes that administrative costs, people resources, technology development, data systems, and publications infrastructures should already be in place to comply with current regulatory requirements. Therefore, these are not additional costs of the rule.

The agency estimated the costs associated with creating lists and any changes to the manual.

Several commenters stated that the FAA did not consider training costs.

The FAA agrees that additional costs would be incurred in training personnel on the changes to the contract maintenance requirements. These training costs have been captured in the "familiarization cost" section of the regulatory evaluation. The FAA believes the term "familiarization" is a more appropriate term than "training" to describe these costs, not only because there is a difference in the scope and extent of material covered in these two terms, but also because familiarization-type training is given to individuals who are already qualified; therefore, "familiarization" is a more appropriate descriptive term.

A few commenters stated that the FAA did not consider software and auditor costs.

This rule does not require development of new technology. Existing software (e.g., any word processing software) can be used to make the changes required by this final rule, so the cost for software is a sunk cost. Regarding auditor costs, the FAA did capture these costs in the NPRM, but for part 121 air carriers only, believing at the time that auditor costs for part 135 air carriers would be negligible. In view of the comments we received on this issue, in this final rule, the FAA captured these costs for both part 121 and 135 air carriers.

See the Regulatory Evaluation for more in-depth details.

E. Redundancy

Southwest Airlines stated that the regulations proposed appear to duplicate various existing regulations, and are therefore redundant. The company stated that proposed § 121.368(e) and (f) would seem to duplicate the regulatory requirements currently found in §§ 121.367 "Maintenance, preventive maintenance, and alterations

programs," and 121.373 "Continuing analysis and surveillance." The company asserted that paragraph (h) of both proposed §§ 121.368 and 135.426 would seem to duplicate current requirements in §§ 121.369(a) and 135.427(a). And further, that §§ 121.368(g) and 121.369(b)(10) appear to duplicate existing requirements in §§ 121.133, 121.135, 121.361, 121.363, 121.365, 121.367, and 121.369.

The FAA notes that while the amendments proposed may seem to overlap some of the existing requirements in §§ 121.361, 121.363, and 121.365, those regulations address different aspects of maintenance, whereas §§ 121.368, 121.369(b)(10), 135.426 and 135.427(b)(10) establish additional conditions for the arrangement of maintenance and establish additional requirements for providing and keeping an updated list of contract maintenance providers, including the type of maintenance they are performing. For example, §121.367 requires each operator to have an inspection program that covers all maintenance. Sections 121.369(b)(10) and 135.427(b)(10) require that the new policies, procedures, methods, and instructions for accomplishing contracted maintenance in accordance with the air carriers' programs be included in the air carriers' manuals. In addition, the new rules will require air carriers to provide the necessary maintenance instructions to maintenance providers in order for them to perform the air carriers' maintenance, whether or not their maintenance manuals contain proprietary data, or other confidential information that an air carrier may be reluctant to share.

Finally, while §§ 121.368 and 121.369 are similar in many respects, they are different in their intent. Section 121.369 addresses in-house maintenance performed by air carrier personnel, while § 121.368 addresses contract maintenance. Their similarity

reflects the overall intent to standardize maintenance between in-house and contract maintenance, and to ensure overall consistency and safety.

Therefore, the FAA is not making any changes to these sections based on the commenters' concerns about duplication.

F. Reporting Requirement

Current §§ 121.369(a) and 135.427(a) require each air carrier to include in its manual a list of persons with whom it has arranged for the performance of maintenance, preventive maintenance, and alterations, including a general description of that work. As proposed, and as adopted in this final rule, §§ 121.368(h) and 135.426(h) will require each certificate holder who contracts for maintenance, preventive maintenance, or alterations to provide to the FAA a list that includes each contract maintenance provider's name and physical address of where the work will be carried out, and a description of the type of maintenance, preventive maintenance, or alteration that is to be performed at each location.

National Air Transportation Association (NATA) stated that the proposed additional requirements pertaining to the listing of maintenance providers would appear to create a new requirement that the FAA would have to approve the addition of a maintenance provider on the list before that provider could perform contract maintenance for the certificate holder. NATA argues that, if this is the case, it would create an undue burden for part 135 certificate holders, who operate on an ad-hoc basis to locations that are unpredictable and often change, so that they cannot account for those entities with whom they engage in unplanned maintenance.

