

See correction

Title 14—Aeronautics and Space
CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Docket No. 12124, Amendments 103-16 121-104, and 135-36]

LOADING AND CARRYING DANGEROUS ARTICLES AND MAGNETIZED MATERIALS ON AIRCRAFT; TRAINING AND MANUAL REQUIREMENTS

The purpose of these amendments to parts 121 and 135 of the "Federal Aviation Regulations" is to require certificate holders under those parts to establish means for training personnel who have duties and responsibilities for the carriage and handling of dangerous articles and magnetized materials. The purpose of the amendment to part 103 is to assure that the pilot in command of an aircraft is notified in writing of the presence of such articles and materials aboard the aircraft.

These amendments are based on a notice of proposed rulemaking (notice 72-21) published in the *FEDERAL REGISTER* on August 8, 1972 (37 FR 15938). Except as specifically discussed hereinafter, these amendments and the reasons therefor are the same as those contained in notice 72-21.

Ten of the twenty public comments received in response to the notice favored the proposal and recommended early adoption; the other 10 comments either objected to the proposal or recommended certain revisions to it. A number of those who objected did so because, as they understood the proposal, it would require part 135 certificate holders to establish a training program even though they never engage in the transportation of hazardous materials. In this respect the proposal has been misunderstood, for it is intended to require a part 135 certificate holder to provide a program of training only if it undertakes to engage in the transportation of hazardous materials, by prohibiting the certificate holder from engaging in the transportation of those materials unless the person responsible for the handling and carriage of them has received appropriate training within the preceding 12 calendar months under a training program established by the certificate holder. To clarify this intent, paragraphs (a) and (b) of proposed § 135.140 have been consolidated into paragraph (a) of § 135.140 as adopted herein.

In addition, certain other changes have been made in the specific wording of the proposal, by these amendments, which are considered minor and clarifying in nature.

A few commentators expressed the belief that the manual requirements, without training, would be sufficient to provide the desired level of safety. However, the FAA believes the initial and recurrent training requirement is essential to assure both understanding and use of the manual.

Comment also expressed the view that the entire responsibility for transporting dangerous articles should rest with the shipper. We recognize that the shipper has the primary responsibility for ensuring that his shipment complies with the requirements prescribed in part 103 for the shipment of dangerous articles by air. However, for the reasons explained in the notice, we believe safety in air commerce also requires the training of personnel of the operators who are assigned duties and responsibilities for the handling and carriage of shipments of dangerous articles, to ensure that they have been instructed regarding the applicable regulations in part 103 governing proper packaging, marking, labeling, and documentation of dangerous articles and magnetic materials; and have been instructed regarding the compatibility, loading, storage, and handling characteristics of such articles.

Other comment requested some clarification of which personnel of the carrier are required to be trained. As proposed, the regulations adopted herein require training for those persons having duties and responsibilities for the carriage and handling of dangerous articles and magnetized materials governed by part 103. Personnel of the carrier having those duties and responsibilities would be the pilot in command of the particular aircraft carrying the shipment, any other crewmember assigned specific duties and responsibilities for the shipment during flight, and those ground personnel who handle it for the purpose of preparing it for shipment, loading it on the aircraft, and unloading it from the aircraft.

Certain comments recommended other changes to the regulations to increase the safety of carriage of dangerous articles by air. For example, it was recommended that geiger counters and devices for detecting radioactive leakage or emission be employed by air carriers. Others recommended that the pilot in command and other persons be given specific instructions as to the proper action to be taken in the event of an accident or an incident. While the FAA believes that these recommendations may have merit, they are considered to be beyond the scope of the rulemaking proposed in notice 72-21.

These amendments are issued under the authority of sections 313(a), 601, and

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121, and 135

902 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1472), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing and for the reasons given in notice 72-21, parts 103, 121, and 135 are amended, effective July 6, 1973, as follows:

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

1. By amending § 103.25 to read as follows:

§ 103.25 Notification of pilot in command.

Whenever articles subject to the provisions of this part are carried in an aircraft, the operator of the aircraft shall inform the pilot in command, before takeoff, in writing, of the shipping name and the classification of each dangerous article as prescribed in 49 CFR 172.5, the quantity in terms of weight, volume or as otherwise appropriate, and the location of the dangerous articles in the aircraft. The person marking the cargo-load manifest shall mark it conspicuously to indicate the dangerous articles.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

2. By amending § 121.135(b), by amending subparagraph (23), and by adding a new subparagraph (24) to read as follows:

§ 121.135 Contents.

