

14 CFR 125 / 135 Aviation Rule Making Committee
Training Subcommittee

Issue - 14 CFR 135.299

Sec. 135.299 Pilot in command: Line checks: Routes and airports.

- (a) No certificate holder may use a pilot, nor may any person serve, as a pilot in command 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 flight check shall--
 - (1) Be given by an approved check pilot or by the Administrator;
 - (2) Consist of at least one flight over one route segment; and
 - (3) Include takeoffs and landings at one or more representative airports. In addition to the requirements of this paragraph, for a pilot authorized to conduct IFR operations, at least one flight shall be flown over a civil airway, an approved off-airway route, or a portion of either of them.
- (b) The pilot who conducts the check shall determine whether the pilot being checked satisfactorily performs the duties and responsibilities of a pilot in command in operations under this part, and shall so certify in the pilot training record.
- (c) Each certificate holder shall establish in the manual required by Sec. 135.21 a procedure which will ensure that each pilot who has not flown over a route and into an airport within the preceding 90 days will, before beginning the flight, become familiar with all available information required for the safe operation of that flight.

The intent of the 14 CFR 135.299 is unknown as the preamble information for the rule was unavailable for review. Without this information, the intent can only be determined from the literal word of the regulation, the guidance material and legal interpretations. Indications are that the intent of the 14 CFR 121 equivalent regulation, 14 CFR 121.440, was to "ascertain that the training provided the pilot is reflected in typical route operations."

14 CFR 135.299(a) requires that crewmembers perform a Line Check every 12 calendar months while FAA Order 8400.10 provides limited guidance on the procedures for use during these checks. The language of the regulation does require, however, that the check be conducted in an aircraft and not a flight simulator or flight training device.

Flight simulation technology has shown enormous advancement during the past 30 years. Flight simulators provide a safe flight training and checking environment. As technology has improved, the Federal Aviation Administration (FAA) has authorized increased use of aircraft flight simulators and flight training devices for training and checking flight crewmembers up to and including the issuance of Airline Transport Pilot (ATP) certificates and aircraft Type Ratings.

As a result, the use of flight simulators and flight training devices in lieu of aircraft has resulted in a reduction in air traffic congestion, noise and air pollution, and training costs all while providing an increased level of safety.

The same technology that has allowed for increased simulation fidelity has also resulted in an evolution of cockpit design resulting in highly automated and integrated systems and controls. These advances have led to a requirement for operators to establish and implement operational procedures that include more clearly defined and thorough crew coordination procedures. In turn, this evolution has resulted in a significant increase in the baseline standard of operating procedures in the industry.

Changes to the operating practices of aircraft has led to the FAA issuing multiple Advisory Circulars relating to Crew Resource Management (CRM) and Standard Operating Procedures (SOP). Furthermore, CRM was added to the list of items required by the Practical Test

Standards (PTS) to be evaluated during certification events. While not specifically addressed under each task, CRM is described in the PTS as essential to flight safety and required to be critically evaluated during all tasks completed during the practical test(s).

Under current regulations, the potential exists for a pilot to complete the training and checking necessary for the issuance of an additional type rating in an approved simulator without ever operating the aircraft. CRM is described by the FAA in the PTS as a critical element of this evaluation.

An assumption can be made from these facts that the FAA believes the eligibility of a pilot for the issuance of an ATP certificate or additional rating, including the necessary elements of CRM, can be adequately evaluated in an approved simulator or flight training device.

On November 21, 2001, US Airways, Inc. was granted an exemption (Exemption No. 7665) from 14 CFR 121.440(a), the equivalent 14 CFR 121 regulation. A two (2) year extension was subsequently issued on May 9, 2003. In the exemption, the FAA awards US Airways, Inc., permission to extend the interval between line checks for PICs from 12 months to 24 months. The primary concept used by US Airways, Inc. for the basis of the exemption request was that any evaluation conducted in the proposed alternate line check program would be based on the concepts of CRM and would include an evaluation of the entire crew operating as a unit.

In the denial of multiple requests for exemption from the requirements of 14 CFR 135.299(a), the FAA has consistently indicated that the reason for denial was, among other things, due to the inability of the simulator to replicate conditions that would be encountered if the check was conducted in an aircraft¹. This logic would appear to be contrary to that used by the FAA to approve the use of simulators for certification checks or that used in detailing the requirements for Line Orientation Flight Training (LOFT) using flight simulators as required by 14 CFR 121.