The FAA believes the issue raised by NATA would not arise because § 135.426(h) does not require that a maintenance provider be on the list and be pre-approved by the FAA before an air carrier may contract with it to perform maintenance. Neither § 121.368(h) nor § 135.426(h) prohibit deletions or additions to the list—these rules simply require that the updated list be provided to the FAA by the last day of each calendar month. In the situation outlined by NATA, a part 135 operator would contract with maintenance providers to perform maintenance, including unplanned maintenance, as provided in § 135.413, then update its list and submit it to the FAA by the end of the calendar month.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation Preamble Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the

expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this final rule: (1) has benefits that justify its costs, (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866, (3) is not "significant" as defined in DOT's Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Total Benefits and Costs of this Rule

This rule responds to a Congressional mandate and is expected to prevent 2 accidents. The benefit for the rule is estimated to be $142.8 million or $92.0 million present value at 7% over 10 years. The estimated cost for the rule is $20.4 million ($14.1 million, present value). More detailed benefit and cost information is presented below.

Who is Potentially Affected by this Rule?

Certificate holders who conduct domestic, flag, or supplemental operations under part 121, and certificate holders who conduct commuter operations or on-demand operations with aircraft type certificated for a passenger seating configuration, excluding any pilot seat, of ten seats or more under part 135.

Assumptions:

- All monetary values were expressed in constant 2014 dollars. We calculated the present value of the potential benefit stream by discounting the monetary values using a 7 percent interest rate from 2015 to 2024.
- The rule is expected to take effect in 2015.
- The value of a statistical life (VSL) is $9.2 million.
- VSL in future years were estimated to grow by 1.18 percent per year (the Congressional Budget Office estimated that there will be an expected 1.18 percent annual growth rate in median real wages over the next 30 years) before discounting to present value.
- The value of medical and legal costs associated with fatal injuries was estimated at about $171,000.
- The value of a minor injury was $27,600.
- The value of medical and legal costs associated with minor injuries was estimated at about $3,000.
- The FAA also estimates the cost of accident investigations. Accidents reported by the NTSB incur investigation costs from the NTSB, the FAA, and the private sector. The total accident investigation cost per accident is assumed to be $570,968.
- As per DOT guidance, we assume that real wages increase at 1.2 percent per year.

Changes from the NPRM to the Final Rule

For the benefits, we have made two significant changes to the final rule regulatory analysis:

- Since the NPRM published, the FAA has identified 2 accidents which could have been prevented by this rule. We estimate the benefit value for preventing similar future accidents will be about $92.0 million present value over 10 years.
- In this final rule, we note this rule is Congressionally mandated for part 121 air carriers.

For the cost section, we have made three significant changes to the final rule regulatory analysis, which have increased the costs from about $1.6 million to $14.1 million present value over 10 years:

- The cost estimates included in the regulatory evaluation for this final rule are based on entity size (large vs. small) rather than on whether a certificate holder operates under part 121 or part 135, because entity size is a more relevant parameter for cost estimation than whether the air carrier operates under part 121 or part 135.
- For this final rule, we used the commenters' estimates (when they were available) rather than our own, which generally raised the costs.
- We added familiarization costs.

Benefits of this Rule

A significant part of this rule is Congressionally mandated for part 121 air carriers.

The FAA identified two accidents that could have been prevented by this rule.

One of the accidents was operated by Air Midwest (part 121/135 operator) under part 121 service at the time. This accident resulted in 21 fatalities and 1 minor injury. The

other accident was operated by Emery Worldwide Airlines, and resulted in 3 fatalities. The FAA believes that the benefits justify the costs for part 121 and part 135 operators. In addition to the casualties, 2 aircraft were destroyed. After factoring in the effectiveness of the rule to prevent these accidents, the FAA estimates the benefit value to be $142.8 million, or $92.0 million present value at 7% over 10 years.

Costs of this Rule

From 2015 to 2024, the cost to air carriers and the FAA would be approximately $20.4 million ($14.1 million, present value), as shown in table below.

