



03/08/2019

Aviation Group Client Update

Shelley A. Ewalt, Partner | sewalt@mklawny.com | +1 703 399 6078

FAA CLARIFIES REQUIREMENTS OF PART 135 DIRECT EMPLOYEES REGARDING OPERATIONAL CONTROL

The FAA recently issued new National Policy, [N 8900.496](#), addressing the requirements for direct employees of Part 135 charter operators who exercise operational control.

Summary. FAA regulations require that Part 135 charter operators have certain management personnel and must identify those personnel on their Operations Specifications (OpSpecs). Those personnel are: (i) Director of Operations, (ii) Chief Pilot, and the (iii) Director of Maintenance. Previous FAA guidance had indicated that these personnel must all be direct employees of the certificate holder. In the new Policy, the FAA has recognized that a Director of Maintenance (DOM) is not required to be a direct employee, and may be employed by a third party, for instance by a part 145 repair station, a FBO, or another part 135 operator. In such circumstances, the DOM is not required to be a direct employee of the certificate holder, although if that is the case, the DOM may not exercise operational control for the certificate holder.

Requirements. FAR § 135.77 requires that each part 135 certificate holder lists the name and title of each person authorized to exercise operational control in the manual required by 135.21. Ops Specs paragraph A006, Management Personnel, and A008, Operational Control have been revised to reflect the new Policy. OpSpec A006 has been updated to specify that the direct employee requirement applies to the Director of Operations and Chief Pilot only. OpSpec A008 has been updated to indicate whether the DOM is a direct employee or not, and to specify that any management personnel who exercise operational control must be a direct employee.

* * * * *

McBreen & Kopko's Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors' rights.