While it is recognized that simulators are least capable of replicating the Air Traffic Control (ATC) system, it should be noted that many modern simulators have significant functionality in this area and any deficiencies can easily be supplemented by a qualified simulator instructor or examiner acting as ATC as required by the PTS.

In summary, the intent of the line check appears to be repetitive. Clearly one of the most significant contributing factors to aircraft safety is the application of CRM by crewmembers. The FAA's conditions of approval of the US Airways, Inc. request for exemption from 14 CFR 121.440(a) indicate that the FAA is focusing on CRM and SOP during line checks. These items are required to be critically evaluated during the evaluation of crewmembers conducted in accordance with 14 CFR 135.293 and 14 CFR 135.297.

The requirements of the 14 CFR 135.299(a) line check are captured in the completion of crewmember evaluation(s) conducted in accordance with 14 CFR 135.293 and 14 CFR 135.297 and consequently it is redundant. This is supported by the fact that the guidance material issued in FAA Order 8400.10² allows for the completion of the check in conjunction with the competency check required by 14 CFR 135.293(b). There should not be an additional requirement to repeat elements previously examined through other regulations.

¹ Denial of Emption Request, Exemption No. 6913, True North, Inc. – See Page 14.

² 8400.10, Volume 3, Chapter 2, Section 7, Paragraph 551 – See Page 15.

Proposed Change

The proposed amendment would require that the provisions of 14 CFR 135.299(c) be incorporated in another appropriate section of the regulation such as 14 CFR 135.23 or equivalent.

Impact

As discussed above, potentially 14 CFR 135.23 would require amendment to incorporate the provisions of the current 14 CFR 135.299(c).

FAA Order 8400.10 would require amendment to delete references to the line check requirement.

Documentation

14 CFR 121.440
Exemption No. 7665, US Airways, Inc., Grant of Exemption
Exemption No. 6913, True North, Inc., Denial of Exemption
8400.10, Volume 3, Chapter 2, Section 7, Paragraph 551

Effect on Safety

The proposed change maintains the current level of safety with respect to crewmember proficiency. The tasks evaluated during current line checks conducted in accordance with 14 CFR 135.299 would continue to be evaluated during the conduct of checks conducted in accordance with 14 CFR 135.293 and 14 CFR 135.297. Crewmember deficiencies are statistically far more likely to be discovered during these checks than during a flight operating between two airports under normal operating conditions.

Additionally, FAA inspectors would continue to have the ability to conduct random line observations without notice.

Financial Impact

The financial impact of conducting the current line check requirement is significant for many 14 CFR 135 operators. Most corporate aircraft used by on-demand charter operators do not have a cockpit jumpseat. Additionally, the clientele of these operators are not typically willing to forego the use of a passenger seat to allow for the conduct of a line check. In addition, due to the unscheduled nature of these operations, except in the largest of operations, the use of positioning flights to conduct these checks results in high levels of inefficient use of Check Airman, including additional overnight or airline ticket expenses to (re)position.

As a result, operators must remove an aircraft from revenue service to conduct the check or transport a Check Airman via airline to conduct checks on positioning flights. In either case, significant expense can result.

If an aircraft is removed from revenue service to conduct the check, the factors that must be considered include items such as operating costs, opportunity costs and flight sub-contracting costs while the aircraft is out of service for use during checking.

14 CFR 135.324(b)(4) requires that an operator has sufficient instructor and check airmen qualified under the applicable requirements of 14 CFR 135.337 through 135.340 to provide training, testing, and checking to persons subject to the requirements of 14 CFR 135. Due to the number of Check Airman required to conduct the line checks and the requirement for FAA surveillance of Check Airman, additional costs must be borne by the operator to position the

check airman, line check candidate and aircraft to a location where the surveillance can be conducted. This represents additional expenses for the operator.

The total cost for an operator with approximately 1400 crewmembers designated as pilot in command, would approximate \$4,200,000 per year (\$3,000.00 per pilot) for no documented increase in safety.

