U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

SEP 28 2010

REGULAR U.S. MAIL

Michael Ailport
[redacted]

Re: Request for Legal Interpretation of 14 C.F.R. § 135.423(c) Regarding the Requirement to Separate Required Inspection Functions from Other Maintenance, Preventive Maintenance, and Alteration Functions in the Maintenance Organization

Dear Mr. Ailport:

This is in response to your May 6, 2010, request for guidance and interpretation of the requirement in 14 C.F.R. § 135.423(c) that a certificate holder who performs required inspections must organize the performance of those functions so as to separate them from the other maintenance, preventive maintenance, and alteration functions. The regulation requires that the separation must be below the level of administrative control at which overall responsibility for the required inspection functions and other maintenance, preventive maintenance, and alteration functions is exercised. We apologize for the delay in responding to your inquiry—the attorney to whom your request was assigned resigned from the agency, and it was reassigned to another attorney.

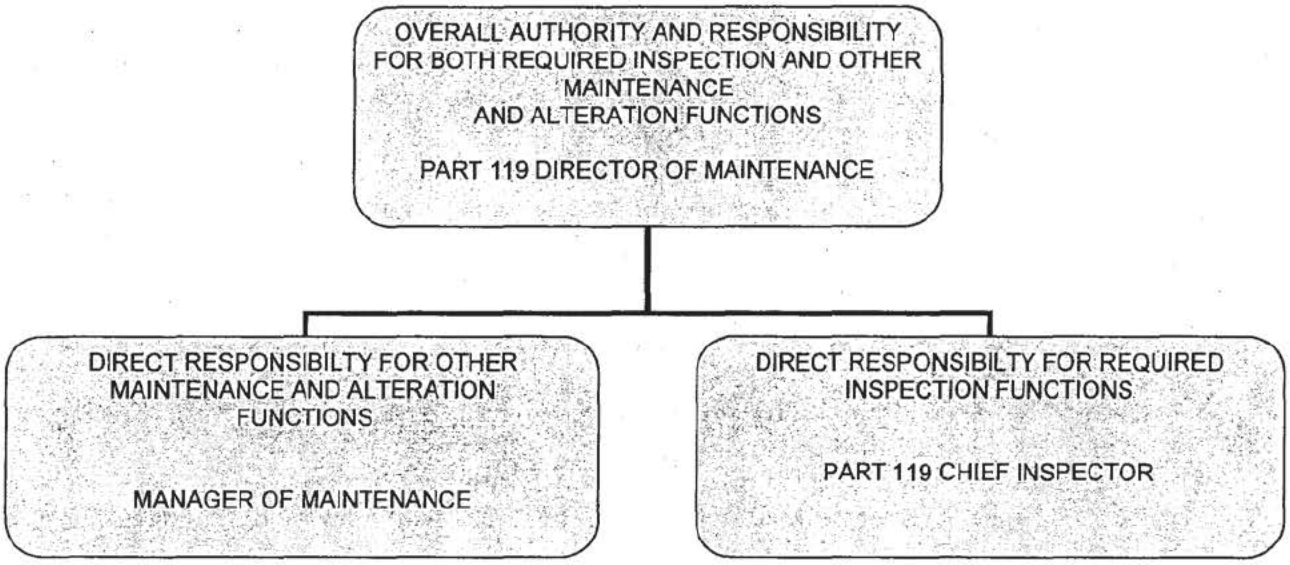
In positing your question, you quoted the regulation and referred to several paragraphs of FAA Order 8900.1 (Flight Standards Information Management System) and FAA Advisory Circular (AC) 120-16E. In particular you express your agreement with subparagraph 403b of AC 120.16E on Organization, and conclude that it "enforces" what you believe to be required by the regulation. The subparagraph states:

> **b. Organization.** Regulations require you to organize the performance of all maintenance functions, including inspection, repair, overhaul, and the replacement of parts, to separate the function of the other maintenance, preventive maintenance, and alteration activities. This organizational separation must be below the level of administrative control where you exercise overall responsibility for the required inspection functions as well as the other maintenance, preventive maintenance, and alteration functions. Consistent with subparagraph 402b, your DOM [Director of Maintenance] exercises overall authority and responsibility

over the required inspection functions, as well as the other maintenance (including inspection), preventive maintenance, and alteration functions. See Figure 4-1, Maintenance Organizational Chart, for a representative organizational chart.

Subparagraph 402b on Accountable Manager (referenced in subparagraph 403b (quoted above)) simply reinforces that a certificate holder must designate a single person or position as the accountable manager with the authority and the overall responsibility for managing the entire maintenance program, **including all inspection functions.** This would generally be the Director of Maintenance, or an equivalent title.

