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The Voice of Aviation Business

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May 28, 2020

Federal Aviation Administration
c/o U.S. Department of Transportation
Docket Operations
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE.
Washington, DC 20590.

NAME AND ADDRESS OF THE PETITIONER

Responses to this petition, including requests for additional information may be directed to:

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PETITION FOR RULEMAKING

The National Air Transportation Association (NATA), on behalf of its members conducting air carrier operations under Title 14 Code of Federal Regulations (CFR) part 135, requests rulemaking to amend 14 CFR 135.337 (a) (1) - (2) and (b) (1) - (2) pertaining to a check pilot's qualifications on a specific aircraft type.

NATA requests this amendment to allow an approved company check pilots to be authorized to conduct the pilot line checks required by § 135.299 throughout the certificate holder's fleet of aircraft of the same category and class.

In addition, NATA requests the FAA provide guidance specifying the suggested content for the pilot line check required by § 135.299 and has provided recommendations for that guidance.

SECTION OF THE REGULATION IMPACTED:

§ 135.337 Qualifications: Check airmen (aircraft) and check airmen (simulator).

(a) For the purposes of this section and § 135.339:

> (1) A check airman (aircraft) is a person who is qualified to conduct flight checks in an aircraft, in a flight simulator, or in a flight training device for a particular type aircraft.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks, but only in a flight simulator, in a flight training device, or both, for a particular type aircraft.

(3) . . .

(b) No certificate holder may use a person, nor may any person serve as a check airman (aircraft) in a training program established under this subpart unless, with respect to the type involved, that person —

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

. . .

PROPOSED REVISED RULE LANGUAGE:
deletions in strikethrough, additions in italics

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(a) For the purposes of this section and § 135.339:

(1) A check airman (aircraft) is a person who is qualified to conduct flight checks in an aircraft, in a flight simulator, or in a flight training device ~~for a particular type aircraft~~.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks, but only in a flight simulator, in a flight training device, or both ~~for a particular type aircraft~~.

(3) . . .

(b) No certificate holder may use a person, nor may any person serve as a check airman (aircraft) in a training program established under this subpart unless, with respect to the aircraft type involved, that person —

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part f*or the same category and class of aircraft qualifications*.

(2) Has satisfactorily completed the training phases for *an aircraft of the same category and class, including recurrent training*, that are required to serve as a pilot in command in operations under this part.

. . .

DISCUSSION:

Section 135.299 states, "[n]o certificate holder may use a pilot, nor may any person serve, as a pilot in command [PIC] of a flight unless, since the beginning of the 12th calendar month before that service, that pilot has passed a flight check in one of the types of aircraft which that pilot is to fly." The line check required by § 135.299 must consist of at least one flight over one route segment and include takeoffs and landings at one or more representative airports where the 135-certificate holder conducts operations. For a PIC authorized to conduct instrument flight rules (IFR) operations, at least one flight will be flown over a civil airway, an approved off-airway route, or a portion of either of them. The line check is required to be conducted by an "approved check pilot[1] or the Administrator." (14 CFR 135.299(a)(1))

The FAA requires company check pilots to hold a Letter of Approval authorizing the check pilot to conduct line checks, and the check pilot must meet the requirements of § 135.337 and § 135.339 (including qualification as a PIC in the specific aircraft type). In the alternative, current guidance for inspectors within FAA Order 8900.1, the Flight Standards Information System[2], does not require the inspector to be typed in the particular aircraft nor maintain a current medical certificate. Further, that guidance[3] specifies that Operations Inspectors performing line checks for part 135 operations hold either a Commercial Pilot Certificate (with an instrument rating) or an ATP Certificate with the appropriate category and class ratings for the aircraft in which the line check is being conducted.

As an example of the practical result of current policy, the FAA permits an inspector qualified to operate a King Air -200 to provide line checks in any category and class of airplane – including large cabin, multiengine turbine powered airplanes – without requiring the inspector to hold a medical certificate or be currently qualified to operate any aircraft as PIC.

