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Federal Aviation Administration
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RE: Listing of Major Repairs

Dear Ms. MacPherson:

The Aeronautical Repair Station Association (ARSA) respectfully requests the Federal Aviation Administration (FAA) to reconsider its position regarding the application of major repairs listed in Title 14 of the Code of Federal Regulations (14 CFR)¹ part 43, Appendix A (the Appendix).

The current FAA stance regarding the Appendix's application to part 121 and 135 operators conflicts with the plain language and structure of the regulations. Moreover, the misinterpretation has a detrimental impact on safety.

ARSA suggests that the FAA Chief Counsel's office issue a legal interpretation reflecting the content of this letter.

Issue and background

In recent years, the FAA developed a view² that the Appendix must be applied to maintenance performed on aircraft, engines and appliances of part 121 or part 135 air carriers (121/135 air carriers) that are required to provide for the highest degree of safety through a continuous airworthiness maintenance program (CAMP).³

¹ Except where noted otherwise, all references are to 14 CFR.

² See, petitions for exemption from American Airlines and United Airlines docketed at FAA-2006-26060 and FAA-2006-25888, respectively. As reflected in ARSA's comments to those dockets, the petitions were unnecessary. Unfortunately, the FAA's reasoning in denying the petitions reinforced the misinterpretation addressed in this letter.

³ An air carrier is authorized to conduct operations using specifically identified aircraft that are maintained in accordance with the approved CAMP that is reflected in paragraph D072 of its operations specifications (see, for example, Order 8900.1, Vol.3, Ch.18, Sec.6).

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Historically, the FAA did not require 121/135 air carriers to consider the Appendix; a position that met the rule requirements, and resulted in a safer system.

The traditional position was based on the facts that the Appendix has a general aviation nature and bias,⁴ and its application to 121/135 air carriers results in an enormous number of “automatic” major repairs that would otherwise be considered minor.⁵ Especially for appliances, almost all repairs become major repairs.

As a result, the truism “if everything is important, then nothing is important” applies; such over-inclusion dilutes the intended value of the major repair classification.

General breakdown

Air carriers must operate to the highest standard of safety; the elevated regulatory obligations are not only reflected in the law but in a 121/135 air carrier’s CAMP which provides a rigid structure for the maintenance performed on its fleet.

In recognition of the heightened standards, the general maintenance rules, applicable to all persons, instruct carriers to comply with part 121 and 135 instead of the broad all-purpose directives in part 43.⁶

This regulatory relationship reflects the Federal Aviation Act of 1958 (the Act), which established the FAA; it also allows for the practical reality of rules that are intended to cover all levels of operator and aircraft sophistication.

For example, to a mechanic working on general aviation aircraft the Appendix provides a generic, but structured, guideline for major repairs; that mechanic would otherwise have no framework for making the determination.⁷

On the other hand, a 121/135 air carrier’s CAMP provides a structure that is specific to the carrier’s fleet and approved by the FAA; forcing the Appendix into that framework

⁴ Any reasonable appraisal of the Appendix content supports this view as it clearly reveals a predisposition to small non-transport category aircraft topics.

⁵ That is true by the FAA’s own admission in Advisory Circular (AC) 25.1529-1A titled, “Instructions for Continued Airworthiness of Structural Repairs on Transport Airplanes”, which states:

The definitions of major and minor have historically been subject to widely varying application by maintenance and inspection personnel. In order to standardize the application of the term major repair, the FAA published a list of parts and types of repairs considered major in Civil Aeronautics Manual (CAM) 18 in 1953. This was later adopted as Appendix A to part 43. This standardized list of major repairs has, in some cases, resulted in the classification of minor repairs as major simply because the list has not been updated to include evolving airplane design and construction techniques and it is not practical to tailor the list to individual airplane models. (*Emphasis added*)

⁶ See, §§ 43.3(f) and 43.13(c).

⁷ That is, the mechanic would be totally reliant upon the §1.1 definition of major repair and his independent analysis of the work that was performed; the Appendix provides a generic summary of items that do not require such analysis because they are automatically deemed major.

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provides no benefit, and lessens the focus on major repairs that result from an analysis under § 1.1.

Regulatory foundation

The basic precept of the law is that air carriers must conduct their operations to the highest standard of safety. That is clear in Title 49 of the United States Code (49 USC) § 44701 which requires the agency to consider:

[T]he duty of an air carrier to provide service with the highest possible degree of safety in the public interest...⁸ (*Emphasis added*)

In turn, the Administrator is ordered to issue an air carrier operating certificate before allowing a person to conduct business as an air carrier. The law provides, in applicable part, that:

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part.⁹ (*Emphasis added*)

FAA regulations give effect to the principle of elevated air carrier standards, which are applied to all aspects of carrier operations, including maintenance, preventive maintenance and alteration of aircraft.¹⁰ The rules include requirements for: maintenance manuals¹¹ containing instructions and procedures for the performance of maintenance¹²; creating and handling maintenance records¹³; reporting major repairs¹⁴; and ensuring that all maintenance is performed in accordance with the carrier's manual.¹⁵ Part 43 recognizes these comprehensive air carrier rules.

In fact, the part 43 provision which "activates" the Appendix¹⁶, § 43.3, specifically exempts air carriers from its requirements; it states, in part, that:

⁸ The cited language represents, in part, the restatement of the Federal Aviation Act of 1958 in Title 49, Subtitle VIII, part A of the United States Code.

⁹ 49 USC § 44705.

¹⁰ See §§ 121.1(b) and 135.1(a)(2).

¹¹ See §§ 121.133(b) and 135.21(a).

¹² See §§ 121.135(b)(17); 121.369 and 135.427.

¹³ See §§ 121.380; 121.701; 121.709; 121.369(c) and §§ 135.439 and 135.443.

¹⁴ See §§ 121.707 and 135.439(a)(2)(vi).

¹⁵ See §§ 121.367(a); 121.363(a)(2); 121.369(b) and §§ 135.413(b) and 135.425(a).

¹⁶ Although inconsequential for purposes of this letter, the Appendix is also referenced in § 43.1(3) which states that: "The listing of major alterations and major repairs specified in paragraphs (a) and (b) of appendix A of this part is not applicable to products not produced under an FAA approval."

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(a) Except as provided in this section... no person may maintain, rebuild, alter, or perform preventive maintenance on an aircraft, airframe, aircraft engine, propeller, appliance, or component part to which this part applies. Those items, the performance of which is a major alteration, a major repair, or preventive maintenance, are listed in appendix A.

* * * *

(f) The holder of an air carrier operating certificate or an operating certificate issued under Part 121 or 135, may perform maintenance, preventive maintenance, and alterations as provided in Part 121 or 135.

(Emphasis added)

Not only *may* a carrier perform maintenance under part 121 or 135, it *must* follow its CAMP as required by the 121/135 rules and its operations specifications.

Since the Appendix is irrelevant to § 43.3(f), it is clearly not applicable to 121/135 air carriers with a CAMP. There is no reference to the Appendix in parts 121 or 135.

Conclusion

The Appendix does not apply to 121/135 air carriers under the plain language of § 43.3; forcing such air carriers to follow the outdated Appendix results in “over-classification” which removes the focus from major repairs resulting from a § 1.1 analysis, reducing safety. The FAA Chief Counsel’s office should therefore issue a legal interpretation clearly stating that the Appendix is not applicable to 121/135 air carriers.

Sincerely,



Craig L. Fabian
Vice President Regulatory Affairs and
Assistant General Counsel

cc: Steve Douglas