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April 10, 2017

Jean Hardy
Aviation Safety Inspector
Federal Aviation Administration
55 M St. SE, 8th Floor
Washington, DC 20003

RE: FAA Draft Advisory Circular (AC) 141-1B, Part 141 Pilot Schools, Application, Certification, and Compliance

Dear Ms. Hardy:

The Aircraft Owners and Pilots Association (AOPA), the world's largest aviation membership association, is pleased to provide comments in response to the Federal Aviation Administration's (FAA) draft Advisory Circular (AC) 141-1B, *Part 141 Pilot Schools, Application, Certification, and Compliance*. AOPA also believes this is an appropriate opportunity to provide its feedback on, more generally, improving the FAA's 14 CFR part 141¹ pilot school certification process.

The FAA's new draft AC 141-1B provides significant updates in part 141 certification guidance since the last iteration of that AC was published in February 1993. The new draft AC is a guide for those persons interested in the standards and requirements for part 141 certification. Given certification tasks are performed by Flight Standards District Office (FSDO) aviation safety inspectors (ASIs), as directed in FAA Order 8900.1, *Flight Standards Information Management System (FSIMS)*, AOPA has reviewed the new draft AC in conjunction with Order 8900.1. AOPA also sought feedback from the flight training community.

Generally, part 141 certification enables a flight school to graduate its students with fewer hours than required under part 61, and offer increased financing opportunities for flight training. AOPA's recommendations seek two fundamental changes needed to improve the process of obtaining part 141 pilot school certification: (1) streamline the process for obtaining approval of training course outlines (TCOs) and the accompanying course syllabi, and (2) eliminate FSDO responsibilities which are unnecessary, duplicative, or not prescribed in part 141. With these changes, FSDOs will become more responsive and consistent, and even greater incentives will exist for flight schools to pursue part 141 certification.

AOPA strongly believes that its membership and the FAA share the common goal that removal of prescriptive and unnecessary requirements for part 141 certification would encourage more existing flight schools to pursue such certification. AOPA believes the current effort to

¹ All references to parts or sections shall hereinafter refer to Title 14 of the Code of Federal Regulations, unless otherwise stated.

update policy guidance is the appropriate time to make these necessary improvements to the certification process without rulemaking. AOPA applauds the FAA for undertaking this effort to provide clearer guidance in the application process, as prospective applicants will undoubtedly benefit from the improved expectations. With that in mind, AOPA offers the following recommendations.

Improve the Process for Approving TCOs and Syllabi

Recommendation: Identify FAA-approved commercially developed syllabi and allow their use by part 141 pilot schools without further FSDO approval.

Under § 141.55, the FAA provides a relatively prescriptive outline of what must be included in the TCO and syllabus for each approved training course administered by the part 141 pilot school. The FSDO is responsible for carefully reviewing and analyzing these TCOs and syllabi to ensure compliance with § 141.55. (*See* Order 8900.1, ¶ 3-4309.) Traditionally, this approval process has introduced significant delays to the certification process.

Certain companies such as Jeppesen produce and sell training syllabi for use in a part 141 training environment, eliminating the need for a flight school to create its own syllabus. Under the draft AC, even though the FAA's General Aviation and Commercial Division (AFS-800) has already reviewed many of these commercially developed training programs and they appear to meet all the requirements for specific courses, the FSDO must still review and approve these syllabi. (Draft AC 141-1B, ¶ 3.15.) In fact, FSDOs are directed to complete "the approval process [for commercial syllabi] in the same manner as it would for a syllabus developed and submitted by the school." (Order 8900.1, ¶ 3-4309G.)

AOPA does not see any value in having FSDOs analyze and reanalyze the same syllabi that AFS-800 has already determined, or could determine, meets the requirements of § 141.55. To streamline the process for obtaining the necessary FSDO approval, AOPA recommends the FAA (1) identify which commercially developed training syllabi have been approved and meet the applicable part 141 requirements, and (2) allow their use without further FSDO approval. This would not affect the FSDO's responsibility to approve the TCO—minus any accompanying syllabus—to ensure the school can comply with it. Eliminating the need for the FSDO to carefully analyze the same syllabus multiple times though would reduce certification delays.

Recommendation: Simplify the process for approving an amended TCO or syllabus.

Under § 141.53(b), a part 141 pilot school is required to obtain the FAA's approval for any amended TCO or syllabus for a training course. According to Order 8900.1, the entire amended TCO, along with any proposed amendment, must be sent to the FSDO for approval or disapproval "in the same manner as the original approval or disapproval." (Order 8900.1, ¶ 2-1075B(6).) AOPA offers two recommendations to simplify the process for approving an amended TCO or syllabus.

