

Air Carrier Training Aviation Rulemaking Committee (ACT ARC)

Recommendation 15-2: Addressing Administrative Inefficiencies for 135 Operator Training Programs delivered by 142 Training Centers (Rulemaking)

I. Submission

The recommendations below were submitted by the Air Carrier & Contract Training Workgroup (AC&CT WG) for consideration by the Air Carrier Training Aviation Rulemaking Committee (ACT ARC) Steering Committee at F2F-4. The ACT ARC Steering Committee adopted the recommendations, which are submitted to the Associate Administrator for Aviation Safety (AVS-1) as ACT ARC Recommendation 15-2.

II. Statement of the Problem

Pursuant to Title 14 of the Code of Regulations (14 CFR) 135.324(b), a certificate holder may contract with, or otherwise arrange to use the services of, a training center certificated under part 142 to conduct training, testing, and checking required by part 135 if the training center—

- (1) Holds applicable training specifications issued under part 142;
- (2) Has facilities, training equipment, and courseware meeting the applicable requirements of part 142;
- (3) Has approved curriculums, curriculum segments, and portions of curriculum segments applicable for use in training courses required by part 135; and
- (4) Has sufficient instructor and check airmen qualified under the applicable requirements of §§135.337 through 135.340 to provide training, testing, and checking to persons subject to the requirements of part 135.

Under 142.45, the applicability of Subpart C (Personnel and Flight Training Equipment Requirements) of part 142 is limited to: “the personnel and flight training equipment requirements for a certificate holder that is training to meet the requirements of part 61 of this chapter.”

When part 142 was promulgated, the applicability of subpart C was never fully aligned through rulemaking with the provisions of 135.324 in a manner that allowed 142 training centers to use the same core curriculums for pilot certification under part 61 and training, testing, and checking under part 135. In addition, differences in terminology and requirements applicable to part 135 vs. part 142 instructors and part 135 check airmen vs. part 142 evaluators have caused a number of administrative inefficiencies for 135 operators and 142 training centers. The non-alignment of the regulations and guidance documents can lead to inconsistent application of regulatory requirements by FAA personnel (Principal Operations Inspectors (POI) for 135 operators and Training Center Program Managers (TCPM) for 142 training centers) and conflicting guidance material published by the FAA.

In order address the issues raised, the AC&CT WG developed a scope of work with defined short-term and long-term deliverables. The package of recommendations presented at F2F-4 is designed to address the short-term deliverable of recommendations on check airman/evaluator and instructor qualifications and training to address administrative inefficiencies. These recommendations are based on the foundational assumption that 142 training center instructors and evaluators would be conducting training, testing, and checking for 135 operators using FAA-approved standardized curriculums. The AC&CT WG will follow-up with specific recommendations and suggested rulemaking priorities regarding development and implementation of the Aircraft-Specific 135 Standardized Curriculum model in the near future.

III. Proposed Recommendations

The AC&CT WG proposes the following recommendations for ACT ARC Steering Committee consideration:

The ACT ARC recommends the FAA incorporate the following changes into a rulemaking project at the earliest opportunity:

- a. Review instructor/check airman requirements in 14 CFR part 135 subpart H and instructor/evaluator requirements in part 142 subpart C to address inconsistencies and harmonize terminology and requirements to the extent practical.
- b. Revise 14 CFR part 142 to expand the applicability of subpart C to include training to meet the requirements of part 135 (for training conducted under 135.324).
- c. Revise 142.49(c)(1) to align regulatory limitations with industry best practice.

IV. Rationale

While the issues presented by the current regulatory gaps between 14 CFR part 135 and part 142, in relation to training provided by 142 training centers, can be addressed through clarified guidance in the near term, the best solution for the FAA and industry would still involve a consolidated “contract training” rulemaking project that addresses part 135 and part 142 provisions as part of the same effort. Disparate efforts at different times have resulted in provisions that are not aligned and additional requirements that do not reduce risk or enhance safety.