Contact Information

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Supporting Documentation

[Code of Federal Regulations]
[Title 14, Volume 2, Parts 60 to 139]
[Revised as of January 1, 2000]
From the U.S. Government Printing Office via GPO Access
[CITE: 14CFR121.440]

[Page 482]

TITLE 14--AERONAUTICS AND SPACE

PART 121--OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS--Table of Contents

Subpart O--Crewmember Qualifications

Sec. 121.440 Line checks.

(a) No certificate holder may use any person nor may any person serve as pilot in command of an airplane unless, within the preceding 12 calendar months, that person has passed a line check in which he satisfactorily performs the duties and responsibilities of a pilot in command in one of the types of airplanes he is to fly.

(b) A pilot in command line check for domestic and flag operations must--

(1) Be given by a pilot check airman who is currently qualified on both the route and the airplane; and

(2) Consist of at least one flight over a typical part of the certificate holder's route, or over a foreign or Federal airway, or over a direct route.

(c) A pilot in command line check for supplemental operations must--

(1) Be given by a pilot check airman who is currently qualified on the airplane; and

(2) Consist of at least one flight over a part of a Federal airway, foreign airway, or advisory route over which the pilot may be assigned.

[Doc. No. 9509, 35 FR 96, Jan. 3, 1970, as amended by Amdt. 121-143, 43 FR 22642, May 25, 1978; Amdt. 121-253, 61 FR 2612, Jan. 26, 1996]

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

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 In the matter of the petition of *
 *
 US AIRWAYS, INC. * Regulatory Docket No. FAA-2000-8185
 *
 for an exemption from § 121.440 *
 of Title 14, Code of *
 Federal Regulations *
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GRANT OF EXEMPTION

By letter dated September 18, 2000, Mr. Greg B. Gibson, Vice President, Flight Operations, US Airways, Inc. (US Airways), and Mr. Ronald K. Schilling, Director, Flight Training and Standards, US Airways, Flight Technical Operations, 2000 Commerce Drive, Park Ridge II, PIT/H107, Pittsburgh, Pennsylvania 15275, petitioned the Federal Aviation Administration (FAA) on behalf of US Airways for an exemption from § 121.440 of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit US Airways to meet the line check requirement of § 121.440 using an alternative line check program.

The petitioner requires relief from the following regulations:

Section 121.440(a) prescribes that no certificate holder may use any person nor may any person serve as pilot in command (PIC) of an airplane unless, within the preceding 12 calendar months, that person has passed a line check in which he or she satisfactorily performs the duties and responsibilities of a PIC in one of the types of airplanes he or she is to fly.

Special Federal Aviation Regulation (SFAR) 58, paragraph 6(b)(3)(ii)(A) prescribes, in pertinent part, that for PICs, an online evaluation must be completed in the calendar month that includes the midpoint of the evaluation period.

AFS-01-102-E

The petitioner supports its request with the following information:

The petitioner states that the key feature of the Advanced Qualification Program (AQP) is the application of a "crew concept" approach in training and line evaluations. The petitioner notes that US Airways recognizes and endorses the industry trend toward crew resource management (CRM) as an effective method of improving safety. The petitioner states that the crew concept approach at US Airways includes the application of CRM principles; however, the FAA requirements associated with US Airways' line check program focus the entire check on the PIC. The petitioner states that under US Airways' proposed random line check program, the other cockpit crewmembers would receive an equal amount of attention. In addition, the petitioner states that the requirement to line check each PIC every year is obsolete, inadequate, and dated with respect to achieving the purpose intended by the regulation.

The petitioner states that a grant of exemption would permit US Airways to reduce the number of line checks of its PICs by 50 percent each year. The petitioner maintains that during each PIC line check, the performance of the entire flightcrew functioning as a unit would be evaluated using CRM performance indicators designed specifically to evaluate US Airways flightcrews. The petitioner adds that US Airways would ensure no pilot would operate as PIC for more than 24 months without a line check, and each PIC would receive a line check in his or her first year as captain.

The petitioner states that US Airways believes performing a line check at random intervals would enhance the overall quality of its current line check program. The petitioner notes that under a random line check program, a PIC would have no advance knowledge that a line check is about to be given. The petitioner contends that random line checks also would increase the efficiency of check airmen by allowing the use of positioning and depositioning legs to conduct spot line checks instead of the deadheading required under a traditional line check program.

