

# Operational Control

## Failure to Exercise Operational Control

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# Problems with the Exercise of Operational Control

- **Franchising Out of Operational Control**
  - “Renting” a Certificate
- **Surrender of Operational Control**
  - Giving up operational control to another
- **Loss of Operational Control**
  - Internal Failure of a Certificate Holder



# Franchising Out of Operational Control

- **“Renting” a Certificate**
  - Non-certificated entity (aircraft owner) conducts all aspects of air transportation
  - Certificate holder receives a flat monthly fee, regardless of the number of flights
  - Certificate holder has no relationship and therefore no control over the aircraft or the pilots
  - Certificate holder claims no responsibility for the safe operation of flights conducted for compensation or hire
  - In these types of cases, money flow can be a significant factor



# Surrender of Operational Control

- **Giving up operational control to another entity**
  - Typically the certificate holder lacks procedures and controls to ensure it retains operational control
  - Uncertificated entity conducts commercial operations and performs critical safety functions.
  - Use of a “Doing Business As” fictitious name, that is the same as an aircraft owner or some other company, can create confusion or empowerment
  - Lack of employment or agency relationship between pilots and the certificate holder prevents leverage
  - Lack of clear language and procedures to determine who has possession of an aircraft
  - Know the status of pilots and airworthiness of aircraft



# Loss of Operational Control

- **Internal Failure of a Certificate Holder**
  - Certificate holder safety requirements in 119 and 135 require management oversight
  - Focus on A008 D.(6)(A) vs. D.(6)(B)
  - Certificate holder has a responsibility to immediately correct any situation where an unauthorized person is making operational control decisions
  - Only those employees qualified under part 119 and listed in the GOM per 135.77 can make pure A008 D.(6)(A) management decisions

