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Docket Management System
U.S. Department of Transportation
400 Seventh St. SW.
Room Plaza 401
Washington, DC 20590

RE: Docket No. FAA-2004-17168; Review of Existing Regulations; FAA Request for Comments

To Whom It May Concern:

The National Air Carrier Association (NACA) submits the following comments to the subject review on behalf of our member airlines listed below[1]. NACA has also informed its member airlines of this opportunity to comment directly to the docket. While we do not expect any member to do so, these comments should be considered supplemental to any member's individual comments.

In your answer to the last request for comments (67 FR 4680), you reported that FAA "will consider for rulemaking" a request to codify the rules for Exemption No. 3585 into rules for dispatching. We are aware that other regularly renewed exemptions, such as 4416H, 4902G, 5400D, 5450C, 5487D, 5515D, 5533C, 5549D, 5560A, were also recommended in the July 2000 round of review for codifying into permanent regulations. While we have seen much progress on addressing comments in that previous round, we have not seen progress on these above listed exemptions and urge you to complete those changes soon.

In the FAA's "Request for Comments" section of this docket, you requested that our comments be limited to three

[1] Air Transport Intl; ATA Airlines; Champion Air; Express.Net Airlines; Falcon Air Express; Gemini air Cargo; Miami Air Intl; North American Airlines; Omni Air Intl; Ryan Intl Airlines; Southern Air; TransMeridian Airlines; USA3000 Airlines; and World Airways.

regulations and in priority order. Since we are submitting comments on behalf of 14 member airlines, we request that you consider all of the following comments which are listed in priority order.

1. § 121.333 Supplemental oxygen for emergency descent and for first aid; turbine engine powered airplanes with pressurized cabins. Para. (c)(3) requires, if for any reason at any time it is necessary for one pilot to leave his station at the controls of the airplane when operating at flight altitudes above flight level 250, the remaining pilot at the controls shall put on and use his oxygen mask until the other pilot has returned to his duty station.

Recommendation. Amend § 121.333(c)(3) to allow the remaining pilot to operate without wearing the mask to FL410 as follows: "Notwithstanding paragraph (c)(2) of this section, if for any reason at any time it is necessary for one pilot to leave his station at the controls of the airplane when operating at flight altitudes above flight level 250, the remaining pilot at the controls shall put on and use his oxygen mask until the other pilot has returned to his duty station. However, the remaining pilot need not wear and use an oxygen mask at or below FL410 if each flight crewmember on flight deck duty has a quick-donning type of oxygen mask that the certificate holder has shown can be placed on the face from its ready position, properly secured, sealed, and supplying oxygen upon demand, with one hand and within five seconds.

> **Note:** Should **§ 121.333** be revised as proposed, FAA should also consider changes to **§ 91.211 (b) (2)** for the same reasons stated above.

2. § 121.652 Landing weather minimums; IFR All certificate holders; (a) requires a pilot in command to increase minimums by 100 feet and one-half mile (or the RVR equivalent) if he/she has not served 100 hours as pilot in command in operations under this part in the type of airplane he is operating.

Recommendation: The rule should be revised to state: "§121.652 Landing weather minimums: IFR: All certificate holders.
(a) If the pilot in command of an airplane has not served 100 hours as pilot in command in operations under this part in the type of airplane he is operating, the MDA or DH and visibility

minimums in the certificate holder's operations specification for regular, provisional, or refueling airports are increased by one-half mile (or the RVR equivalent). ***The MDA or DH and visibility minimums need not be increased above those applicable to the airport provided the airplane autopilot or head-up guidance system is used to the published MDA or DH.*** The MDA or DH and visibility minimums need not be increased above those applicable to the airport when used as an alternate airport, but in no event may the landing minimums be less than 300 and 1. However, a Pilot in command employed by a certificate holder conducting operations in large aircraft under part 135 of this chapter, may credit flight time acquired in operations conducted for that operator under part 91 in the same type airplane for up to 50 percent of the 100 hours of pilot in command experience required by this paragraph.

Rationale: The current requirement unnecessarily restricts fully qualified pilots from routine Category I operations. The rule evolved during the transition to turbojet aircraft and is no longer warranted considering today's training standards. Additionally § 121.438 has been written to ensure a pilot in command with less than 100 hours in type is not paired with an inexperienced first officer. This rule can cause a diversion to a less desirable airport/runway, always requires distractions for re-dispatch, weather, fuel and etc. for what would otherwise be a routine Category I approach. It should be noted that for over 10 years deviations from the 100 hours have been authorized based upon the use of an autopilot or flight guidance system to the decision altitude.

As an alternative only the increased visibility should be applied. The 100 feet increase in MDA or DH only makes it more difficult to establish visual contact with items specified in § 121.651.

3. § 121.139 Requirement for manual aboard aircraft: Supplemental operations.