The purpose of the line check is to determine the PIC is competent to operate safely within the national airspace system using the certificate holder's policies, procedures, and standard operating procedures (SOP). While safe operation of the aircraft is always significant, the purpose of the line check is not to determine competency to safely operate the specific aircraft type. The pilot's competency to operate the aircraft and proficiency in operating in instrument flight rules are evaluated during the aircraft

[1] The FAA considers the terms "check pilot" and "check airman" synonymous.
[2] FAA Order 8900.1, Volume 1, Chapter 3, Section 6, Figure 1-2, Item 12, Operations Inspector Qualifications and Currency Requirements Matrix (as of May 26, 2020)
[3] FAA Order 8900.1, Volume 3, Chapter 19, Section 13, subparagraph 3-19-13-3B (as of May 26,2020)

competency check (§ 135.293(b)) and instrument proficiency check (§ 135.297), respectively. The FAA also acknowledges "a line check differs from a proficiency or competency check in that the inspector is not required to conduct a knowledge exam with the applicant that consists of specific questions about aircraft systems." [4]

There are several challenges associated with conducting a line check during line operations (e.g., on a passenger or revenue flight). Many aircraft operated under part 135 do not have an observer seat, which means the check pilot (or inspector) conducts the check from a forward passenger seat. Also, in accordance with § 135.301(b), if the result of the line check is unsatisfactory, "the certificate holder may not use the pilot, nor may the pilot serve, as a flight crewmember in operations under this part until the pilot has satisfactorily completed the check." These factors create a situation where many certificate holders schedule the line check on the last flight leg of a trip (e.g., on the way back to the principal base of operations) or on a repositioning flight leg. This can also result in flights being created for the purpose of completing the check. In turn, line checks are conducted which are not always representative of the certificate holder's actual "line" operations.

FAA guidance[5] states that air carriers should generally have sufficient check pilots so that all checking can be conducted by the certificate holder. However, in practice, the FAA/air carrier relationship has evolved such that the FAA is the primary provider of line checks (and other check rides) for part 135 operators.

FAA has, and is likely to continue to have, limited human and financial resources available to provide the number of checks needed by part 135 operators. Decreasing reliance on FAA inspectors would provide them more time to complete other oversight duties or provide checks for those operators still in need of this function.

While considering this proposal, NATA emphasizes that the purpose of the line check is not to evaluate piloting skill and that the carrier's check pilots are best equipped to determine that pilots are operating in accordance with company policy and procedures. The intended purpose of the line check is best fulfilled by company check pilots who have a full understanding of company procedures and culture.

Over the last 17 years, three separate FAA Aviation Rulemaking Committees (ARC) have recommended changes in the provision of § 135.299 line checks to permit greater

[4] Order 8900.1, Volume 3, Chapter 19, Section 13, Paragraph 3-19-13-3G (as of May 26,2020)
[5] see Notice 8900.517

use of air carrier check pilots. The changes sought by NATA in this petition are consistent with those ARC recommendations.

The FAA chartered the Part 135/125 ARC in 2003 and requested public comments on matters the ARC should consider. More comments were submitted to the docket recommending review of the § 135.299 line check than any other issue. After extensive deliberation, the 135/125 ARC provided FAA with full-consensus recommendations on the matter. In 2010, the Flight crew Member Training Hours Requirement Review (THRR) ARC also considered the line check requirements. Again, there was a full consensus recommendation that changes to the provision of line checks was appropriate and the THRR ARC members endorsed the changes recommended by the 135/125 ARC. Most recently, the Air Carrier Training (ACT) ARC again concluded, with unanimous consent, to make changes to permit greater use of company check pilots in the provision of line checks (see attachment).

Each of these committees included representatives of air carriers under parts 135 and 121, part 142 training centers, pilot unions and FAA personnel. Each reached full consensus on recommendations for part 135 line checks.

Enhanced guidance and expanded authority to conduct line checks will improve safety for 135 certificate holders while providing benefits for the industry and FAA.

NATA's proposal stipulates that the carrier's check pilots must be currently qualified as a PIC is the same category and class of aircraft in which the check is administered. This provides a *higher* level of safety than is experienced under today's system where FAA inspectors provide many checks. This higher standard is the result of two key factors:

1. Check pilots must be currently qualified as a PIC in at least one aircraft. FAA inspectors need not meet this requirement.
2. Company check pilots are far more knowledgeable and experienced in the certificate holder's policies, procedures, and SOPs than an FAA inspector.

NATA also endorses the ACT ARC recommendation calling on the FAA to develop guidance for industry stakeholders (part 135 certificate holders), with accompanying guidance for FAA personnel (e.g., Principal Operations Inspectors (POI)) regarding suggested content for a § 135.299 line check. The guidance should emphasize the operator-specific nature of the content to be observed/checked by the check pilot (or inspector) conducting the line check. Specific content recommendations are included in the ACT ARC recommendation attached to this document.

NATA further concurs with the stipulation proposed by the ACT ARC that it is important for the check pilot who conducts the line check to be qualified for any special areas of operation in which the check is to be accomplished (and the certificate holder typically conducts operations).

NATA's petition is consistent with those of the ACT ARC. The ARC provided a detailed rationale for its recommendations and it supplements the arguments submitted in this petition.

