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Comments contained in a MSWord file and in full text below.

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CHIEF COUNSEL
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August 10, 1999

United States Department of Transportation
Docket Number FAA-1999-5924
400 Seventh Street, SW Room Plaza 401
Washington, DC 20590

Dear Sir or Madam:

The American Association of Airport Executives' (AAAE) more than 4800 members appreciate the opportunity to provide comments to the Federal Aviation Administration's (FAA) Notice of Proposed Rulemaking (NPRM) on Year 2000 Safety Inspections. AAAE is the largest professional association in the world for airport management and represents the men and women who operate the nation's commercial and non-commercial airports.

Airport executives submitted a considerable number of comments to the association regarding the NPRM. While many dealt with specific elements within the proposed rule, a general theme pervaded throughout the submissions. Namely, with this Special Federal Aviation Regulation (SFAR), the agency has chosen to yet again produce regulation without evidencing a clear understanding of either the problem it appears to be trying to solve, or the methods currently employed by airports to test their systems for compliance with existing regulations. While the agency's decision to require certificated airports to check their mission-critical equipment on January 1, 2000 is understandable and reasonable, the need for this SFAR is not.

AAAE's membership hopes the agency will refrain from joining the media and others in a "Y2K, the sky is falling" chorus by recognizing that specifically testing airport systems for the impact of the date change does not warrant the issuance of a new regulation. The testing of airport systems under Part 139 of the Federal Aviation Regulations is already detailed clearly by existing regulation. Should the

agency require certification from airport operators that systems and equipment will indeed operate after midnight on January 1, 2000, then FAA need only rely on its existing regulatory mandates.

The Year 2000 computer issue (Y2K) may or may not be as unique or as significant as the agency would have the readers of its proposed rule believe. It may certainly be true that on January 1, 2000, airport equipment and systems may be impacted by the failure of computer-dependent devices to work properly. It is also true, however, that just as any other event has the potential to impact airports (i.e., weather, funding, personnel or air carrier issues), Y2K is an event the airport community must be cognizant of. Unlike many of the events that airports must deal with successfully on a regular basis, Y2K can be anticipated and planned for.

This proposed rule only lists a few "critical" items that are specifically listed for testing, but leaves the door open for many additional items to be added. This is because the rule states that FAA will provide a list of specific systems to test no later than October 1999. AAAE members want to know why the current regulatory requirements for mission-critical systems are not simply used? Also, why does the agency need to issue a proposed rule prior to having determined which airport systems are considered "critical" for purposes of Y2K testing? Is this because the agency does not actually know which systems should be considered critical?

Only if airports have failed to test, repair and/or replace equipment prior to the date change will Y2K have any impact. FAA admits this in its proposed rule. However, any failure of airports to take necessary steps before the date change is actually a failure of airports to meet the current requirements of Part 139, a situation that judging by the continued inspection and re-certification of airports by FAA, has not taken place. In effect, this proposed rule is an indication that the agency has no confidence in its existing regulations and is instead following the opinion of conventional wisdom; namely, that Y2K is a unique and significant event. Again, FAA should reconsider the necessity of creating a special regulation to deal with a problem whose "uniqueness" remains subject to the whims of perception.

The above having been said, AAAE members understand the need for FAA to be proactive on the Y2K issue, even if it is only by way of appearance through the issuance of regulation. Whatever the motivation, should the agency continue forward with this rulemaking, AAAE's members urge the agency to consider the specific suggestions in the areas below.

Testing beginning January 1, 2000
Airports understand that the intention of the proposed rulemaking is to require operational tests of systems related to airport certification under Part 139 to ensure safe operations on January 1, 2000, and to reduce the time allowed to repair emergency response equipment.

Nationwide, airports have plans in place to perform a certain number of operational tests for so-called "critical systems." As a result, several facilities offered their support of the intent of the proposed rule as it relates to testing. However, considering

the time and expense already incurred by airports to support their Y2K-related projects, a re-testing of systems that were previously successfully tested and certified by vendors as compliant is simply unnecessary.

In addition, under the existing regulatory structure, FAA has the ability to ask airports if they have tested their systems for post-2000 compatibility. Waiting to do so until after midnight on January 1, 2000 is not only inefficient, but raises the question of how the agency hopes to be able to effectively interpret the information obtained. Other than providing a reporting requirement of "one hour following the completion of testing under Paragraph 1 of the proposal... to the Regional Airports Division Manager," the proposed rule provides little information as to the reporting mechanism or the content of information to be reported.

In fact, the proposed rule contradicts itself when it states in one section that airports are required to report their testing results by 1:00 a.m., but in a later section examining the proposal's likely impact, points out that testing and reporting should take no more than "2 hours."

The proposal, however, gives specific direction for airports having early morning flights where it would be impossible for them to complete the required testing and report it prior to the first flight. The example given is that of an arrival at 12:30 a.m. on January 1, 2000, and requires that testing starts as close to midnight as possible and be completed for reporting by 1:00 a.m. However, what if the flight was delayed past 12:30 a.m.? Under the proposed rule, would that accelerate airport's testing and reporting requirements?

Aircraft Rescue and Firefighting Equipment

While the proposal may lack details regarding reporting and other similarly unglamorous issues, the sections related to aircraft rescue and firefighting (ARFF) equipment suffer from a level of detail that indicates basic ignorance of ARFF issues on the part of the proposal's drafters. It is almost as if the agency sought to cover up its lack of knowledge regarding the use of ARFF equipment at the nation's airports by filling up the related sections with unnecessary guidance language and examples.

