

February 24, 2023

The Honorable Maria Cantwell, Chair
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, DC 20510

The Honorable Ted Cruz, Ranking Member
Committee on Commerce, Science, and
Transportation
United States Senate
Washington, DC 20510

RE: NATIONAL AIR TRANSPORTATION ASSOCIATION PROPOSALS FOR FAA REAUTHORIZATION

Dear Chair Cantwell and Ranking Member Cruz,

On behalf of the National Air Transportation Association (NATA) and its more than 3700 member locations, I am pleased to offer the following policy recommendations for the 2023 Reauthorization of the Federal Aviation Administration (FAA). NATA commends your commitment to a timely and comprehensive process that will maintain the security and increase the resilience of our National Airspace System while refining the focus and improving the efficiency of its regulatory agency. We appreciate the opportunity to provide stakeholder input on critical issues affecting aviation businesses.

NATA represents a broad cross section of the general and business aviation industry, including part 135 air carriers, air medical operators, flight schools, part 145 maintenance repair stations, aviation fuel suppliers and producers, fixed base operators (FBOs), and airport sponsors at general aviation airports. As the voice of aviation business for more than 80 years, NATA has focused on both advocacy and the elevation of industry safety and professionalism by examining contemporary issues, convening thought-provoking industry leaders on its policy committees, and pursuing solutions that prioritize safety and economic viability. The priorities outlined below reflect the direct input of aviation businesses and the recommendations of our member-driven policy committees.

FAA Certification and Oversight of Part 135 On-Demand Carriers

Part 135 Certification Process

Prospective entrants to the on-demand air charter industry must complete a five-phase certification process, beginning with a pre-application stage that utilizes the Certification Service Oversight Process (CSOP) to determine FAA resources for initial certification and continued oversight of the prospective operator. Applications are either assigned to a certification team or placed on a waiting list. Currently, that CSOP queue contains approximately 680 new certificate applications—a number that has tripled over the past twelve

months. Beyond the current backlog, completion of the four remaining phases can take up to two years, deterring new industry entrants and increasing the risk of illegal charter activity.

FAA's part 135 certification method is outdated, inefficient, and lacks transparency, which results in an unnecessarily costly and lengthy process for applicants seeking legal entrance to the regulated on-demand charter industry. Further, inconsistencies among Flight Standard District Offices (FSDOs) and the current allocation procedures for the regional FAA workforce exacerbate the problem. With the rapid pace of Advanced Air Mobility (AAM) innovation and development, demands for 135 certification and oversight will only continue to grow. FAA must modernize the process to ensure U.S. global leadership in this emerging sector; in the meantime, FAA should provide immediate transparency to Congress and industry on the current certification backlog, allocation of FAA resources, and expected time to process all pending applicants.

NATA Recommendations:

1. Congress should direct FAA to convene a working group with industry stakeholders to study methods for modernizing the part 135 certification process and to recommend long-term solutions for effective management of FAA resources. The working group shall consider technological advancements to enhance efficiency, certification process benchmarks and timelines for both FAA and industry, centralized management of FAA inspectors, and use of designee authority. Within 12 months the FAA should brief the Committee on working group progress and recommendations.
2. Congress should direct FAA to create an online certification dashboard to provide increased transparency about the current process and backlog. In addition to making public the total number of applicants in the CSOP queue, data for each applicant shall include certification category, start and completion date for each certification stage, and FAA resources assigned. Data should be de-identified, with each applicant assigned a unique locator number to permit tracking. This dashboard should be activated within six months of bill's passage.

Part 135 Oversight: Check Pilot Functions

Regulations require all part 135 on-demand carriers to have sufficient qualified instructors and check pilots approved by the FAA to meet the training and checking needs of the carrier's pilots.¹ The FAA has issued guidance to inspectors and operators to encourage approval of more carrier check pilots for operators with sufficient staff to perform checks themselves in accordance with existing regulatory requirements. When the carrier does not have adequate resources, the FAA provides these checks.

¹ See 14 CFR § 135.323 (a)(4)

Despite this, gaps persist in ensuring air charter pilots receive timely checks, in particular completion of the pilot line check required by § 135.299. One challenge is that the FAA imposes higher qualification requirements for a carrier's check pilots than it does for checks conducted by FAA inspectors.² If the FAA standards, which provide an acceptable level of safety, were applied to industry check pilots, many more carriers could provide their own line checks as the regulations intend. Another persistent issue is the reluctance of assigned local inspectors to approve qualified carrier personnel as check pilots even when they are able to meet the more stringent standards for industry check pilots.

In 2020, NATA petitioned the FAA to revise applicable regulations to align qualifications for carrier check pilots more closely with the qualifications required for FAA personnel providing checks.³ The FAA has not acted upon that petition.