ADDITIONAL REQUIRED INFORMATION:

In accordance with 14 CFR 11.71, NATA provides this additional information.

Costs and Benefits

On May 19, 2020 the President issued Executive Order 13924 directing federal agencies to, "address this economic emergency by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery, . . ." NATA's petition provides the FAA with a significant opportunity to meet this directive by providing regulatory and economic relief to certificate holders while maintaining the current level of safety.

This rulemaking would result in cost savings to both the FAA and the affected certificate holders while also providing benefits to all parties. Anticipated savings result from decreased travel costs for FAA inspectors and increased time for inspectors to perform other tasks. Operators will experience significant cost reductions and operational efficiencies resulting from being able to conduct check rides more predictably and from being more less likely to operate flights specifically to conduct check rides.

Through its own use of inspectors who are not currently qualified to the operate aircraft in which they provide line checks, the FAA has demonstrated that this practice is safe. Under this proposed change, pilots being observed by check pilots who are currently qualified to pilot an aircraft in air carrier operations and who possess a meaningful understanding of the company procedures and culture enhance the overall safety of industry. Additional safety benefits from decreased operational exposures (due to fewer flights conducted specifically for checks) will also occur.

Regulatory and Paperwork Burden

NATA does not foresee the creation of any meaningful new regulatory or paperwork burdens because of this change.

Environmental Impact

To the extent that this change will allow a reduction in the number of flights that are today conducted solely for the purpose of performing the line check, there will be a positive impact on the environment.

NATA appreciates the opportunity to petition the FAA for this change and is prepared respond to any additional requests for information.

Sincerely,

John McGraw
Vice President

Attachment

Federal Aviation Administration
Flight Standards Service

Air Carrier Training Aviation Rulemaking Committee (ACT ARC)

Recommendation 16-5: Guidance for 14 CFR 135.299 Line Checks

I. Submission

The recommendations below were submitted by the Air Carrier & Contract Training Workgroup (AC&CT WG)[1] for consideration by the Air Carrier Training Aviation Rulemaking Committee (ACT ARC) Steering Committee at F2F-10. The ACT ARC Steering Committee adopted the recommendations with unanimous consent, and they are submitted to the Associate Administrator for Aviation Safety (AVS-1) as ACT ARC Recommendation 16-5.

II. Statement of the Issue

In accordance with Title 14 of the Code of Federal Regulations (14 CFR) 135.299, "[n]o certificate holder may use a pilot, nor may any person serve, as a pilot in command [PIC] of a flight unless, since the beginning of the 12th calendar month before that service, that pilot has passed a flight check in one of the types of aircraft which that pilot is to fly." The line check required by §135.299 must consist of at least one flight over one route segment and include takeoffs and landings at one or more representative airports where the 135 certificate holder conducts operations. For a PIC authorized to conduct instrument flight rules (IFR) operations, at least one flight will be flown over a civil airway, an approved off-airway route, or a portion of either of them. (14 CFR 135.299)

Title 14 CFR135.299 requires the line check to be conducted by an "approved check pilot or the Administrator." (135.299(a)(1)) Current FAA guidance requires the pilot to hold a Letter of Approval authorizing the check pilot[2] to conduct line checks, and the check pilot must meet the requirements of §135.337 and §135.339 (including qualification as a PIC in the specific aircraft type). In the alternative, guidance for FAA inspectors draws a distinction between "original" and "ongoing" line checks conducted from an observer seat, and requires an inspector conducting an original line check to hold a type rating in the subject aircraft. An inspector conducting an ongoing line check does not have to hold a type rating in the subject aircraft. (Notice 8900.328, Figure 3)

The purpose of the line check is to determine the pilot in command (PIC) is competent to operate safely within the national airspace system (NAS) using the certificate holder's policies, procedures, and standard operating procedures (SOP). While safe operation of the aircraft is always significant, the purpose of the line check is not to determine competency to safely operate the specific aircraft type. The pilot's competency to operate the aircraft and proficiency in operating in instrument flight rules (IFR) is evaluated during the aircraft competency check (§135.293(b)) and instrument proficiency check (§135.297), respectively.

[1] The AC&CT WG is comprised of ACT ARC Steering Committee Members including 135 operators, 142 training centers, and membership organizations/industry associations.
[2] The terms "check pilot" and "check airman" are synonymous. Since §135.299 uses the term "check pilot," the term is used in this recommendation. (Order 8900.1, Volume 3, Chapter 20, Section 5, Paragraph 3-20-5-7(A))

There are a number of challenges associated with conducting a line check during line operations (e.g., on a passenger or revenue flight). Many aircraft operated under 14 CFR part 135 do not have an observer seat, which means the check pilot (or inspector) conducts the check from a forward passenger seat Also, in accordance with §135.301(b), if the result of the line check is unsatisfactory, "the certificate holder may not use the pilot, nor may the pilot serve, as a flight crewmember in operations under this part until the pilot has satisfactorily completed the check."