It also appears that the FAA is operating on the assumption that any particular unit failure could result in nationwide failures of the same type of equipment. The proposal's language, "...and since similar models of ARFF vehicles are widely used, a failure of even one model of ARFF equipment could affect many airports..." raises a question of whether it would be more prudent for the FAA to simply contact the two or three manufacturers of ARFF equipment and ask which of their systems are unlikely to work properly after the date change.

AAAE members raised concerns regarding the reduction of time allowed to repair emergency response equipment. Based on information received by airports during the inventory and assessment phases of their Y2K projects, airports believe that the probability of failure of emergency response equipment as a result of Y2K issues is virtually zero. This statement is based on the hundreds of man-hours spent testing and repairing ARFF equipment, as well as information provided to airports by various ARFF equipment manufacturers.

However, in the unlikely event of an equipment failure during operational testing on the morning of January 1, 2000, AAAE's membership believes that eliminating the 48-hour grace period and immediately lowering the airport index is unnecessary. Airports are also concerned that to require a facility to modify its ARFF vehicle back-up plan in order to ensure that the vehicle is replaced "immediately" will have significant, negative operational and financial impacts. Smaller airports in particular will have difficulty securing the necessary equipment.

FAR Part 139 requires that all replacement equipment have "at least equal capabilities". ARFF vehicles, however, are unique as to agent and water carrying capabilities, flow rates and speed requirements. The proposed rule would require every airport that desires to maintain its ARFF Index to essentially duplicate its Index through acquisition of backup equipment. Contrary to the language in the proposal, airports cannot "inexpensively and quickly make such arrangements." Additionally, "Local fire departments" do not routinely have spare ARFF vehicles. Again, the agency needs to rethink this particular section. AAAE suggests the agency look to its own existing regulations.

Airports already have the opportunity under the current regulation to correct equipment malfunctions. The current 48-hour window has already been determined by FAA to be sufficient for maintaining safety at the nation's airports. Why must the agency assume with its proposal that airport operations will be any different on January 1, 2000, or that any impact of Y2K on ARFF equipment cannot be resolved within 48 hours?

Airports then, recommend that the 48-hour grace period be left in place. Should an equipment failure occur on January 1, 2000, (Y2K-related or not) and it appears that the problem cannot be resolved within 48 hours, the airport's index should be lowered to the next appropriate level. Again, such action is already detailed within existing regulation.

Embedded Chips

A key theme throughout the NPRM relates to microprocessors may be installed in, and may affect equipment which is critical to the safety and security functions required by FAA of certificated airports. The agency, however, appears to have assumed that by December 31, 1999, all "known" software will have been corrected or replaced. What is unknown, however, is the extent of airport system dependence on microprocessors or so-called "imbedded chips" many of which may be sub or sub-sub components within the equipment. Because no one is certain of the existence or origin of the "chips" it follows that no one is certain as to what time zone they may have been set to when they were manufactured or installed.

In other words, "chips" may have been set to the local time at the point of manufacture or installation into equipment components or sub-components. Therefore, a piece of equipment on the east coast of the U.S. could be affected by a Y2K sensitive "chip" manufactured in a Pacific Rim country. In that case, the equipment will "fail" long

before midnight Eastern Standard Time. Conversely, if the Y2K sensitive "chip" was manufactured in Silicon Valley, it has a chance of "failing" three hours AFTER and airport might conduct the tests required by the proposed rule.

FAA needs to consider the above as it works to identify which systems may have been impacted by the date change. In AAAE's view, the best method to accomplish this is not to issue a new regulation, but to instead work on enforcing existing regulatory mandates. The agency needs to rely on its certification inspectors to ask airports which systems they have tested and to then compile the information prior to January 1, 2000.

However, at the very least, the agency needs to recognize that there is no way to know what "local time" a chip might be set to. It would seem prudent then to require that all of the equipment identified as "critical" by FAA, be tested periodically throughout the day beginning at 0001, but at the International Date Line local time.

Conclusion

It is a good management practice for agencies or companies to become aware of potential concerns that may threaten its operations, alleviate or correct the concern, and prepare for contingencies. This policy of good management is not lost on airport operators. Nor is such a practice uniquely applied to the Y2K issue.

The provisions of FAR Part 139 provide a regulatory standard that has been determined to be reasonable and acceptable in addressing the necessary components and procedures for maintaining safe airport operations. One would have to question then, what is the uniqueness of the Y2K concern that would mandate an exception to the safety standard?

Specifically, why should the 48-hour grace period to repair or replace an inoperative ARFF vehicle be removed for this concern? More broadly, why does FAA feel the need to issue a new regulatory mandate specifically tailored for Y2K when the current regulations already mandate how airports must maintain their critical systems?

AAAE members, like their counterparts in other segments of the industry, have been working hard to ensure that the Y2K issue does not impact the safe, efficient operation of their facilities. FAA has had little to do with this effort, in large part because the agency has almost exclusively concentrated on its own computer-dependent systems. Now, late in the game, the agency has proposed imposing a mandate on airports unlike any applied to either carriers or itself. On behalf of airports then, AAAE would urge the FAA to reconsider this action. Instead the agency should better utilize the existing standards within Part 139 along with the professionalism and expertise of airport operators, to ensure that Y2K does not impact the nation's air transportation system.

Sincerely,

CHRISTOPHER TEBO

Director, Regulatory Affairs



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