The petitioner states that US Airways, through many years of performing an annual PIC line check, has found little evidence that supports the value of a program in which PICs are checked annually. The petitioner explains that it is more valuable to increase the line check frequency for pilots who have demonstrated a need for greater scrutiny, such as pilots who are serving as captain for the first time at US Airways or those who have failed to meet a minimum standard during a proficiency check, line operational evaluation, or line check. The petitioner notes that US Airways identifies these pilots through a special tracking program. The petitioner states that an additional random sampling of the remaining PICs should be sufficient to validate the efficiency of training as it relates to line operations. The petitioner contends that US Airways would ensure a statistically valid sampling system is used to conduct its line check and CRM evaluations on all aircraft fleet types on routes typically flown by those aircraft.

The petitioner provides language for a condition to be included in the exemption, if granted. This condition includes a plan for line checks of US Airways PICs that would ensure PICs are line-checked regularly.

The petitioner indicates that a grant of exemption is in the public interest because the proposed alternative line check program would reduce the cost of conducting business, which is normally borne by the customer. The petitioner states that a traditional line check program is highly manpower-intensive and maintains that US Airways' proposed alternative line check program would allow US Airways to operate as efficiently as possible, and thereby control the cost of air transportation. The petitioner adds that the alternative line check program also would provide safety dividends, which is always in the public interest and a high priority of the traveling public.

The petitioner states that because of the comprehensive nature of US Airways' alternative line check program, a grant of exemption would provide a level of safety greater than that provided by the current regulation. The petitioner contends that it is universally acknowledged that flightcrew performance is the key to flight safety and to avoiding mishaps. The petitioner claims that US Airways' proposed alternative line check program would concentrate supervisory resources in areas known to be most important for enhancing flight safety and would provide greater emphasis on effective CRM techniques among its crewmembers.

The petitioner adds that a grant of exemption would not remove US Airways' opportunity to conduct an annual PIC line check. The petitioner notes that all PICs and other flight crewmembers are checked each year with a proficiency check or maneuver validation and recurrent line operational flight training or line operational evaluation. In addition, the petitioner states that an FAA inspector observes each new PIC during operating experience following an advanced simulator training program. The petitioner adds that FAA inspectors also conduct line checks at their own discretion.

A summary of the petition was published in the Federal Register on September 26, 2001, (66 FR 49249). No comments were received.

The FAA's analysis/summary is as follows:

The FAA has considered the petitioner's supporting information and finds that a grant of exemption would be in the public interest. In addition, the FAA finds a grant of exemption would provide a level of safety equivalent to the current regulation.

The FAA finds that an alternative line check program provides an equivalent level of safety because it addresses the operational line performance of the entire flightcrew, rather than only the PIC. The FAA also finds that conducting line checks on an unannounced, random basis should enhance the use of a line check as an overall gauge of operational safety. The FAA determined that compared with present practices, data acquired from these line checks will provide better criteria for determining the effectiveness of previous crew-oriented training. These data also will provide better input on needed changes to future training programs because of the increased likelihood that the results will represent typical line flightcrew performance.

The FAA finds that although the petitioner requests relief from § 121.440, it only requires relief from § 121.440(a). In addition, the alternative line check program proposed by US Airways also requires relief from SFAR 58, paragraph 6(b)(3)(ii)(A). The FAA notes that relief from this paragraph is necessary because otherwise the regulation would require US Airways to reinstitute a 6-month line check for each aircraft fleet in which an AQP continuing qualification curriculum is approved for initial operations.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, US Airways, Inc., is granted an exemption from 14 CFR § 121.440(a) and SFAR 58, paragraph 6(b)(3)(ii)(A) to permit US Airways to meet line check requirements using an alternative line check program. This exemption terminates on the occurrence of either of the following: (1) October 31, 2003, unless superseded or rescinded, or (2) the date upon which the FAA notifies US Airways that it has failed to comply with any of the following conditions and limitations:

1. US Airways must implement and maintain a training program for instructors and evaluators operating under this exemption. For initial instructor and evaluator training, the FAA will permit US Airways to meet the requirements of this condition by documenting (1) the extent to which its current instructor and evaluator training program already addresses the provisions of this exemption, and (2) how its instructors and evaluators will be trained on differences, where differences occur.
2. US Airways must maintain a master AQP transition schedule for FAA approval and submit to the FAA AQP manager (AFS-230) quarterly written progress, in a format approved by the Administrator. A copy of the approved master AQP transition schedule must be sent to US Airways' principal operations inspector (POI). The FAA will monitor the progress of US Airways' transition to AQP in accordance with US Airways' approved schedule. US Airways must maintain reasonable progress toward AQP transition.