First, the FAA must clarify whether the FSDO must approve *only* each proposed amendment, or whether the FSDO must reapprove the entire amended TCO under the original

process. If the latter, this introduces a significant and unnecessary burden on both FSDOs and the pilot school. AOPA does not believe the FSDO needs to reexamine and approve the entire amended TCO or syllabus; an analysis and approval of each proposed amendment is sufficient. AOPA also believes this ambiguity should be addressed in the draft AC 141-1B, which has no guidance on *how* to obtain approval of an amended TCO.

Second, the part 141 pilot school community is understandably concerned that any change to the TCO, even if only clerical, requires FSDO approval, a delay in obtaining that approval, and no assurance that such changes will be approved. This process is especially arduous because of the extremely prescriptive nature of what must be included in the TCO and syllabus. (*See* § 141.55.) For instance, each TCO must include, among others, a description of each “type of audiovisual aid, project, tape recorder, mockup, chart, aircraft component, and other special training aids used for ground training . . .” (§ 141.55(c).) Any change in an audiovisual aid means an amended TCO must be reviewed and approved by the FSDO.

Under these requirements, certificated pilot schools are not incentivized to amend their TCOs or syllabi because of the delays associated with getting approvals from the FSDO. AOPA believes the FAA could simplify approvals from the FSDO in a number of cases where approvals of an amended TCO or syllabus are sought. For instance, if the pilot school wants to update a visual aid used in ground training, the amended TCO could be considered approved if no objection from the FSDO is received within 20 days. While the FSDO may retain authority to review and approve more substantial changes, many TCO or syllabus amendments could be streamlined and expedited under this approach without compromising safety.

Thus, AOPA recommends the FAA (1) clarify that the FSDO must only approve the amendment to each TCO, as opposed to the entire amended TCO; and (2) to the greatest extent possible, provide for the approval of an amended TCO or syllabus upon notice to the FSDO and a lack of objection after a specified period of time.

Recommendation: Provide guidelines on the approval of special curricula courses.

Under § 141.57, the FAA allows part 141 pilot schools to receive FAA approval of a special curriculum course if the applicant shows “that the training course contains features that could achieve a level of pilot proficiency equivalent to that achieved by a training course prescribed in the appendices of [part 141] or the requirements of part 61” Unfortunately, there is minimal, if any, guidance on what courses may be approved under this provision. Draft AC 141-1B only restates the regulation in § 141.57. (Draft AC 141-1B, ¶ 2.3.) And neither AC 141-1A nor Order 8900.1 provide any guidelines. (Order 8900.1, ¶ 2-1080A(5), 3-4310B.) Greater clarity in this area would better promote part 141 special curricula, create opportunities for pilot schools to innovate in the marketplace with unique courses, and ensure FSDOs are not issuing inconsistent approvals under § 141.57.

Increased guidance would also complement a parallel rulemaking change currently being finalized. Under current § 141.5(d), only graduates of FAA-approved training courses specified in appendix K of part 141 may be counted toward the 80 percent pass rate required for issuance or renewal of the part 141 school’s certificate. Special courses approved under § 141.57 are not

counted. On May 12, 2016, the FAA proposed an amendment to § 141.5(d) which would allow graduates from the special curriculum courses approved under § 141.57 to be counted toward the 80 percent passage rate required for issuance or renewal of the part 141 school's certificate under § 141.5(d). (*See* Regulatory Relief: Aviation Training Devices; Pilot Certification, Training, and Pilot Schools; and Other Provisions, 81 Fed. Reg. 29,719 (Aug. 10, 2016).) The FAA noted that the benefits of the amendment included “promotion of FAA approved pilots schools and increase in available FAA-approved training courses.” (*Id.* at 29,737.)

AOPA favored the proposed amendment and believes that better guidance for special curriculum courses would equally encourage existing part 141 schools to create more FAA-approved special curriculum courses, increasing the number of training programs available for the pilot community. The change may also encourage existing flight schools to pursue a part 141 certificate. AOPA believes this would lead to those part 141 schools adopting more courses, further benefiting the flight training community.

Recommendation: Eliminate the requirement that pilot schools update their commercial syllabus if the commercial provider issues an update.