These factors create a situation where many certificate holders schedule the line check on the last flight leg of a trip (e.g., on the way back to the principal base of operations) or on a repositioning flight leg. This can also result in flights being created for the purpose of completing the check. In turn, line checks are conducted that are not always representative of the certificate holder's operations. Combined with limitations on inspector resources available to support line checks for smaller 135 certificate holders, the AC&CT WG identified an area where enhanced guidance and expanded authority to conduct line checks will improve safety for 135 certificate holders.

III. Recommendations

The ACT ARC proposes the following recommendations for FAA consideration:

> The ACT ARC recommends the FAA develop guidance for industry stakeholders (135 certificate holders), with accompanying guidance for FAA personnel (e.g., Principal Operations Inspectors (POI)) regarding suggested content for a 135.299 line check. The guidance should emphasize the operator-specific nature of the content to be observed/checked by the check pilot (or inspector) conducting the line check. (See Attachment A: Proposed Content for a §135.299 Line Check)
>
> The ACT ARC further recommends the FAA review the suggested content for a 135.299 line check and expand the eligibility to conduct a line check to company check pilots who do not hold a Letter of Approval (LOA) for the specific aircraft type and/or the 135 certificate holder's POI since the focus of the line check is operator-specific procedures, as opposed to an evaluation of the pilot's performance in a specific aircraft type.

IV. Rationale

Current FAA guidance specifies that "line checks are necessary to test the pilot's ability to operate in the National Airspace System (NAS), coordinate with the ground operations at airports used by the operator, and ensure the pilot's compliance with company procedures and operations." (Order 8900.1, Volume 3, Chapter 19, Section 13, Paragraph 3-19-13-1(A))

The objective of the line check is to evaluate the PIC during at least one flight segment, including a takeoff and landing that allows the check pilot or inspector to observe the PIC performing the duties and responsibilities associated with the conduct of a revenue flight. In certain part 135 operations, it may not be practical to conduct a line check during an actual revenue operation. In these cases, the line check can be conducted in conjunction with the aircraft competency check (§135.293(b)), with the concurrence of the PIC and as long as the combined check meets the requirements of both types of checks. In this case, the PIC is evaluated on aircraft-specific knowledge and procedures and the check pilot must hold an LOA for the specific aircraft type.

FAA guidance further suggests that as a best practice, the certificate holder may want to have the PIC fly two flight segments or to perform the duties as pilot monitoring (PM) during a second segment while the second in command (SIC) performs the duties of the pilot flying (PF). The §135.299 line check only applies to the PIC, but the certificate holder may want to assess the pilot's skills as a PM. However, in cases where the certificate holder has to coordinate an inspector to conduct the line check, it is unlikely the inspector can observe more than one flight leg.

Current FAA guidance includes instructions for inspectors on the conduct of line checks, debriefing, and documentation. It also suggests internal and external areas to the certificate holder that are observable during the line check. However, there is no corresponding guidance published for company check pilots on how to conduct a line check or the appropriate areas of focus and standards for evaluation. More detailed guidance targeted at the company check pilot who conducts the line check will only enhance safety. Absent better guidance, many check pilots conduct (and evaluate) an aircraft competency check (§135.293(b)) rather than meet the objective of a line check.

The proposed content for a line check suggested in Attachment A is consistent with current guidance that explains questions typical during the normal course of interacting with the pilot or crewmembers in the aircraft. Even though many of the same items are covered during the §135.293(a) knowledge test or §135.293(b) aircraft competency check, the check pilot may ask questions related to the certificate holder's Operations Specifications (OpSpecs), weight and balance, and weather specific to the flight, in order to assess the PIC's preflight preparation skills. The check pilot can also observe preflight preparation and procedures typically associated with a revenue flight. Guidance targeted at check pilots should include proposed content and suggested areas of observation.