Costs of the Final Rule

Years	Part 121 Air Carriers Costs	Part 135 Air Carriers Costs	FAA Costs	Total Costs	Present Value Costs
2015	$507,179	$680,837	$15,884	$1,203,900	$1,125,140
2016	$1,195,809	$835,959	$4,019	$2,035,786	$1,778,134
2017	$1,210,158	$845,990	$4,067	$2,060,215	$1,681,749
2018	$1,224,680	$856,142	$4,116	$2,084,938	$1,590,589
2019	$1,239,376	$866,416	$4,165	$2,109,957	$1,504,370
2020	$1,254,249	$876,813	$4,215	$2,135,277	$1,422,825
2021	$1,269,300	$887,335	$4,266	$2,160,900	$1,345,700
2022	$1,284,531	$897,983	$4,317	$2,186,831	$1,272,755
2023	$1,299,946	$908,758	$4,369	$2,213,073	$1,203,765
2024	$1,315,545	$919,663	$4,421	$2,239,630	$1,138,514
2015-2024	$11,800,773	$8,575,895	$53,837	$20,430,505	$14,063,542

Source: U.S. Department of Transportation, Federal Aviation Administration.

* Details may not add to row or column totals due to rounding

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to

assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA identified a total of 222 operators with less than 1,500 employees—these are classified as small entities.

The FAA believes that this final rule will not have a significant economic impact on a substantial number of small entities for the following reason:

The FAA estimates that their ratio of annualized costs to annual revenue is between 0.001% and 0.010%, which is not considered a significant economic impact. Therefore, as provided in section 605(b), the Administrator of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it improves safety and as a legitimate domestic objective therefore will not create unnecessary obstacles to the foreign commerce of the United States.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

This final rule will impose the following amended information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted these information collection amendments to OMB for its review. Notice of OMB approval for these information collections will be published in a future Federal Register document.

Summary: Each operator which seeks to obtain, or is in possession of, an air carrier operating certificate must comply with the requirements of 14 CFR part 121 in order to maintain data which is used to determine if the air carrier is operating in accordance with minimum safety standards. Original certification is completed in accordance with part 119.

Each operator which seeks to obtain, or is in possession of a commuter or on-demand operating certificate must comply with the requirements of 14 CFR part 135 in order to maintain data which is used to determine if the air carrier is operating in accordance with minimum safety standards. Original certification is completed in accordance with part 119.

Continuing certification is completed in accordance with part 121 and part 135. One form is used. The use of this form was taken into account in estimating the burden for this section.

Use: This information collection supports the Department of Transportation's strategic goal of safety. Specifically, the goal is to promote the public health and safety by working toward the elimination of transportation-related deaths, injuries, and destruction of property.

Title 49 U.S.C., Section 44702, empowers the Secretary of Transportation to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom such certificates are issued. Under the authority of Title 49 CFR, Section 44701, Federal Aviation Regulations part 121 and part 135 prescribe the terms, conditions, and limitations as are necessary to ensure safety in air transportation.

Respondents (including number of): There are 80 part 121 air carriers and 168 part 135 operators affected by this rule.

Frequency: The manual requirements will be submitted as part of the submission of maintenance manuals to the FAA for acceptance.

Annual Burden Estimate: This rule requires that the air carrier's manual has all the policies, procedures, methods, and instructions for the accomplishment of maintenance by another person to include the information necessary for certificate holders to ensure all maintenance is performed in accordance with its maintenance program. The rule also requires that the air carrier provide a list with the name and

address of each maintenance provider used and the type of maintenance that is to be performed.

Private Sector Costs

This rule will require affected air carriers to develop policies, procedures, methods, and instructions for performing contract maintenance that are acceptable to the FAA and to include them in their maintenance manuals. The rule also requires the air carriers to provide a list to the FAA of all persons with whom they contract their maintenance.

To calculate the cost of revising and updating the manual and revising and updating the list, the following assumptions were used, paralleling those in the regulatory evaluation:

- 222 small air carriers.
- 26 large air carriers.
- Small air carriers: amount of time revising manual (manager): 16 hours.
- Small air carriers: amount of time revising manual (technical writer): 40 hours.
- Small air carriers: amount of time revising manual (editor): 2 hours.
- Small air carriers: amount of time maintaining manual (manager): 16 hours.
- Small air carriers: amount of time maintaining manual (technical writer): 40 hours.
- Small air carriers: amount of time maintaining manual (editor): 2 hours.
- Large air carriers: amount of time revising manual (manager): 60 hours.
- Large air carriers: amount of time revising manual (technical writer): 30 hours.
- Large air carriers: amount of time revising manual (editor): 30 hours.