Dependency on the FAA for pilot checking tasks causes undue delays for operators waiting for an available inspector, diverts Agency resources away from other safety oversight tasks, and increases FAA costs as inspectors often must travel to the carrier to perform the check. The smallest of carriers, who by size are necessarily dependent upon FAA for checks, are subject to further unreasonable delays due to the FAA workforce providing checks for carriers that are otherwise able and willing to supply their own check pilots.

NATA Recommendation: Congress should require FAA to engage with stakeholders to evaluate why check pilot approval continues to lag and to determine what further actions should be taken to increase the number of carrier check pilots. The FAA should specifically review why it has different qualification standards for inspectors providing check than for carrier check pilots. This engagement could be a separate working group, an additional tasking for an existing rulemaking committee, or another appropriate assembly assigned to report recommendations back to the agency.

This group should consider the information in the NATA petition for rulemaking as well as the recommendations provided by prior rulemaking committees such as the Part 135/125 Aviation Rulemaking Committee (ARC), the Flight Crew Member Training Hours Requirement Review ARC, and the Air Carrier Training ARC. Within 12 months the FAA should brief the Committee on progress to identify causes and measures to address them.

² Carrier check pilots are individually authorized by local FAA inspectors and meet requirements of §§ 135.337 & 135.339. FAA Order 8900.1, Volume 1, Chapter 3, Section 6, Figure 1-2, Item 12, Operations Inspector Qualifications and Currency Requirements Matrix, provides FAA inspector qualifications.

³ See <https://www.regulations.gov/document/FAA-2020-0556-0001>

Part 135 Oversight: Aircraft Conformity

Prior to allowing a carrier to place an aircraft into service, it is necessary to ensure the aircraft conforms to the requirements of the part 135 regulation.⁴ The obligation for a carrier to ensure a conforming airworthy aircraft is on-going. For every flight under its control, the carrier is responsible for ensuring the aircraft's airworthiness and regulatory compliance.

Unfortunately, varied workloads at local FSDOs and inconsistent interpretations of FAA regulations and directives by Principal Inspectors has led to difficulties and delays for part 135 operators adding new aircraft to existing certificates. This problem will only become increasingly acute as the on-demand charter industry continues to grow. With the current CSOP backlog of approximately 680 pending new carrier certifications and the expected flood of new entrants from emerging technologies such as eVTOL and UAV, FAA must adjust policy to provide timely oversight on an ever-expanding and increasingly complex industry.

FAA regulations do not require aircraft configuration evaluation to be carried out by the Agency. These functions should be carried out in partnership between certified entities and local FSDOs in a manner that is efficient, timely, and consistent throughout the country. Policies can and should be adopted to enable carriers or third-party evaluators to certify the conformity of an aircraft being added to a certificate, a process that will relieve the Agency of quality assurance checks and refocus the FAA workforce on its legally mandated oversight duties.

In addition, aircraft often move from one part 135 carrier to another at the aircraft owner's discretion. Even if the aircraft has continuously been on a part 135 carrier's certificate and subject to Agency oversight, this process currently requires a full conformity review, resulting in unnecessary delays prior to the aircraft being used in service by the new carrier. Establishing policy honoring the previously accepted aircraft configuration evaluation would eliminate needlessly repetitive functions and, once again, free inspectors to perform necessary safety oversight.

NATA Recommendation: Congress should direct FAA to convene a working group comprised of Agency and industry stakeholders to identify methods for the part 135 community to conduct aircraft configuration evaluations in a manner aligned with regulations, thereby reducing demands on the FAA workforce and maximizing inspectors' capacity to perform more critical oversight functions. In addition to examining methodologies for carriers to document and attest to aircraft conformity, the working group should consider a streamlined protocol for existing 135 certificate holders adding an aircraft that was listed on another part 135 certificate immediately prior to moving to the new carrier. Lastly, the group should recommend changes to FAA policy and documentation to implement the group's findings. It is not expected that implementation of these recommendations would require rulemaking.

⁴ See § 135.143 (a)

General Aviation Airports

NATA's member businesses operate at nearly 4,500 airports that support vital economic activity and connectivity in thousands of communities, many of which are not served by commercial aviation. In addition, our association represents nearly 300 general aviation airports, including more than 100 airport-sponsored FBOs. Although these general aviation airports vary in their complexity and frequency of flight operations, together with associated aviation businesses they support law enforcement and emergency services; non-emergency medical and organ transport; executive, recreational, and cargo transport; vocational and aeronautical schools; powerline and pipeline patrol; and agricultural and conservation efforts. In addition, general aviation airports will be the first to implement Advanced Air Mobility operations in both urban and rural areas. Therefore, it is critical that Reauthorization legislation prioritizes the ongoing maintenance and urgent modernization of general aviation airport infrastructure. Our nation's general aviation airports require both federal investment and increased public/private partnership opportunities to meet current demands; create more high-skilled, high-paying jobs; and advance innovative aviation technology. Therefore, NATA asks Congress to expand the Contract Tower Program and adjust AIP entitlements to equip general aviation airports to grow in line with industry demand.