Although draft AC 141-1B requires pilot schools to ensure that its approved commercial syllabus “remains up to date,” no corresponding requirement exists in either part 141 or Order 8900.1. (Draft AC 141-1B, ¶ 3.15.) As a result, AOPA does not believe part 141 certificate holders should be required to ensure the syllabus is up to date, especially if such update does not have any effect on safety. If a commercially developed syllabus is updated with various clerical information, for instance, a part 141 certificate holder should not have to seek approval for those same amendment changes. Imposing that burden on the pilot school would be an unnecessary use of the FSDO's resources.

Remove Unnecessary, Duplicative, or Improper FSDO Responsibilities

As outlined in draft AC 141-1B and accompanying guidance in Order 8900.1, the FSDO carries significant responsibilities before, during, and after the part 141 certification process. FSDOs are also heavily involved in certifying and overseeing other persons operating in the national airspace system, not just with regards to flight training. AOPA recognizes that applicants incur costs and delays in the process each time the FSDO is tasked to review and approve an applicant's action. AOPA has carefully examined each of the FSDO responsibilities with an effort to remove FSDO responsibilities which are unnecessary, duplicative, or not required under part 141. These recommendations will reduce costs and delays in the part 141 certification process without compromising safety.

Recommendation: Eliminate the requirement for the FSDO to review certain documents for compliance *prior to* issuing a part 141 certificate.

Part 141 provides that the FAA may issue a pilot school certificate or provisional pilot school certificate if, among other things, the applicant “meets the applicable requirements” under subparts A, B, and C of part 141 (§§ 141.1–141.57). (§§ 141.5(c), 141.7.) In contrast, subpart E (§§ 141.71–141.95) and subpart F (§ 141.101) of part 141 prescribe the “operating rules”

applicable to those persons *who already hold* a part 141 pilot school or provisional pilot school certificate. (§ 141.71.) In other words, the part 141 “operating rules” are not prerequisite requirements to the issuance of a part 141 certificate.

Notwithstanding, draft AC 141-1B and Order 8900.1 collectively require part 141 certificate applicants to demonstrate compliance with five distinct “operating rules” prior to issuing a part 141 certificate:

1. The applicant’s student enrollment method meets the requirements of § 141.93. (Draft AC 141-1B, ¶¶ 4.1, 4.4; Order 8900.1, ¶¶ 2-1080A(8), 2-1081B.)
2. The applicant developed safety procedures and practices per § 141.93(a)(3). (Draft AC 141-1B, ¶¶ 4.1, 4.4; Order 8900.1, ¶ 2-1080A(6).)
3. The applicant’s graduation certificates comply with § 141.95. (Draft AC 141-1B, ¶¶ 4.1, 4.5; Order 8900.1, ¶ 2-1080A(7).)
4. The applicant established an adequate student training recordkeeping method per § 141.101. (Draft AC 141-1B, ¶¶ 4.1–4.2; Order 8900.1, ¶ 2-1081B.)
5. The applicant has the necessary aircraft checklists per § 141.75. (Draft AC 141-1B, ¶¶ 4.1, 4.13; Order 8900.1, ¶¶ 2-1072C, 2-1080A(6).)

During the initial certification phase, nothing in part 141 requires the applicant to demonstrate compliance to the FAA that the applicant has complied with any of these five requirements from §§ 141.75, 141.93, 141.95, or 141.101. An ASI review and finding with regards to most of this documentation also has minimal, if any, safety value. Ensuring that the part 141 certificate holder has properly complied with each of these rules can be accomplished through post-certification surveillance, if at all, instead of making it a prerequisite to initial certification.

Recommendation: Eliminate the requirement for the FSDO to conduct a flight test examining authority inspection prior to issuing examining authority.

Section 141.63 outlines the requirements for a part 141 certificate holder to obtain examining authority, which allows a pilot school to recommend a course graduate for the appropriate certificate or rating without taking the FAA practical or knowledge test. Nothing in § 141.63 or part 141 requires the FAA to conduct any inspection of the certificate holder prior to issuing examining authority.

Notwithstanding, Order 8900.1 directs the FSDO to conduct a “flight test examining authority inspection” prior to issuing any examining authority to the pilot school. (Order 8900.1, ¶ 5-1856.) The flight test examining authority inspection requires the ASI to (1) verify the qualifications of the applicable instructor, (2) inspect training aids, simulators, aircraft, briefing areas, and other facilities, (3) verify possession of the current Airman Certification Standards (ACS) or Practical Test Standards (PTS), (4) evaluate student records to determine if

qualifications have been met, and (5) verify the final phase check is equivalent in scope and content to the appropriate ACS or PTS. (Order 8900.1, ¶ 5-1856A.) In contrast, draft AC 141-1B does not reference a flight test inspection. (See Draft AC 141-1B, ¶ 7.8.)