- Large air carriers: amount of time maintaining manual (manager): 104 hours.
- Large air carriers: amount of time maintaining manual (technical writer): 156 hours.
- Large air carriers: amount of time maintaining manual (editor): 156 hours.
- Small air carriers: amount of time to provide the list (manager): 10 hours.
- Small air carriers: amount of time to provide the list (technical writer): 3 hours.
- Small air carriers: amount of time to provide the list (auditor): 10 hours.
- Small air carriers: amount of time to maintain and update the list (manager): 12 hours.
- Small air carriers: amount of time to maintain and update the list (technical writer): 12 hours.
- Small air carriers: amount of time to maintain and update the list (auditor): 12 hours.
- Large air carriers: amount of time to provide the list (manager): 40 hours.
- Large air carriers: amount of time to provide the list (technical writer): 20 hours.
- Large air carriers: amount of time to provide the list (auditor): 20 hours.
- Large air carriers: amount of time to maintain and update the list (manager): 104 hours.
- Large air carriers: amount of time to maintain and update the list (technical writer): 156 hours.
- Large air carriers: amount of time to maintain and update the list (auditor): 156 hours.

- For the wages, we assume that there will be a 1.2 percent projected annual increase in real wages.

First Year Costs for small air carriers

Cost = 222 x ((16 hours x $66.08) + (40 hours x $40.02) + (2 hours x $35.76) + (10 hours x $66.08) + (3 hours x $40.02) + (10 hours x $41.28)) = $870,966.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Second Year Costs for small air carriers

Cost = 222 x ((16 hours x $66.87) + (40 hours x $40.50) + (2 hours x $36.19) + (12 hours x $66.87) + (12 hours x $40.50) + (12 hours x $41.77)) = $1,010,576.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Third Year Costs for small air carriers

Cost = 222 x ((16 hours x $67.68) + (40 hours x $40.99) + (2 hours x $36.62) + (12 hours x $67.68) + (12 hours x $40.99) + (12 hours x $42.27)) = $1,022,703.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Fourth Year Costs for small air carriers

Cost = 222 x ((16 hours x $68.49) + (40 hours x $41.48) + (2 hours x $37.06) + (12 hours x $68.49) + (12 hours x $41.48) + (12 hours x $42.78)) = $1,034,976.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Fifth Year Costs for small air carriers

Cost = 222 x ((16 hours x $69.31) + (40 hours x $41.98) + (2 hours x $37.51) + (12 hours x $69.31) + (12 hours x $41.98) + (12 hours x $43.29)) = $1,047,395.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Sixth Year Costs for small air carriers

Cost = 222 x ((16 hours x $70.14) + (40 hours x $42.48) + (2 hours x $37.96) + (12 hours x $70.14) + (12 hours x $42.48) + (12 hours x $43.81)) = $1,059,964.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Seventh Year Costs for small air carriers

Cost = 222 x ((16 hours x $70.98) + (40 hours x $42.99) + (2 hours x $38.41) + (12 hours x $70.98) + (12 hours x $42.99) + (12 hours x $44.34)) = $1,072,684.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Eight Year Costs for small air carriers

Cost = 222 x ((16 hours x $71.84) + (40 hours x $43.51) + (2 hours x $38.87) + (12 hours x $71.84) + (12 hours x $43.51) + (12 hours x $44.87)) = $1,085,556.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Ninth Year Costs for small air carriers

Cost = 222 x ((16 hours x $72.70) + (40 hours x $44.03) + (2 hours x $39.34) + (12 hours x $72.70) + (12 hours x $44.03) + (12 hours x $45.41)) = $1,098,583.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

Tenth Year Costs for small air carriers

Cost = 222 x ((16 hours x $73.57) + (40 hours x $44.56) + (2 hours x $39.81) + (12 hours x $73.57) + (12 hours x $44.56) + (12 hours x $45.95)) = $1,111,766.

Time = 222 x (16 hours + 40 hours + 2 hours + 10 hours + 3 hours + 10 hours) = 17,982.

First Year Costs for large air carriers

Cost = 26 x ((60 hours x $66.08) + (30 hours x $40.02) + (30 hours x $35.76) + (40 hours x $66.08) + (20 hours x $40.02) + (20 hours x $41.28)) = $273,193.

