

14 CFR Part 121

[Docket No. 17326; SFAR No. 34-1]

Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft; Compensation for Required Security Measures in Foreign Air Transportation

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reinstates Special Federal Aviation Regulation No. 34 which provides procedures for compensating air carriers who have incurred unreimbursed costs for screening passengers, and their carry-on baggage, moving in foreign air transportation. The purpose of this regulation is to implement the extension by Congress of the eligibility period for these expenditures.

EFFECTIVE DATE: January 3, 1983.

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SUPPLEMENTARY INFORMATION:
Section 24 of Public Law 94-353 (90 Stat. 871, 885, 49 U.S.C. 1356a; approved July 12, 1978, effective as of July 1, 1978) directs the Secretary of Transportation to compensate any air carrier certificated under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) for the cost of screening passengers moving in foreign air transportation. Section 24 provides, in pertinent part, as follows:

(a) The Secretary of Transportation shall compensate any air carrier certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 which requests such compensation for that portion of the amount expended by such air carrier for security screening facilities and procedures as required by section 315(a) of such Act, and any regulation issued pursuant thereto, which is attributable to the screening of passengers moving in foreign air transportation.

Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1356) provides, in pertinent part, that "[t]he Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air

transportation be screened by weapon-detecting procedures or facilities . . . prior to boarding the aircraft for such transportation."

In order to implement section 24, the FAA issued Special Federal Aviation Regulation No. 34 (SFAR No. 34; 45 FR 49913; July 28, 1980) providing a procedure for compensating air carriers for this cost. SFAR No. 34 provided that all applications for compensation were to be submitted to the FAA no later than July 1, 1981, and the regulation terminated, by its own terms, on July 1, 1982.

Section 524(d) of the Airport and Airway Improvement Act of 1982 (Title V of Pub. L. 97-248, September 3, 1982, 96 Stat. 671, 697) amended section 24 of Pub. L. 94-353 by revising paragraph (c) thereof to read, in pertinent part, as follows:

(2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979.

The date referred to is August 13, 1980. That is the one hundred eightieth day after February 15, 1980, the date of approval of the International Air Transportation Competition Act of 1979, Pub. L. 96-192, 94 Stat. 35. Thus, Congress expanded the eligibility period to include the period from October 1, 1978, to and including August 13, 1980.

To implement this expansion, this amendment reinstates SFAR No. 34. Application for compensation under that regulation must be filed by November 1, 1983, unless otherwise authorized by the Director of Civil Aviation Security for good cause shown. No compensation will be paid for amounts expended after August 13, 1980.

Because of the limited number of applications expected to be filed under SFAR No. 34, as amended, it has not been necessary to obtain approval from the Office of Management and Budget of the reporting requirements contained in the rule.

Since it would not be in the public interest to delay the economic relief provided by Congress' extension of the eligibility period, and the procedures of SFAR No. 34 are needed to expedite processing of applications for this compensation, good cause exists for adopting this amendment without notice and public procedure and for making it effective less than 30 days after publication.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen,
Aviation safety, Charter flights.

Adoption of the Amendment

PART 121—[AMENDED]

Accordingly, the Special Federal Aviation Regulation No. 34 (45 FR 49913; July 28, 1980) is reinstated and the termination date therein deleted, effective January 3, 1983; and section 3 thereof is amended by removing the phrase "July 1, 1981" and inserting, in its place, the phrase "November 1, 1983, unless otherwise authorized by the Director of Civil Aviation Security for good cause shown".

(Sec. 524(d), Public Law 97-248 (96 Stat. 671, 697); Sec. 24, Public Law 94-353 (90 Stat. 871, 885, 49 U.S.C. 1356a); Sec. 1.47(f)(3), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(3)))

Note.—Since SFAR No. 34, as amended, requires only that a claimant submit an application and make supporting evidence available, it does not impose a significant burden on any member of the public. Accordingly, the FAA has determined that this document involves a final rule which is not considered major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979). For the same reason, and because the FAA has determined that the number of small entities eligible for compensation under SFAR No. 34, as amended, is so small as to be insubstantial, it is certified that, under the criteria of the Regulatory Flexibility Act (Pub. L. 96-354, Sept. 19, 1980, 94 Stat. 1164, 5 U.S.C. 601, 605(b)), this final rule will not have a significant economic impact on a substantial number of small entities. The expected impact of the reinstatement of these procedural regulations is so minimal that it does not require a regulatory evaluation.

Issued in Washington, D.C., on November 23, 1982.

J. Lynn Helms,
Administrator.

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