

Aviation Group Client Update

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FAA TO ISSUE PROPOSED RULE REGARDING AIR CARRIER CONTRACT MAINTENANCE REQUIREMENTS

On November 13, 2012, FAA will publish a [Notice of Proposed Rulemaking \(NPRM\)](#) in the Federal Register recommending amendments to the maintenance regulations for 14 CFR part 121 and 14 CFR part 135 (10 or more) certificate holders. The proposed rules will require these 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. In addition, operators will be required to provide a list of all persons with whom they contract their maintenance to the FAA.

FAA suggests the changes are necessary because contract maintenance now comprises over 70% of all air carrier maintenance, and numerous investigations have shown deficiencies in maintenance performed by contract maintenance providers. FAA further suggests the proposed amendments would help ensure consistency between contract and in-house air carrier maintenance and enhance the oversight capabilities of both the air carriers and the FAA.

This NPRM responds to Section 319 of the FAA Modernization and Reform Act of 2012 (the “Act”), which mandates that FAA issue regulations requiring that covered work on an aircraft used to provide air transportation under 14 CFR part 121 be carried out under the supervision and control of the part 121 air carrier directly in charge of the covered work being performed for it by a maintenance provider, and that the covered work be carried out in accordance with the air carrier’s maintenance manual.

FAA proposes the following new paragraphs to 14 CFR parts 121 and 135:

- Provisions that define a *maintenance provider* as any person (whether certificated or not) who performs maintenance for a certificate holder other than a person who is trained by and employed by that certificate holder. The proposed definition of *covered work* is based on the definition in the Section 319(d)(1) of the Act. The proposed definition of *directly in charge* would be similar to the current definitions in 14 CFR [121.378](#) and [135.435](#). Finally, the new provisions define *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 is not physically present to observe the work, the representative must be available for consultation on matters requiring instruction or decision.

- Provisions that would require each air carrier that contracts any part of its maintenance to a maintenance provider to first have policies and procedures in place to ensure that, if they were followed, the carrier's contracted maintenance would be performed in accordance with its maintenance program and maintenance manual.
- Provisions that would require each certificate holder 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 would have to be acceptable to the FAA and be included in the certificate holder's maintenance manual.
- Provisions that require each air carrier that contracts any of its maintenance to provide, and keep updated, a list of those maintenance providers to the FAA. The list would include the physical (street) address where the work would be performed, and a description of the work to be performed by each maintenance provider. FAA suggests this would assist the agency in its oversight responsibilities, especially in determining which maintenance providers were performing critical maintenance.
- Paragraph (b)(10) to current 14 CFR 121.369 and 135.427 (Manual requirements) to include the requirements for procedures and oversight in the operator maintenance manuals.

Although the Act mandates these amendments for part 121 air carriers only, FAA is proposing the same requirements for part 135 certificate holders conducting operations in aircraft configured with 10 or more passenger seats.

Title 14 CFR has long required that any person performing maintenance for an air carrier must follow the carrier's maintenance program. Despite those general requirements, the DOT Inspector General (IG) noted lapses in the means to ensure air carrier manuals are followed when contracted maintenance is performed. The deficiencies noted include a lack of guidance and training for the maintenance providers, and insufficient oversight of that maintenance.

In order to allow operators time to fully develop the policies, procedures, methods, and instructions for contract maintenance and to provide them in an acceptable format to the FAA, as well as allow FAA time to review the submissions, the agency proposes to make the effective date of the final rule one year after its publication.

Comments on the proposed rule are **due on or before February 11, 2013**. FAA is requesting public comments on the reasonableness of the proposed one-year "compliance period," as well as any other aspect of the proposed rule. The NPRM indicates that the rule is expected to take effect in 2014. Please contact our office for additional information or assistance with the preparation and submission of comments.

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