Time = 26 x (60 hours + 30 hours + 30 hours + 40 hours + 20 hours + 20 hours) = 5,200.

Second Year Costs for large air carriers

Cost = 26 x ((104 hours x $66.87) + (156 hours x $40.50) + (156 hours x $36.19) + (104 hours x $66.87) + (156 hours x $40.50) + (156 hours x $41.77)) = $1,006,396.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Third Year Costs for large air carriers

Cost = 26 x ((104 hours x $67.68) + (156 hours x $40.99) + (156 hours x $36.62) + (104 hours x $67.68) + (156 hours x $40.99) + (156 hours x $42.27)) = $1,018,473.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Fourth Year Costs for large air carriers

Cost = 26 x ((104 hours x $68.49) + (156 hours x $41.48) + (156 hours x $37.06) + (104 hours x $68.49) + (156 hours x $41.48) + (156 hours x $42.78)) = $1,030,695.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Fifth Year Costs for large air carriers

Cost = 26 x ((104 hours x $69.31) + (156 hours x $41.98) + (156 hours x $37.51) + (104 hours x $69.31) + (156 hours x $41.98) + (156 hours x $43.29)) = $1,043,063.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Sixth Year Costs for large air carriers

Cost = 26 x ((104 hours x $70.14) + (156 hours x $42.48) + (156 hours x $37.96) + (104 hours x $70.14) + (156 hours x $42.48) + (156 hours x $43.81)) = $1,055,580.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Seventh Year Costs for large air carriers

Cost = 26 x ((104 hours x $70.98) + (156 hours x $42.99) + (156 hours x $38.41) + (104 hours x $70.98) + (156 hours x $42.99) + (156 hours x $44.34)) = $1,068,247.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Eight Year Costs for large air carriers

Cost = 26 x ((104 hours x $71.84) + (156 hours x $43.51) + (156 hours x $38.87) + (104 hours x $71.84) + (156 hours x $43.51) + (156 hours x $44.87)) = $1,081,066.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Ninth Year Costs for large air carriers

Cost = 26 x ((104 hours x $72.70) + (156 hours x $44.03) + (156 hours x $39.34) + (104 hours x $72.70) + (156 hours x $44.03) + (156 hours x $45.41)) = $1,094,038.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Tenth Year Costs for large air carriers

Cost = 26 x ((104 hours x $73.57) + (156 hours x $44.56) + (156 hours x $39.81) + (104 hours x $73.57) + (156 hours x $44.56) + (156 hours x $45.95)) = $1,107,167.

Time = 26 x (104 hours + 156 hours + 156 hours + 104 hours + 156 hours + 156 hours) = 21,632.

Total over 10 years

Cost=($870,966+$1,010,576+$1,022,703+$1,034,976+$1,047,395+$1,059,964+$1,072,684+$1,085,556+$1,098,583+$1,111,766+$273,193+$1,006,396+$1,018,473+$1,030,695+$1,043,063+$1,055,580+$1,068,247+$1,081,066+$1,094,038+$1,107,167) = $20,193,086

Time = ((10 x 17,982 hours) + 5,200 hours + (9 x 21,632 hours)) = 379,708.

Average per year

Cost = $20,193,086 / 10 = $2,019,309.

Time = 379,708 / 10 = 37,971 hours.

FAA Costs

The FAA has to ensure that the air carriers' manuals are revised and maintained.

To calculate the cost of ensuring that the manuals are revised and maintained, the following assumptions were used, paralleling those in the regulatory evaluation:

- 248 small and large air carriers.
- Amount of time to ensure that each manual is revised (FAA inspector): 1 hour.
- Amount of time to verify manual maintenance (FAA inspector): 1 hour.
- For the FAA inspector wage we assume that there will be a 1.2 percent projected annual increase.

First Year Costs for the FAA

Cost = 248 x (1 hour x $64.05) = $15,884.

Time = 248 x (1 hour) = 248.

Second Year Costs for the FAA

Cost = 248 x (0.25 hour x $64.82) = $4,019.

Time = 248 x (0.25 hour) = 62.

Third Year Costs for the FAA

Cost = 248 x (0.25 hour x $65.59) = $4,067

Time = 248 x (0.25 hour) = 62.