Airport Improvement Program Funding

Currently, the general aviation airport annual entitlement under the Airport Improvement Program (AIP) is \$150,000 – a figure that has remained stagnant for decades despite increased activity, rapid industry innovation, and inevitable inflation. Although the federal cost share of qualifying projects for non-primary entitlements is set at 90-95 percent and qualifying airports may stack funds for four years, rising inflation and the soaring cost of construction make these funds insufficient for many urgent airport improvement projects. Furthermore, the non-primary entitlement fails to account for the diversity of general aviation airport sizes and operations, whose needs vary greatly.

NATA Recommendation: Congress should raise the basic general aviation entitlement to account for changing needs and increasing inflation since the \$150,000 level was two decades ago. In addition, the federal cost share for such airports should be increased to 100 percent and grants should not expire for four years, allowing airports to apply five years of funding to eligible projects. Lastly, Congress should introduce a formula that increases the entitlement grants for larger general aviation airports based on flight activity.

PFAS at General Aviation Airports

FAA regulations have required part 139 certified airports to provide aircraft rescue and firefighting (ARFF) services utilizing aqueous film forming foam (AFFF) that contains per- and polyfluoroalkyl substances (PFAS) chemicals, even as the Environmental Protection Agency has taken steps to designate such substances as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Historically, many

non-part 139 general aviation airports have voluntarily adopted FAA policies regarding AFFF, looking toward the Agency's regulations as safety best-practices.

Until 2022, the National Fire Protection Association (NFPA) 409: *Standard on Aircraft Hangars*—the primary standard for hangar fire protection that is referenced by the international building code; the international fire code; and state and local statutes, ordinances, and regulations—required most modern general aviation hangars to maintain automatic foam fire suppression systems, many of which utilized fire-fighting foams containing PFAS chemicals. NATA seeks to remove requirements for the use of foam in aircraft hangars and works to educate local authorities on alternative fire suppression methods, advocating for building requirements that accurately reflect the low risk of fuel fires in aircraft hangars, the propensity for costly accidental discharges of foam fire suppression systems, and the harmful environmental impact of such occurrences. Because of NATA's advocacy efforts, the latest edition of NFPA 409 incorporated some of the Association's proposed changes and provides aviation businesses with more tools to protect against fire without the use of foam systems.

Despite these efforts, airports and aviation businesses require increased federal guidance on a transition away from fluorinated foams as well as Congressional protection from potential litigation.

NATA Recommendations:

1. Congress should provide exemption from PFAS-related litigation—including CERCLA liability—for all federally obligated airports that maintained AARF services, as well as for airport sponsors, owners of aircraft hangars, and landlords and lessees at public use airports that were required to install and maintain foam fire suppression systems by authorities having jurisdiction.
2. Congress should direct FAA to provide guidance on PFAS removal, remediation, and disposal for airports and associated aviation businesses located on airport properties, as well as establish a short-term grant program available to both airport sponsors and private businesses located on airport properties to assist in PFAS removal, remediation, and disposal.

Aviation Industry Sustainability and Innovation

Alternative Fuels

NATA is an active supporter of efforts to accelerate production and adoption of sustainable aviation fuel (SAF) as well as development of a commercially viable, fleet authorization, unleaded alternative to 100LL. NATA commends the Congressional creation of SAF-specific tax incentives in 2022 and welcomes further federal investment in SAF research and development, production, infrastructure, and deployment.

As a stakeholder in the Eliminate Aviation Gasoline Lead Emissions (EAGLE) initiative, NATA is committed to laying out a clear plan to transition piston-engine aircraft to lead-free aviation fuels by the end of 2030 without compromising the existing U.S. transportation infrastructure system, aviation safety, or the economic and broader public benefits of general aviation. NATA supports funding to accelerate required testing and regulatory approval for the implementation of an unleaded avgas, as well as investments in infrastructure to make alternative unleaded fuel more widely available while we await an unleaded fuel that meets the needs of the entire piston-aircraft fleet. The association opposes any efforts to ban 100LL before a safe, fleet authorization alternative is widely available.