With one Office of Primary Responsibility (OPR), the Air Carrier Training Systems and Voluntary Safety Programs Branch (AFS-280), the FAA can finally address the differences that result when multiple policy divisions develop guidance. The disparities between policy divisions have resulted in inconsistent application of certain regulatory requirements related to contract training. The current regulatory guidance can require action by the operator, training center, POI and TCPM for little or no added value due to inherent inefficiencies and redundant administrative processes. Under current Office of Aviation Safety (AVS) internal guidance on the Rulemaking Process (AVS-002-010) and Office of Rulemaking (ARM) Rulemaking Work Instructions (ARM-002-001-W1), the need for rulemaking can be driven by a number of triggering events including changes in industry practice (e.g., the Aircraft-Specific 135 Standardized Curriculum model). These particular changes can be categorized as a Short Simple Project (SSP). The term SSP refers to an approach for certain projects that can be handled quickly, without noticeable impact on other rulemaking projects. A project may be a candidate for SSP handling only if the project requires minimal rulemaking resources, has minimal economic impact, and is nonsignificant under Department of Transportation Office of the Secretary (OST) and Office of Management and Budget (OMB) criteria.

Aligning the requirements for instructors and check airman/evaluators would address a number of concerns. The applicability language in 142.45 has been interpreted as creating a limitation of the applicability of part 142 to part 61 only. Even though the Special Rules provisions of 135.324 appear to extend the applicability of part 142 to part 135, the language of the regulation has developed into the inefficiencies addressed by the initial AC&CT WG recommendations (submitted to AVS-1 as Recommendation 15-1). Adding the language specifying that part 142 subpart C also applies to “part 135 (which is already addressed in 135.324)” would solve many of these problems for 135 operators and 142 training centers.

For example, the “3 landings and 2 hours in flight” requirements in 142.53(b) could be harmonized with the “2 flight segments” requirement in 135.337(f)/135.338(f). In addition, the training course requirements in 142.53(a) could be harmonized with the training subject areas in 135.339(c)/135.340(c). The intent of this requirement is to be subject to the ATC system annually, so the rulemaking team could review the rationale for requiring the landings for simulator instructors, as well as align the different requirement for hours vs. segments. Also, if a LOFT observation program is conducted in a Level C or D training device, the additional 1 hour LOFT in the same device is redundant. Further review would allow the workgroup/rulemaking team to develop a requirement that could apply consistently under 142.53 and 135.337/135.338)

With regard to 142.49(c)(1), introducing the concept of “schedule” (using an approach similar to flight and duty time limitations) could allow an instructor to determine whether a few extra minutes might allow the student to practice a maneuver or improve performance of a particular task. The ability to spend a few extra minutes with a client at the end of an 8 in 24-hour period at the instructor’s discretion will ensure the student receives extra training that might be needed. Revising the language of the regulation to place the limitation on *scheduling* more than 8 hours in 24-hour, while allowing up to an hour overage at the instructor’s discretion can still ensure the intent of the requirement. Current industry practice outside of 142 training centers is consistent with this approach and using a “flight time, duty period and rest” model would better address this limitation.

Since the FAA may be able to define this rulemaking project as a SSP under its own internal guidance, reviewing the training provisions of part 135 and 142 in a single rulemaking project would address many of the concerns raised by operators, training centers, and FAA personnel regarding the current contract training model.

V. Background Information

ACT ARC Initiatives:

These recommendations address the short-term components of each of the following Steering Committee Initiatives:

Initiative #9: Establish a Workgroup to make recommendations about the relationship between training centers and air carriers in order to achieve standardization (where appropriate) in the following areas:

9.1 Check Airman Qualification

9.2 Flight Instructor Qualification

9.3 Air Carrier Training Curriculum delivered by Part 142 Training Centers

Initiative #33: Short Term Action—Instructor/Evaluator Training

Long Term Action—Consider methods to use data collected under the Aircraft-Specific 135 Standardized Curriculum model to incorporate innovative risk mitigation training techniques to continually improve the curriculum.

Source Report:

Flightcrew Member Training Hours Requirement Review Aviation Rulemaking Committee: *Report from THRR ARC* (ARC 209), May 23, 2011 at pgs. 2, 14-15. (Recommendation that “an ARC be established to evaluate and clarify the rules governing the relationship between part 121 and part 135 air carriers and part 142 training centers.)

Note: The recommendation regarding rulemaking may be expanded as the AC&CT WG develops recommendations about implementation of the Aircraft-Specific 135 Standardized Curriculum model and addresses its long term initiative(s).