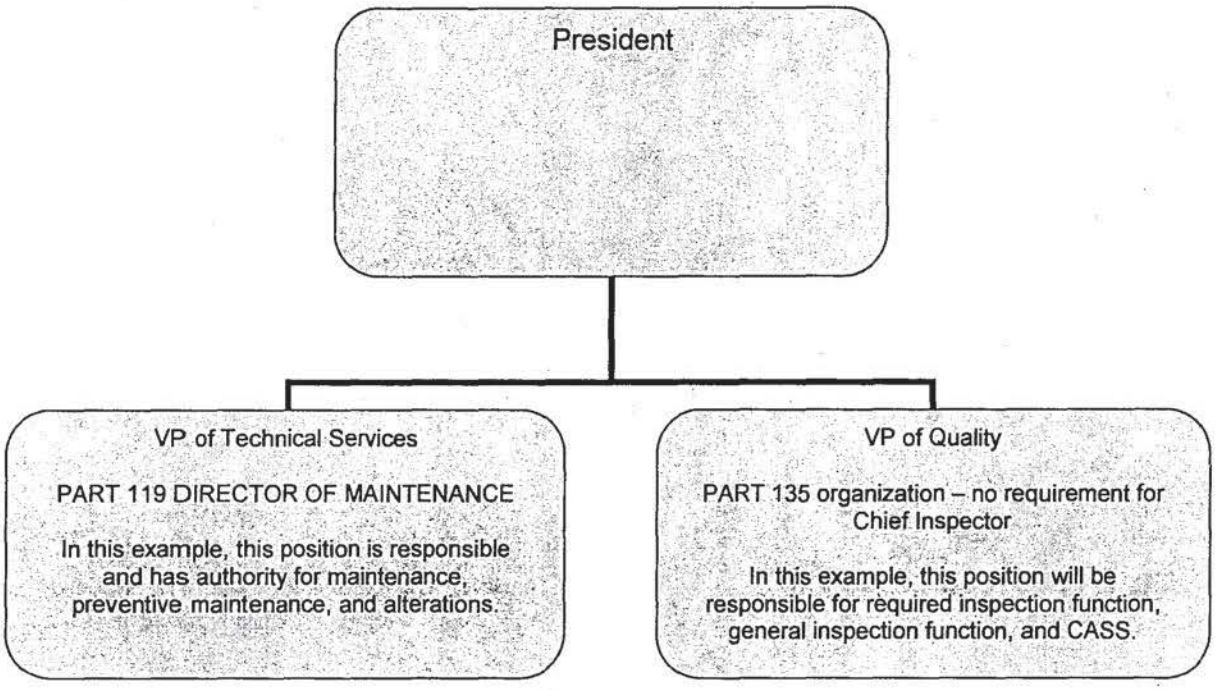
You included in your request an organizational chart bearing the same information found in Figure 4-1 in AC 120-16E (shown below), and you asked whether the chart is regulatory.



In general, the information contained in an FAA Advisory Circular is advisory and not regulatory. Also, in general, the "how to" advice in an AC is one way, but not necessarily the only way, for a person to comply with the regulation(s) at issue in the AC. In your example, the AC chart's caption makes this clear—it states: "Figure 4-1. Typical Organizational Chart Showing The Organizational Separation Of The RII Function And The Other Maintenance, Preventive Maintenance, And Alteration Function." Moreover, the concluding text in the above-quoted subparagraph 403b states that the chart is a *representative* organizational chart. Thus, it is a typical chart depicting an acceptable maintenance organizational structure, but there could be other acceptable structures.

Since you sent your request, the FAA has published Change 1 to AC 120-16E (effective June 7, 2011) which, among other things, contains a slightly different maintenance organizational chart (now referred to as Figure 4.1). We are including (as an enclosure with this response) a copy of the changed Chapter 4, which includes the revised sample maintenance organizational chart. As discussed above, because this new Figure 4.1 is in an Advisory Circular, it also depicts an acceptable maintenance organizational chart.

Finally, you included your own sample maintenance organization chart (shown below), and you asked: "May an air carrier have an organization structure as noted in the illustration below?"



We note that your top block contains only the term "President." Your lower left block lists the "VP of Technical Services," followed by "PART 119 DIRECTOR OF MAINTENANCE," and states that "this position is responsible and has authority for maintenance, preventive maintenance, and alterations." Your lower right block lists the "VP of Quality, followed by "PART 135 organization - no requirement for Chief Inspector," and states that "this position will be responsible for required inspection function, general inspection function, and CASS."

Our answer to your question whether an air carrier may have this maintenance organizational structure is "yes," provided the President referenced in the top block meets the qualifications of a Director of Maintenance required by 14 C.F.R. § 119.71(e). These include at a minimum that the person must hold a mechanic certificate with airframe and power plant rating and meet the experience requirements set forth in subparagraphs (1) or (2) of the regulation. This is because, under § 135.423(c), the separation of required inspection functions from other maintenance functions must occur "below the level of administrative control at which overall responsibility for the required inspection functions and other maintenance, preventive maintenance, and alteration functions is exercised." This level of control and responsibility over maintenance must be exercised by a person who meets the Director of Maintenance qualifications, no matter the title the air carrier may bestow on him or her. If the President in your chart is not so qualified, then the air carrier may not have your illustrated maintenance organization under § 135.423(c).

This response was prepared by Edmund Averman, an Attorney in the Regulations Division in the Office of the Chief Counsel, and coordinated with the Aircraft Maintenance Division (AFS-300) in the Office of Flight Standards. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel for Regulations
Office of the Chief Counsel

Enclosure