Recommendation: Delete in its entirety.

Rationale. In today's era of 24/7 Maintenance Control operations, having a paper library of manuals on board the aircraft is unnecessary. In addition, where a digital copy of the manual is on board, such as a CD, there is no need to carry a reading device on board. In today's world, 99 percent

of possible landing locations would have access to a CD reading device. Should that unusual circumstance arise where there is no reading device, the responsibility to have required manuals and documentation prior to repair still exists, and the maintenance specialists could rely on Maintenance Control.

It should be noted that there is reasonably widespread agreement in the Headquarters FAA staff that manuals should not be required to be carried on supplemental operations. Thus, this change would be a good candidate for "fast track" rulemaking.

4. § 91.205 Powered civil aircraft with standard category U.S. airworthiness certificates: Instrument and equipment requirements (b)(12) require at least one pyrotechnic signaling device be aboard if the aircraft is operated for hire over water and beyond power-off gliding distance from shore.

Recommendation: The rule should be revised to read: ". . . . . flotation gear readily available for each occupant and, unless authorized by operations specifications, at least one pyrotechnic signaling device." This language, or similar, would allow flexibility for operations within radar coverage areas and for use of alternative technology.

> **Note:** Should **§ 91.205** be revised as proposed, FAA should also consider changes to **§ 121.353** for the same reasons stated above.

Rationale: Certain FAA offices require a pyrotechnic device aboard the aircraft for a departure from LaGuardia to Detroit (for example). The need for a "pyrotechnic device" does not allow for alternative signaling or alerting devices. When this rule was written pyrotechnic flares were the state-of-art signaling device. Since that time we have ELT's, enhanced ELTs, better communications, radar surveillance and other more practical and timely options.

FAR 119.53. Wet leasing of aircraft and other arrangements for transportation by air.

Recommendation: Add a new first sentence to FAR 119.53(a) as follows: ***Each certificate holder is required to maintain***

operational control of all flights of any aircraft on its operations specification.

Then, in the current first sentence of FAR 119.53(a), strike ". . ., prior to conducting operations involving a wet lease,". Also, in FAR 119.53(f), strike ". . ., if authorized by the Department of Transportation under § 380.3 of this title."

Rationale: It is unnecessary, costly, and burdensome to require that wet leases be reviewed and approved before they are conducted. This review is required, ostensibly, to permit the FAA to determine "which party to the agreement has operational control of the aircraft", when, in fact, it is the expectation of the FAA and industry that the air carrier operating the flight retains operational control. Providing the wet lease agreement to the "Administrator" before <u>or after</u> the operation permits the FAA to provide adequate surveillance over operational control, especially in light of our recommended new first sentence in FAR 119.53(a). Additionally, as rationale for the change to FAR 119.53(f), the Department of Transportation has made it clear to the FAA in a letter dated August 8, 1997, that "a U.S. certificated air carrier holding charter-only authority from the OST may, without further OST/DOT authorization, carry either charter or scheduled traffic generated by the wet lessee . . .".

5. FAR Part 1—Definitions and Abbreviations should be revised to include the following words and definitions:

Accepted
Airworthy
Competent
Repair

The need for a definition for the first three concepts above is self-explanatory. They are terms frequently used in regulatory discussions, but there are many different views of their meaning. For example, the word "competent" is used in FAR sections 121.105, 121.123, and 121.375. To one FAA inspector or regional office this means that each individual must be specifically trained to a specific type of airframe. That could mean that a person who has to complete a task, and who has training on a Large Transport Category aircraft, such as an Airbus A318, cannot complete maintenance on a Boeing 737 until such time as that person has had additional training

specific to the Boeing 737. The FAA in some offices, with apparent guidance from FAA Headquarters staff, is adopting a stance similar to the Part 66 rule (which has not yet been approved), which would type rate the mechanic to each particular aircraft design.

The term "competent" would be better understood, and administrated if the Maintenance Training Programs specified in 121.375 adopted some of the language used in 121.400, through 121.403 to more accurately define the curriculum required to achieve "competence".

As noted in the response to the previous round of comments at 67 FR 4682, Major and Minor repair definitions have been under debate and consideration for years. Yet, to date, we have no wide-spread agreement on their meaning. If work has stopped on changing the definitions for major repair, minor repair major alteration and minor alteration, we recommend the working groups return to work as soon as possible.

Thank you for the opportunity to express our views on the changes needed to our safety regulations at 14 CFR Part 121. We look forward to assisting you on the various committees and working groups we expect will be formed to address these issues and the comments of others. We recommend an omnibus Aviation Rulemaking Committee (ARC), similar to that currently reviewing widespread changes to FAR Parts 125 and Part 135, to review all the comments received in this round and recommend final changes to 14 CFR 121.

Respectfully Submitted
NATIONAL AIR CARRIER ASSOCIATION

Ronald N. Priddy
President