The FAA acknowledges "a line check differs from a proficiency or competency check in that the inspector is not required to conduct a knowledge exam with the applicant that consists of specific questions about aircraft systems." (Order 8900.1, Volume 3, Chapter 19, Section 13, Paragraph 3-19-13-3(G))

Unlike operations under part 121, the nature of part 135 operations creates limitations on the ability of the certificate holder to conduct a line check in "revenue operations." For example, in the case of a line check conducted under §121.440, the company check pilot who is sitting in the observer seat in the cockpit can take over the PIC's next flight leg if he or she has an unsuccessful result on the line check. In the case of a small 135 certificate holder who does not have a company check pilot for that particular aircraft type, the line check is conducted by the POI or another inspector. The certificate holder would be unable to operate subsequent flight legs if the PIC has an unsatisfactory result on a line check conducted during the first flight leg of a multi-day trip. In cases where more check pilots at the company could conduct the line check, the certificate holder will have more options to conduct the line check during revenue operations.

Based on the purpose of the line check, the AC&CT WG suggests that it is important for the check pilot who conducts the line check to be qualified for any special areas of operation in which the check is to be accomplished (and the certificate holder typically conducts operations). For example, if the check pilot or inspector conducting the line check is not qualified to operate in reduced vertical separation minimum (RVSM) airspace, he or she should not conduct a check on a flight that operates in RVSM airspace. A company check pilot (even if he or she does not hold an LOA for that specific aircraft type) would better address this concern than an inspector who a) is not familiar with the certificate holder's procedures or b) is not qualified for the airspace.

These arguments support the AC&CT WG assertion that a company check pilot who does not hold a Letter of Approval in that specific aircraft type can still conduct a line check and observe the PIC's (or PIC trainee's) ability to apply and follow company procedures. A similar argument can be applied to suggest the certificate holder's POI is in a better situation to evaluate a pilot than an inspector who is not familiar with the company's procedures. Since the primary focus of the line check is operator-specific procedures, check pilots/inspectors familiar with the certificate holder's procedures are better situated to conduct the line check.

The prerequisite for the line check, when the line check is not conducted concurrent with the aircraft competency check and/or instrument proficiency check, is satisfactory completion of the aircraft competency check (§135.293(b) and/or instrument proficiency check (§135.297) conducted by a company check pilot, contract check pilot, or inspector. In certain cases, a second check pilot could conduct a line check during a "revenue flight" or an operation consistent with the company's typical operations. The end result is a more robust line check that meaningfully assesses the PIC's ability to conduct operations in accordance with the certificate holder's procedures.

In the same way a company check pilot can be approved to conduct a § 135.293(a)(1) and (4) through (8) written or oral test for pilots assigned to multiple aircraft operated by the company, such authority could be extended to a check pilot to conduct a §135.299 line check for pilots assigned to multiple aircraft. The authority to conduct a line check is separate from other authorizations on the LOA, and limitations can be specified. For these reasons, the AC&CT WG supports FAA consideration of expanding the authority to conduct line checks.

V. Background Information

AC&CT WG Scope of Work:

These recommendations partially address the following component of the AC&CT WG Scope of Work:

> Consider strategies to improve 135 operator training and checking, including training/checking conducted by 142 training centers.

ACT ARC Initiatives:

These recommendations partially address the following Steering Committee Initiative assigned to the AC&CT WG:

- Initiative #40: Review of 135.299 line checks and associated guidance.[3]

[3] Initiative #40 was originally proposed by National Air Transportation Association (NATA), National Business Aircraft Association (NBAA), CAE, Inc. & FlightSafety International, who serve on the AC&CT WG.

Attachment A: Proposed Content for §135.299 Line Check

The AC&CT WG proposes that advisory guidance for 135 certificate holders include the following suggested content for a §135.299 line check. Where the item is operator-specific, aircraft-specific, and/or cannot be accomplished in a simulator, a note follows the item.

The following items should be observed or checked (as appropriate) by the check pilot/inspector conducting a §135.299 line check:

1. Airman Certificate Verification
2. Aircraft Documentation
3. Confirmation of Pilot Qualifications for the Line Check
4. Maintenance Status of the Aircraft *(operator-specific item)*
5. Pre-Flight Preparation
    a. Aircraft Performance *(aircraft-specific item, except the manner in which this is accomplished could be operator-specific)*
    b. Weight and Balance *(operator-specific item)*
    c. Operations Specifications (OpSpecs) *(operator-specific item)*
    d. Flight Release *(operator-specific item)*
6. Aircraft Preflight
7. ATIS/Clearance, Passenger Briefing
8. Differences between the Simulator and Aircraft, especially items such as FMS/GPS usage and autopilot checks *(aircraft-specific item)*
9. Normal Operating Procedures, especially checklist usage and crew resource management (CRM) *(operator-specific item)*
10. Passenger and Crew Briefing(s) *(operator-specific item)*
11. PIC Authority, Judgment *(operator-specific item)*
12. Post-flight Operations and Procedures *(operator-specific item)*