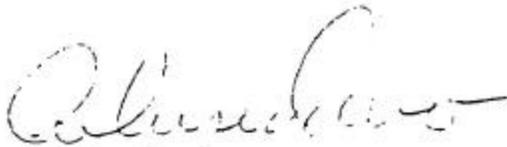
3. US Airways must administer a line check to at least 50 percent of its PICs each calendar year and ensure no PIC has flown for more than 24 months (plus 1 month) between line checks. The seconds in command and the flight engineers who comprise the flightcrew of the PICs to whom line checks are administered, must also be administered line evaluations at this time.
4. US Airways must conduct line checks that incorporate a technical and CRM debriefing facilitated by a line check airman.
5. US Airways must ensure that, with respect to its PICs who are administered line checks under this exemption, such line checks are administered on all of its aircraft fleets and types of operations, and in all geographic areas of operation.
6. US Airways must establish and maintain a special tracking program for the purpose of more frequent line check observations. The special tracking program must include each PIC who has performed unsatisfactorily on a proficiency check or a line check, and each new PIC who has completed his or her operating experience line check.
7. US Airways must ensure PICs included in the special tracking program receive a line check within 12 months (plus 1 month) of being placed in the special tracking program and within every 12 months until that pilot is removed from the special tracking program.
8. US Airways may remove a PIC from the special tracking program after he or she successfully completes the special tracking line check.
9. US Airways must ensure that in any calendar year, all line checks administered as a result of the special tracking program equal at least 50 percent of the total number of US Airways PICs, when added to all other line checks.
10. Before implementing its alternative line check program, US Airways must submit for approval, through its POI to the FAA AQP manager (AFS-230), a plan that—
 - (a) Describes its special tracking program.
 - (b) Administers PIC line checks.
 - (c) Tracks the operation of the alternative line check program.
 - (d) Acquires data on line check performance.

(e) Documents its compliance with this condition.

11. Despite any other conditions of this exemption, US Airways must ensure each person serving as a required flight crewmember on more than one type of aircraft complies with the requirements of §§ 121.433(c)(1)(i) and 121.440(a).

Issued in Washington, DC, on November 21, 2001.

Sincerely,



Louis C. Cusimano
Acting Director, Flight Standards Service

Exemption No. 6913

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

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In the matter of the petition of *

TRUE NORTH, INC. * Regulatory Docket
* No. 29250

for an exemption from Section *
135.299(a) of Title 14, Code of *
Federal Regulations *

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DENIAL OF EXEMPTION

By undated letter, Mr. Phillip Moore, Director of Operations, True North, Inc. (True North), P.O. Box 82482, South Florida, Florida 33082, petitioned the Federal Aviation Administration (FAA) on behalf of True North for an exemption from Section 135.299(a) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit True North pilots to accomplish a line operational evaluation (LOE) in a Level C or Level D flight simulator in lieu of a line check in an aircraft.

The petitioner requests relief from the following regulation:

Section 135.299(a) prescribes, in pertinent part, that no certificate holder may use a pilot, nor may any person serve, as a pilot in command of a flight, unless that pilot has passed a flight check in one of the types of aircraft which that pilot is to fly.

The petitioner supports its request with the following information:

The petitioner indicates that it is a part 135 certificate holder (No. WG6A110W) conducting on-demand operations in Dassault Mystere-Falcon 20 (Falcon 20) aircraft. According to the petitioner, greater use of advanced simulation at FAA-certificated training centers would increase safety in part 135 on-demand operations.

AFS-98-353-E

The petitioner notes that in accordance with part 135, an unsupervised pilot in command (PIC) conducting revenue operations must accomplish a line check every 12 months in at least one of the aircraft types the PIC is to fly. According to the petitioner, an effective line check program can detect deficiencies and adverse trends and establish the need to revise old procedures or initiate new procedures. The petitioner adds that part 135 specifies line checks may be conducted by an approved check airman or by an FAA inspector.

