

# Part 135/125 Aviation Rulemaking Committee Issue Paper

Issue: Part 119 Applicability

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## ***Part 119 – Ensuring Growth and Flexibility through a Mission-Based Rule***

### **Purpose**

The purpose of this paper is to identify one of the many issues to be addressed by the Part 135/125 Aviation Rulemaking Committee. While addressing specific rules within the current regulatory structure is a primary purpose of the committee, this paper is submitted to lay groundwork for a different rule concept as opposed to recommending changes to an existing rule. If the concept is adopted, future efforts can be directed to specific rule changes.

### **Background**

Since its inception and subsequent enactment, 14 CFR 119 has been the “road map” to direct the certification of Air Carriers and Commercial Operators to the applicable operating rules. Part 119 has created various “buckets” into which specific aircraft types fit based on passenger seating configuration and maximum payload capacity. These “buckets” are narrowly defined and do not allow the flexibility needed by the operators of today to utilize new generation aircraft in an efficient and cost-effective manner. Particularly in the business aircraft sector, larger aircraft with low density seating have been introduced that challenge the necessity of the “buckets” contained in Part 119.

### **The “Mission-Based” Concept**

A “mission-based” rule would create flexibility within the industry by assigning aircraft to specific operating rules based on the mission of the aircraft, not by size, configuration, or payload capacity. The FAA has embraced this concept in the past with the enactment of the “Commuter Rule” which transitioned operators performing certain types of missions (aircraft conducting scheduled passenger operations) to the operating rules contained in Part 121. It makes sense in the current fast changing aviation environment to explore the possibility of employing this concept in a broader fashion.

### **Practical Application**

To employ this concept, Part 119 would be revised to capture types of operations and define the operating rule that would apply to that operation. In addition, portions of the operating rule may or may not apply to a specific type of operation. Possible types of operations could include:

- Scheduled passenger carrying operations with turbojet airplanes
- Scheduled passenger carrying operations
- Scheduled cargo operations with turbojet airplanes
- Scheduled cargo operations
- On-demand passenger carrying operations with turbojet airplanes
- On-demand passenger carrying operations
- On-demand cargo operations with turbojet airplanes
- On-demand cargo operations

There is a fundamental difference in the core types of operations outlined above. A “scheduled” operation has a set schedule in keeping with current interpretation in which individual seats (or cargo space) are offered for sale to the public at large. An “on-demand” operation has a schedule set by negotiation with the customer wherein the customer engages the entire capacity of the aircraft (individual seats or cargo space cannot be sold).

By necessity, there must be a differentiation between the operating rules that apply to a scheduled vs. an on-demand air carrier while maintaining an equivalent level of safety. Regulations structured around fixed schedules, airports served, and facilities are not a burden to an operation that essentially flies the same schedule daily. However, if those identical regulations are imposed on an on-demand operator serving a wide variety of airports, the lack of flexibility would remove the ability of that operator to serve the flying public.

Therefore, the “mission-based” concept would require that the operating rules applicable to scheduled operators differ from those applicable to on-demand operators. In the previously proposed “types of operations”, the applicable operating rules would follow the type of mission:

Scheduled passenger carrying operations with turbojet airplanes Scheduled passenger carrying operations Scheduled cargo operations with turbojet airplanes Scheduled cargo operations	Part 121
On-demand passenger carrying operations with turbojet airplanes On-demand passenger carrying operations On-demand cargo operations with turbojet airplanes On-demand cargo operations	Part 135

To complete the possible scenarios, the aircraft that are currently operated in accordance with Part 125 and/or deviations from Part 125 would need to be included in this concept. The differentiator in this case, again, would be the mission of the aircraft. Additional types of operations could be:

Aircraft meeting the requirements of Part 91.501	Part 91
Aircraft currently operated in accordance with Part 125 and/or deviations from Part 125 and meeting definition of “on-demand”	Part 135
Aircraft currently operated in accordance with Part 125 and/or deviations from Part 125 and meeting definition of “scheduled”	Part 121

Once the “mission-based” concept is applied, there are now only two operating rules that might apply to an Air Carrier or Commercial Operator – Part 121 or 135, based solely on the type of mission the aircraft is to fly. This would simplify, clarify, and flexibly direct the operator and FAA to the appropriate operating rule.

### **Interface with Applicable Operating Rule**

After being directed to one of two operating rules, there now exists the opportunity, within the operating rule, to further identify the differences between operations.

The current differentiators applicable to Part 121 (Flag, Domestic, Supplemental) are based on type of operation, areas of operation, and aircraft seating configuration and payload capacity. If the “mission-based” concept is employed, three of these discriminators have been eliminated prior to reaching the operating rule. Therefore, the only discriminator in Part 121 that would be applicable is the area of operation. This is entirely in keeping with the “mission-based” concept. The new differentiator would now be based on the mission of the aircraft, international (Flag) or domestic (Domestic). Certain portions of the operating rule would apply to both Flag and Domestic operators, but some would not – a simple “road map” or table would direct the operator and FAA to the specific rules that would apply.

In Part 135 applications, there are no similar differentiators as exist in Part 121 – areas of operation are granted in the certificate holder’s operations specifications. Based on the fact there is incredible diversity in the current Part 135 fleet ranging from single engine aircraft to large business jets, the development of “mission-based” categories is appropriate. It would allow the development of operating rules that are more specific to a particular type of mission, eliminating the current rule structure that states a rule, and then numerous exceptions based on a variety of circumstances. Some possible differentiators:

- International
- Domestic
- Local

An “International” on-demand operator would be permitted to conduct flights outside the U.S. in the areas of operation authorized in their operations specifications. A “Domestic” on-demand operator would be permitted to conduct flights within the contiguous U.S. A “Local” on-demand operator would be permitted to conduct flights only in one specific state, or possibly up to a maximum 3-5 state area as authorized in their operations specifications.

## **Safety Implications**

Adoption of the “mission-based” concept should not have a detrimental effect on safety. While the applicable operating rules may change for some, an equivalent level of safety can be maintained through the design of those rules. To ensure safety, the specific rules applicable to Part 121 and Part 135 should be compared – not to make them identical, but to make them equivalent from a safety perspective. The level of safety would be the same, but the requirements imposed to obtain that level of safety might differ considerably based on the classification of the operator and their “mission”.

In the past, the FAA has acknowledged that a major concern with airplanes categorized as “large”, etc., related to the applicable maintenance program. The actual operation of the aircraft has not been an issue. To ensure an equivalent level of safety, the current Part 135 rules differentiate aircraft maintenance inspections and/or programs based on passenger seating configuration (9 or less / 10 or more). In keeping with the “mission-based” concept and to address these concerns, a new discriminator should be considered. One possibility would be to move that determination to the aircraft certification process. When a new aircraft type is currently in certification the Aircraft Evaluation Group (to include the FSB, MRB, and FOEB) convenes to make numerous determinations regarding that aircraft ranging from required crewmembers and training to the minimum equipment list. It seems that it would be appropriate for the manufacturer and the FAA to determine, at the time of manufacture, what the most appropriate type of maintenance program is for that specific aircraft type, and that this program would apply regardless of the operating rule. If the “mission-based” concept were adopted in this rulemaking, it should be possible for a joint FAA and industry working group to determine applicable maintenance programs for existing aircraft.

## **Conclusion**

One of the primary mandates of the Part 135/125 Aviation Rulemaking Committee is to create rules that permit flexibility and growth within the aviation industry for the foreseeable future. To accomplish that mandate, new concepts need to be embraced that permit that flexibility and growth. The adoption of a “mission-based” concept will meet this need for now and far into the future.

## **Contact Information**

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