Fourth Year Costs for the FAA

Cost = 248 x (0.25 hour x $66.38) = $4,116.

Time = 248 x (0.25 hour) = 62.

Fifth Year Costs for the FAA

Cost = 248 x (0.25 hour x $67.18) = $4,165.

Time = 248 x (0.25 hour) = 62.

Sixth Year Costs for the FAA

Cost = 248 x (0.25 hour x $67.98) = $4,215.

Time = 248 x (0.25 hour) = 62.

Seventh Year Costs for the FAA

Cost = 248 x (0.25 hour x $68.80) = $4,266.

Time = 248 x (0.25 hour) = 62.

Eight Year Costs for the FAA

Cost = 248 x (0.25 hour x $69.63) = $4,317.

Time = 248 x (0.25 hour) = 62.

Ninth Year Costs for the FAA

Cost = 248 x (0.25 hour x $70.46) = $4,369.

Time = 248 x (0.25 hour) = 62.

Tenth Year Costs for the FAA

Cost = 248 x (0.25 hour x $71.31) = $4,421.

Time = 248 x (0.25 hour) = 62.

Total over 10 years

Cost =

($15,884+$4,019+$4,067+$4,116+$4,165+$4,215+$4,266+$4,317+$4,369+

$4,421) = $53,837.

Time = (248 hours + (9 x 62 hours)) = 806.

Average per year

Cost = $53,837 / 10 = $5,384.

Time = 806 / 10 = 81 hours.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The

FAA has determined this rulemaking action qualifies for the categorical exclusion identified in Chapter 3, paragraph 312d, and involves no extraordinary circumstances.

H. Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, the FAA requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. The agency did not receive any comments, and has determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation in Alaska.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a "significant energy action"

under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. How to Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document my be obtained by using the Internet —

1. Search the Federal eRulemaking Portal (http://www.regulations.gov);
2. Visit the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies/ or
3. Access the Government Printing Office's Web page at http://www.gpo.gov/fdsys/.

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to http://www.regulations.gov and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the FOR FURTHER INFORMATION CONTACT heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 121

Aircraft, Aviation safety, Life-limited parts, Reporting and recordkeeping requirements.

14 CFR Part 135

Aircraft, Aviation safety, Life-limited parts, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 121--OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121continues to read as follows:

AUTHORITY: 49 U.S.C. 106(f), 106(g), 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44732; 46105; Pub. L. 111-216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112-95, 126 Stat. 62 (49 U.S.C. 44732 note).

2. Add new § 121.368 as follows:

§ 121.368 Contract maintenance.

(a) A certificate holder may arrange with another person for the performance of maintenance, preventive maintenance, and alterations as authorized in § 121.379(a) only if the certificate holder has met all the requirements in this section. For purposes of this section--

(1) A maintenance provider is any person who performs maintenance, preventive maintenance, or an alteration for a certificate holder other than a person who is trained by and employed directly by that certificate holder.

(2) Covered work means any of the following:

(i) Essential maintenance that could result in a failure, malfunction, or defect endangering the safe operation of an aircraft if not performed properly or if improper parts or materials are used;

(ii) Regularly scheduled maintenance; or

(iii) A required inspection item on an aircraft.

(3) Directly in charge means having responsibility for covered work performed by a maintenance provider. A representative of the certificate holder directly in charge of covered work does not need to physically observe and direct each maintenance provider constantly, but must be available for consultation on matters requiring instruction or decision.

(b) Each certificate holder must be directly in charge of all covered work done for it by a maintenance provider.

(c) Each maintenance provider must perform all covered work in accordance with the certificate holder's maintenance manual.

(d) No maintenance provider may perform covered work unless that work is carried out under the supervision and control of the certificate holder.

(e) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must develop and implement policies, procedures, methods, and instructions for the accomplishment of all contracted maintenance, preventive maintenance, and alterations. These policies, procedures, methods, and instructions must provide for the maintenance, preventive maintenance, and alterations to be performed in accordance with the certificate holder's maintenance program and maintenance manual.

(f) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must ensure that its system for the continuing analysis and surveillance of the maintenance, preventive maintenance, and alterations carried out by the maintenance provider, as required by § 121.373(a), contains procedures for oversight of all contracted covered work.