NATA Recommendation: Congress should develop a short-term grant program for both public and private entities to support unleaded fuel infrastructure for airports and FBOs, incentivize flight school adoption of alternative fuels, and subsidize supplemental type certificate (STCs) or other end-user costs that could affect fuel adoption. Congress should also ensure a safe transition by requiring unleaded fuels alignment with engine and airframe original equipment manufacturers (OEMs) and American Society for Testing and Materials (ASTM) standards beyond any minimum standard determined by an STC. Such requirements best assure a universally acceptable standard for refinement and blending of products that can be consistently delivered to airports, FBOs, and aircraft operators.

Advanced Air Mobility

Advanced Air Mobility (AAM) innovation holds enormous promise for the reduction of aircraft emissions and noise impacts; however, we must swiftly prepare for its adoption in the existing aviation ecosystem if we hope to fully harness AAM's potential, reduce aviation's environmental impact, and maintain U.S. global aviation leadership. NATA applauds Congressional passage of the Advanced Aviation Infrastructure Modernization (AAIM) Act and the Advanced Air Mobility Coordination and Leadership Act. Now we ask Congress to take further action to ensure FAA development of a sound regulatory framework for AAM operations, as well as guidance for and investment in the physical infrastructure necessary to support them.

Aviation Funding Stability

Risks of Government Shutdown

The longest government shutdown in U.S. history (2018-2019) drew national attention to the dire consequences such shutdowns pose to the safety and security of the NAS, the effectiveness of the FAA, and the economic growth of the aviation industry. For 35 days, essential government employees such as air traffic controller and TSA agents were required to work without pay, while nearly 18,000 FAA employees involved in a range of activities—from certification and safety inspections to NextGen deployment—were furloughed. Legislation introduced in both the 116th and 117th Congresses authorizing the FAA to draw from the AATF in the event of a government shutdown enjoyed broad aviation industry support.

NATA Recommendation: NATA asks Congress to ensure that FAA’s critical operations continue without interruption in the event of a government shutdown. Allowing the FAA to draw from the Airport and Airways Trust Fund would avoid the furlough of essential workers and maintain the Agency's vital safety and operational functions.

Fuel Fraud Diversion

The Fixing America’s Surface Transportation (FAST) Act (PL 114-94) directed the Government Accountability Office (GAO) to study the impacts of a 2005 highway bill provision that increased the tax rate on non-commercial jet fuel to 24.4 cpg. GAO’s 2016 report⁵ found that the change in tax law has the unintended effect of diverting these non-commercial jet fuel tax revenues from the Airport and Airway Trust Fund to the Highway Trust Fund. Specifically, the GAO report concludes the diversion results in an annual loss to the Airport and Airway Trust Fund of between \$100 million and \$200 million—one to two billion dollars over a decade. The report also cast doubt on the rationale behind the 2005 change in tax law and the provision’s utility going forward. NATA believes the GAO report serves as sufficient justification for repealing the 2005 provision.

NATA Recommendation: Congress should either fully repeal the 2005 provisions or require a transfer of the appropriate tax funds to the Airport and Airway Trust Fund.

Aviation Industry Workforce

Workforce shortages continue to plague NATA’s member businesses at all organizational levels and across all industry segments. Of particular concern is the gap between the supply and demand for skilled aviation professionals such as aircraft pilots and A&P mechanics. The workforce grants created by the 2018 FAA Reauthorization have proven effective, but increased funding levels and further refinement of the programs are necessary to affect meaningful change. In particular, the FAA must be allocated sufficient funding and resources to administer the grants efficiently and effectively. Congress should also consider the expansion of existing federal programs that can alleviate barriers to entry for aspiring pilots and aircraft mechanics, such as eligibility for federal student loans. Lastly, establishment of a National Center for the Advancement of Aviation will help recruit the next generation of aviation workforce by raising awareness of aviation career opportunities and facilitating collaboration between all industry sectors.

NATA Recommendations:

1. Congress should reauthorize the workforce grants created by section 625 of the FAA Reauthorization Act of 2018 and raise the funding levels for program to at least \$20

⁵ See <https://www.gao.gov/products/gao-16-746r>

million annually. An appropriate portion of authorized funding should be set aside for the program's administration.

2. Create a National Center for the Advancement of Aviation based on the National Center for the Advancement of Aviation Act of 2022, which passed the House of Representatives by a wide, bipartisan majority.
3. Congress should extend well-established educational programs such as federal student loans to pilot training to reduce barriers to entry and help recruit a diverse and resilient workforce.

The National Air Transportation Association appreciates your consideration of our recommendations for FAA Reauthorization. We welcome the opportunity to further discuss these and any other policies affecting aviation businesses, and we look forward to continued collaboration with the Committee as you craft this critical legislation.

Sincerely,

A handwritten signature in black ink that reads "Curt Castagna". The signature is fluid and cursive, with a long horizontal stroke at the end.

Curt Castagna
President and CEO