The petitioner states that the nature of the on-demand air carrier industry limits the opportunity for an FAA inspector to observe actual line operations. According to the petitioner, most aircraft used for on-demand air carrier operations do not have approved observer seats and an FAA inspector must sit in the passenger compartment. The petitioner maintains that, in general, companies or individuals chartering its aircraft object to a third party

being seated in the passenger compartment. Further, the petitioner states that involving FAA inspectors on these flights is difficult because the flights are scheduled on short notice and may not include published routes. In addition, the trips usually involve lengthy ground waiting times and can extend over several days. The petitioner also states that many on-demand air carriers do not qualify for company check airman designation and, because of limited FAA resources, many operators find it difficult to schedule a qualified FAA inspector to conduct initial, transition, and upgrade line checks.

The petitioner argues that most on-demand air carriers must dispatch a flight for the sole purpose of conducting a pilot line check. The on-demand air carrier therefore must bear the total cost of the flight while a scheduled air carrier conducts the line check during revenue operations. According to the petitioner, this puts the on-demand air carrier at an economic disadvantage. The petitioner further contends that if a line check is conducted on a nonrevenue flight, the on-demand air carrier will tend to comply with the minimum flight time possible and combine the line check with an instrument proficiency check. Under these circumstances, the FAA inspector is not provided an opportunity to evaluate the pilots in an operationally realistic environment.

To accomplish meaningful and valid PIC evaluations in a controlled environment, the petitioner proposes to institute a Line Operational Evaluation (LOE) program conducted by a training center certificated under 14 CFR part 142. The petitioner states that a part 142 training center could create a line check environment that, when compared to line checks currently conducted in an aircraft, would afford a level of safety equal to that provided by Section 135.299. In support of its request, the petitioner provides an outline of the modules of the proposed LOE program, the eligibility requirements for LOE check airmen, and the procedures and policies for conducting an LOE.

The petitioner states that True North clients and the traveling public will benefit from flightcrews trained and rechecked using advanced simulation techniques because a line check will be accomplished with greater safety in a simulator. The petitioner argues that increasing the use of advanced simulators will result in better trained and rigorously checked pilots; therefore, the traveling public will enjoy safer transportation. The petitioner believes that pilots trained professionally by advanced simulator techniques in an operationally realistic environment and checked comprehensively in ways not possible in the aircraft are better disciplined and prepared to meet the challenges of flight than those trained in aircraft.

A summary of the petition was published in the Federal Register on August 3, 1998 (63 FR 41318). No comments were received.

The FAA's analysis/summary is as follows:

The FAA has considered fully all of the material submitted by True North and finds the petitioner has failed to present sufficient information to support its contention that line checks required by Section 135.299(a) conducted in airplanes can be replaced effectively by LOEs conducted in flight simulators.

The petitioner's arguments appear to be based on the assumption that an LOE conducted in a simulator by a check airman who is not line qualified is a more valuable and effective quality control measure than a line check conducted in an airplane. The FAA finds that True North has failed to show that an LOE can replicate the full range of a PIC's duties and responsibilities and has further failed to show that a check airman who is not line qualified is as effective as one who is line qualified.

The number of operators affected by Section 135.299(a) is extremely large, numbering in the thousands of certificate holders. In fact, the FAA has received numerous requests for exemption from Section 135.299(a) from operators such as True North submitting nearly identical petitions, which are being processed concurrently with True North's request. The FAA suspects

that it would receive even more petitions from part 135 operators if such relief were granted to a competitor. Based in part on the number of petitioners requesting the same relief, the FAA finds that True North is not unique among the general class of persons subject to Section 135.299(a) so as to justify relief through an exemption rather than by rulemaking. Therefore, the FAA has determined that granting relief is not appropriate in this situation.

The petitioner's arguments refer primarily to the public interest. Among the points made is the burdensome cost to the operator inherent in conducting line checks using airplanes, a cost which ultimately is borne by the traveler. In addition, the petitioner argues that limited FAA resources make it difficult to schedule inspectors to conduct line checks. According to the petitioner, the majority of small, on-demand operators do not qualify for check airman designation.

The FAA notes that the operator is responsible for the quality control of its pilots' continuing qualification program. Section 135.323(a)(4) requires that each certificate holder provide enough check airmen to conduct the flight checks required under part 135. Section 135.299(a) describes one kind of "flight checks" required under part 135, namely line checks.