(b) * * *

(23) Procedures and instructions relating to the handling of dangerous articles and magnetized materials, if these materials are to be carried, stored, or handled, including:

(i) Procedures for determining the proper shipper certification required by § 103.3 of this chapter, proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on the loading, storage, and handling thereof.

(ii) Notification procedures for reporting dangerous article incidents as required by § 103.28 of this chapter.

(iii) Instructions and procedures for the notification of the pilot in command when there are dangerous articles aboard, as required by § 103.25 of this chapter.

(24) Other information or instructions relating to safety.

(As published in the Federal Register 38 F.R. 14914⁷ on June 7, 1973)

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3. By amending the title of subpart N of part 121 to read as follows: "Subpart N—Training Program."

4. By amending § 121.400 to read as follows:

§ 121.400 Applicability and terms used.

(a) This subpart prescribes the requirements applicable to each certificate holder for establishing and maintaining a training program for crewmembers, aircraft dispatchers, and other operations personnel, and for the approval and use of training devices in the conduct of the program.

5. By amending § 121.401(a) (1) to read as follows:

§ 121.401 Training program: General.

(a) Each certificate holder shall:

(1) Establish, obtain the appropriate initial and final approval of, and provide, a training program that meets the requirements of this subpart and appendices E and F and that insures that each crewmember, aircraft dispatcher, flight instructor, and check airman, and each person assigned duties for the carriage and handling of dangerous articles and magnetized materials, is adequately trained to perform his assigned duties.

6. By adding a new § 121.433a after § 121.433 to read as follows:

§ 121.433a Training requirements: Handling and carriage of dangerous articles and magnetized materials.

(a) After December 6, 1973, no certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of dangerous articles and magnetized materials governed by part 103 of this chapter, unless within the preceding 12 calendar months

that person has satisfactorily completed training in a program established and approved under this subpart which includes instructions regarding the proper packaging, marking, labeling, and documentation of dangerous articles and magnetized materials, as required by part 103 of this chapter; and instruction regarding their compatibility, loading, storage, and handling characteristics.

(b) Each certificate holder shall maintain a record of the satisfactory completion of the initial and recurrent training given to crewmembers and ground personnel who perform assigned duties and responsibilities for the handling and carriage of dangerous articles and magnetized materials.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

7. By amending § 135.27(b) by deleting the word "and" in subparagraph (13), by amending subparagraph (14), and by adding a new subparagraph (15) to read as follows:

§ 135.27 Manual requirements.

(b) * * *

(14) Procedures and instructions relating to the handling and carriage of dangerous articles and magnetized materials, if these materials are to be carried, stored, or handled, including:

(i) Procedures for determining the proper shipper certification required by § 103.3 of this chapter, proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on the loading, storage, and handling thereof.

(ii) Notification procedures for re-

porting dangerous article incidents as required by § 103.28 of this chapter.

(iii) Instructions and procedures for the notification of the pilot in command when there are dangerous articles aboard, as required by § 103.25 of this chapter.

(15) Other procedures and policy instructions pertinent to the certificate holder's operations, that are issued by the certificate holder.

8. By adding a new § 135.140 to read as follows:

§ 135.140 Training requirements: Handling and carriage of dangerous articles and magnetized materials.

(a) After December 6, 1973, no certificate holder may use any person to perform, and no person may perform, any assigned duties and responsibilities for the handling or carriage of dangerous articles and magnetized materials, unless within the preceding 12 calendar months that person has satisfactorily completed initial or recurrent training in an appropriate training program established by the certificate holder, which includes instruction regarding the proper shipper certification, packaging, marking, labeling, and documentation for dangerous articles and magnetic materials, and includes instruction regarding their compatibility, loading, storage, and handling characteristics.

(b) Each certificate holder shall maintain a record of the satisfactory completion of the initial and recurrent training given to crewmembers and ground personnel who perform assigned duties and responsibilities for the handling and carriage of dangerous articles and magnetic materials.

Issued in Washington, D.C., on May 29, 1973.

JAMES E. Dow,
Acting Administrator.

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 12124, Amendments 103-16, 121-104, and 135-36]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Loading and Carrying Dangerous Articles and Magnetized Materials on Aircraft; Training and Manual Requirements

Correction

In FR Doc. 73-11356 appearing at page 14914 in the issue of Thursday, June 7, 1973, the amendment numbers in brackets should read as set forth above.