(g) The policies, procedures, methods, and instructions required by paragraphs (e) and (f) of this section must be acceptable to the FAA and included in the certificate holder's maintenance manual as required by§ 121.369(b)(10).

(h) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must provide to its FAA Certificate Holding District Office, in a format acceptable to the FAA, a list that includes the name and physical (street)

address, or addresses, where the work is carried out for each maintenance provider that performs work for the certificate holder, and a description of the type of maintenance, preventive maintenance, or alteration that is to be performed at each location. The list must be updated with any changes, including additions or deletions, and the updated list provided to the FAA in a format acceptable to the FAA by the last day of each calendar month.

3. Amend § 121.369 by adding paragraph (b)(10) as follows:

§ 121.369 Manual requirements.

* * * * *

(b) * * *

(10) Policies, procedures, methods, and instructions for the accomplishment of all maintenance, preventive maintenance, and alterations carried out by a maintenance provider. These policies, procedures, methods, and instructions must be acceptable to the FAA and provide for the maintenance, preventive maintenance, and alterations to be performed in accordance with the certificate holder's maintenance program and maintenance manual.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

4. The authority citation for part 135 continues to read as follows:

AUTHORITY: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722, 45101-45105.

5. Add new § 135.426 to read as follows:

§ 135.426 Contract maintenance.

(a) A certificate holder may arrange with another person for the performance of maintenance, preventive maintenance, and alterations as authorized in § 135.437(a) only if the certificate holder has met all the requirements in this section. For purposes of this section--

(1) A maintenance provider is any person who performs maintenance, preventive maintenance, or an alteration for a certificate holder other than a person who is trained by and employed directly by that certificate holder.

(2) Covered work means any of the following:

(i) Essential maintenance that could result in a failure, malfunction, or defect endangering the safe operation of an aircraft if not performed properly or if improper parts or materials are used;

(ii) Regularly scheduled maintenance; or

(iii) A required inspection item on an aircraft.

(3) Directly in charge means having responsibility for covered work performed by a maintenance provider. A representative of the certificate holder directly in charge of covered work does not need to physically observe and direct each maintenance provider constantly, but must be available for consultation on matters requiring instruction or decision.

(b) Each certificate holder must be directly in charge of all covered work done for it by a maintenance provider.

(c) Each maintenance provider must perform all covered work in accordance with the certificate holder's maintenance manual.

(d) No maintenance provider may perform covered work unless that work is carried out under the supervision and control of the certificate holder.

(e) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must develop and implement policies, procedures, methods, and instructions for the accomplishment of all contracted maintenance, preventive maintenance, and alterations. These policies, procedures, methods, and instructions must provide for the maintenance, preventive maintenance, and alterations to be performed in accordance with the certificate holder's maintenance program and maintenance manual.

(f) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must ensure that its system for the continuing analysis and surveillance of the maintenance, preventive maintenance, and alterations carried out by a maintenance provider, as required by § 135.431(a), contains procedures for oversight of all contracted covered work.

(g) The policies, procedures, methods, and instructions required by paragraphs (e) and (f) of this section must be acceptable to the FAA and included in the certificate holder's maintenance manual, as required by § 135.427(b)(10).

(h) Each certificate holder who contracts for maintenance, preventive maintenance, or alterations must provide to its FAA Certificate Holding District Office, in a format acceptable to the FAA, a list that includes the name and physical (street)

address, or addresses, where the work is carried out for each maintenance provider that performs work for the certificate holder, and a description of the type of maintenance, preventive maintenance, or alteration that is to be performed at each location. The list must be updated with any changes, including additions or deletions, and the updated list provided to the FAA in a format acceptable to the FAA by the last day of each calendar month.

6. Amend § 135.427 by adding paragraph (b)(10) as follows:

§ 135.427 Manual requirements.

* * * * *

(b) * * *

(10) Policies, procedures, methods, and instructions for the accomplishment of all maintenance, preventive maintenance, and alterations carried out by a maintenance provider. These policies, procedures, methods, and instructions must be acceptable to the FAA and ensure that, when followed by the maintenance provider, the maintenance, preventive maintenance, and alterations are performed in accordance with the certificate holder's maintenance program and maintenance manual.

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Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on February 9, 2015.

Michael P. Huerta
Administrator

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