Further, the FAA finds no reason why the petitioner could not nominate at least one check airman for approval by the FAA. An approved check airman would conduct Section 135.299 checks on terms agreeable to the petitioner. The FAA encourages part 135 operators to maintain adequate numbers of check airmen to promote safety through more participation by the operator in quality control and more accountability by the operator in addressing remediation when necessary.

The FAA is available to conduct Section 135.299 checks and is eager to do so as resources permit. However, when FAA resources are not readily available, operators should consider conducting those checks using their own approved check airmen rather than petitioning for exemption from the requirement.

Finally, the petitioner argues that the safety and effectiveness of a well designed LOE conducted in a flight simulator are superior to the safety and effectiveness of a line check conducted in an airplane. Therefore, the petitioner concludes that an LOE in a simulator is preferable to a line check in an airplane. The FAA holds that a line check conducted in an airplane is, by its real-life nature, uniquely effective as a quality control measure. While the FAA recognizes that an LOE may be used as a valuable supplement to the line check conducted in an airplane, and some safety gains may be possible under the right conditions, those conditions have not yet been identified. When those conditions are identified, the FAA may consider rulemaking to permit LOEs and to make changes to other related rules.

Until that time, the FAA has determined that the range of activities evaluated during a line check extends beyond the capabilities of a simulator and encompasses an environment that cannot be replicated by a simulator. Additionally, the FAA finds that maintaining line qualification gives the line check airman irreplaceable experience that is essential to conducting an effective line check.

In consideration of the foregoing, I find that a grant of exemption would not be in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. Sections 40113 and 44701, delegated to me by the Administrator (14 CFR Section 11.53), the petition of True North, Inc., for an exemption from 14 CFR Section 135.299(a) is hereby denied.

Issued in Washington, DC, on June 29, 1999

/s/ Ava L. Mims
Acting Director, Flight Standards Service
AFS-98-353-E

8400.10, Volume 3, Chapter 2, Section 7, Paragraph 551

551. LINE CHECK QUALIFICATION MODULE. Both Parts 121 and 135 specify that before a pilot can serve as an unsupervised PIC in revenue operations, that pilot must have satisfactorily completed a line check. Except for requalification training, the qualification curriculum segment for PICs should include a line check module as a requirement for all other categories of training. Requalification training curriculums that are used to requalify PICs who have been unqualified for 12 months or more should include a required PIC line check module. Both Parts 121 and 135 specify that all PICs must satisfactorily complete a line check once every 12 calendar months in at least one of the aircraft types in which the PIC is to serve. Therefore, the qualification curriculum segment for recurrent training should include a line check module for the PIC.

A. General Direction and Guidance. Part 121 specifies that the line check is to be given by a check airman who is properly qualified in the particular airplane being used. In certain unique situations, such as when an operator is qualifying an initial cadre of check airmen, the only practical way of completing the line check requirement may be for an FAA inspector to conduct the line check and to certify to the PICs performance. Part 135 specifies that the line check may be given by an approved check airman or an FAA inspector. For both Parts 121 and 135, the amount of time flown during a line check may be credited to the OE flight hour requirement. The line check, however, should not be conducted until the OE flight hour requirement has been substantially completed. When a PIC serves in both Part 121 and Part 135 operations, a line check conducted in a Part 121 aircraft satisfies the Part 135 line check requirement. POIs should encourage operators to place emphasis on their line check programs. A well run line check program can provide detection of deficiencies and adverse trends and establish the need for a revision of old procedures or an initiation of new procedures. POIs should encourage operators to design and use line check forms to facilitate the collection of such information.

B. Part 121 Line Checks. For Part 121 operations, the line check must be conducted over at least one typical route in which the PIC may be assigned. If the typical route the PIC will be flying includes Class II navigation, the line check must be conducted on a route where Class II navigation is used. The line check may be conducted during either revenue or nonrevenue operations.

C. Part 135 Line Checks. For Part 135 operations, the line check must consist of at least one route segment over a civil airway, an approved off airway route, or a portion of either, including takeoffs and landings at one or more airports that are representative of the operator's type of operation. In certain Part 135 operations, it may not be practical to conduct a line check during revenue operations. In these cases the POI may authorize that the line check be conducted during the same flight period that the competency check is conducted. If the line check is conducted in this manner, the line check portion of this flight period must include the requirements previously discussed in this paragraph.