AOPA urges the FAA to eliminate the requirement for the FSDO to conduct a flight test examining authority inspection. Under § 141.67(c), any “[t]ests given by a pilot school that holds examining authority must be approved by the Administrator” However, part 141 does not require an ASI flight test inspection. The pilot school achieving a passage rate of at least 90 percent should provide the FAA with assurance of the school’s competency. Any required inspection to approve a test under § 141.67(c) should be limited to ensuring any test administered complies with the appropriate PTS or ACS. All other aspects of the existing inspection process should be eliminated as unnecessary.

Recommendation: Eliminate any duplicative requirements for FSDOs to examine and approve a FFS, FTD, or ATD.

The FAA evaluates, qualifies, and approves the use of any full flight simulator (FFS) or flight training device (FTD) in accordance with part 60. Aviation training devices (ATD), both advanced and basic, are evaluated and approved for use by the FAA under § 61.4(c) and in accordance with the guidance provided in AC 61-136A, *FAA Approval of Aviation Training Devices and Their Use for Training and Experience*. Under § 141.41, an applicant for part 141 certification is only required to show that the FFS, FTD, or ATD has been properly qualified and approved by the FAA for the tasks the applicant intends to use the device for in its training course. (§ 141.41(a), (b).)

During the demonstration and inspection phase of certification, draft AC 141-1B provides that the applicant “should be prepared to demonstrate the operation of the FFS, FTD, or ATD as applied to its use in the pilot certification course and as described in the TCO. . . . The operator is expected to ensure the ground trainer’s functionality and operation and facilitate any maintenance requirements.” (Draft AC 141-1B, ¶ 5.8.) Similarly, the FAA’s “Part 141 Certification Job Aid” requires the inspector to evaluate the FFS or FTD to ensure the device, among other things, simulates rotation around three axes, contains the minimum instruments and equipment, contains a means of simulating visual flight conditions, if applicable, and contains a means of recording a flight path. (Order 8900.1, Fig. 2-76.)

AOPA appreciates that the part 141 certificate applicant must demonstrate how the FFS, FTD, or ATD will be used in the proposed training course. However, AOPA urges the FAA to (1) examine its approval process under part 60 and the letter of authorization (LOA) process under AC 61-136A, and (2) eliminate any duplicative and unnecessary evaluation inspections and approvals being conducted during the part 141 certification process. To the greatest extent possible, the FSDO should only have to inspect the applicant’s documentation to ensure that the FFS, FTD, or ATD has been properly evaluated and approved by the FAA. This could eliminate potential duplicative evaluation and approval processes for both the FAA and the applicant.

Recommendation: Provide alternative pathways for the chief instructor and assistant chief instructor to receive the required proficiency and knowledge tests.

To be eligible for their respective positions, both the chief instructor and assistant chief instructor must pass a knowledge test and proficiency test to demonstrate for the FAA that they are capable of providing the instruction on the training course to which they have been assigned. (§§ 141.35(a), 141.36(a).) The FAA currently insists that the FSDO administer these tests. (Draft AC 141-1B, ¶¶ 3.20, 5.9; Order 8900.1, ¶ 5-1770.)

In doing so, AOPA understands that scheduling and receiving these tests can take several months given the often limited availability of ASIs to administer such tests. In light of the well-publicized pilot shortage at the commercial level, many flight schools experience high turnover with instructors as they are consistently hired by airlines upon reaching a certain number of flight hours. That high turnover, along with the delays in getting replacement instructors approved by the FSDO, substantially delays the process of installing appropriate instructors at the pilot school. These delays, in turn, create a bottleneck and may disrupt a student's flight training.

However, there are opportunities for the FAA to relieve that burden. Neither § 141.35 nor § 141.36 require the FAA to administer this knowledge and proficiency test. The FAA could allow a designated pilot examiner (DPE) to administer the tests. In the case of the assistant chief instructor, the FAA could permit the chief instructor to administer the tests. In either case, additional options would help alleviate the delays associated with scheduling and receiving these tests from an ASI.

Recommendation: Eliminate the requirement for the FSDO to verify and check the minimum qualifications of instructors designated or assigned to a part 141 training course.

Part 141 prescribes the minimum qualifications for the chief instructor, assistant chief instructor(s), check instructors, and any flight instructors designated or assigned to each training course of a part 141 certificate holder. (*See* §§ 141.33, 141.35–141.37.) However, these regulations do not require the pilot school applicant to demonstrate to the FAA that the school's instructors meet the minimum qualifications. (§ 141.37(b)(2).) Notwithstanding, the FAA requires its FSDOs to review the qualifications and records of the pilot school's instructors to ensure compliance with the applicable regulations. (*See* Draft AC 141-1B, ¶¶ 4.1, 4.6–4.9; Order 8900.1, ¶ 2-1080A.)

AOPA believes it is unnecessary, as a prerequisite to issuing a part 141 certificate, for the FSDO to verify that a pilot school's instructors meet the minimum qualifications set forth in the regulations. That responsibility already lies with the pilot school. In addition, each of these instructors receives appropriate testing before they can provide any course instruction. For instance, chief instructors and assistant chief instructors are required to pass a knowledge test and proficiency test to demonstrate for the FAA that they are capable of providing the instruction on the training course to which they have been assigned. (§§ 141.35(a), 141.36(a).) Check instructors are required to pass certain tests given to them by the chief instructor or assistant

chief instructor, and be approved by the FSDO. (§ 141.37(a), (b).) Prior to providing instruction, each flight instructor assigned to a flight training course is required to receive a briefing and pass an initial proficiency check in each aircraft used in that training course. (§ 141.79(d).)

To be clear, AOPA is not recommending the FAA remove the requirement that a pilot school's chief instructors, assistant chief instructors, check instructors, and any other instructor meet the specified minimum qualifications in part 141. AOPA merely believes it is an unnecessary task for the FSDOs to verify these qualifications during the certification process. Safety is not compromised because (1) the pilot school is still obligated to ensure that those instructors meet the applicable requirements; (2) each of the instructors is subjected to testing prior to providing any instruction; and (3) the FAA retains authority to inspect an instructor's qualifications during surveillance after the part 141 certificate has been issued.

Recommendation: Eliminate the requirement for the FSDO to ensure the applicant has access to adequate facilities/equipment to maintain the school's aircraft.

Any applicant for a part 141 certificate is required to show that each aircraft used by the school for flight training and solo flights is, among other things, "maintained and inspected in accordance with the requirements for aircraft operated for hire under part 91" (§ 141.39(a).) Draft AC 141-1B and its accompanying guidance in Order 8900.1 provide that the ASI will inspect aircraft and maintenance records, including compliance with any applicable airworthiness directives and life-limited parts requirements, to ensure compliance with that section. (Draft AC 141-1B, ¶ 7.5; Order 8900.1, ¶¶ 2-1129C, 6-1581C.)

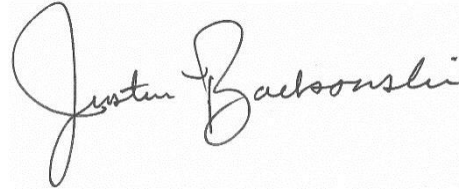
However, FAA guidance imposes two additional directives upon FSDOs not provided for in part 141: (1) verify that "any contract maintenance agreements are described in writing and provide for a sufficient number of certificated mechanics readily available to maintain the school's aircraft," and (2) ensure the applicant "has access to facilities and equipment adequate to maintain the school's aircraft." (Order 8900.1, ¶¶ 2-1129D, 6-1581; Draft AC 141-1B, ¶ 7.6–7.7.) There is no requirement in part 141, however, for the applicant to demonstrate that it has access to adequate equipment and facilities to maintain the school's aircraft.

Given that the ASI already verifies an aircraft is being properly maintained within the regulations, through the inspection of maintenance records, ensuring the applicant has access to adequate facilities/equipment for maintenance is redundant and has minimal, if any, safety value. This requirement is also prescriptive in nature; that is, the records will demonstrate whether the applicant properly maintained the aircraft in accordance with part 91, not the existence of adequate facilities or equipment. The requirement for ASIs to analyze the means by which the applicant assures compliance prior to initial certification is unnecessary and not provided for under part 141.

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AOPA appreciates the opportunity to provide comments on the FAA's draft AC 141-1B and, more generally, on improving the part 141 certification process. AOPA applauds the FAA for tackling these important issues in pilot training and certification, and stand ready, willing, and able to assist the FAA in any way possible.

Sincerely,

A handwritten signature in black ink that reads "Justin T. Barkowski". The signature is written in a cursive style with a large initial "J" and "B".

Justin T. Barkowski
Director, Regulatory Affairs

cc: James Viola, james.viola@faa.gov
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