

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

[Docket No. 12650, Amdts. 121-110, 127-32]

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

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

Use of Certificated Land Airports

The purpose of these amendments to Parts 121 and 127 of the Federal Aviation Regulations is to require domestic, flag, and supplemental air carriers certificated under Part 121, and air carriers certificated under Part 127, when conducting operations governed by those parts, to use only airports certificated under Part 139.

These amendments are based on a notice of proposed rulemaking (Notice No. 73-10) issued March 16, 1973, and published in the *FEDERAL REGISTER* on March 28, 1973 (38 FR 8067). Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all comments received in response to that notice.

Section 121.590 currently requires domestic and flag air carriers operating large aircraft (other than helicopters) to conduct their scheduled operations into regular airports certificated under Part 139. This requirement was consistent with the applicability of Part 139 as originally promulgated. However, effective May 21, 1973, the FAA adopted Amendment No. 139-1 (38 FR 9795; April 20, 1973), and broadened the applicability of Part 139 to prohibit any person from operating a land airport serving any CAB-certificated air carrier unless the airport is certificated under Part 139.

As noted in the preamble to Amendment 139-1, the FAA recognized that the additional airports that are required to comply with Part 139 by virtue of Amendment 139-1 would not be able to comply with all of the requirements of Part 139 before the May 21, 1973, effective date. The FAA had determined that

those airports were able to conduct a safe operation, and that provisional airport operating certificates, subject to such terms, conditions, and limitations as the Administrator finds are reasonably necessary to assure safety in air transportation, should be issued to those airports pending their compliance with Part 139. Accordingly, a new § 139.12 was added to Part 139 which provisionally certificated for a period of 45 days airports and heliports, which, on May 20, 1973, were serving CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft in order that they might continue to serve such air carriers pending compliance with Part 139. Section 139.12 also provided for the extension of that certification to May 21, 1974, upon the request of the airport operator prior to July 5, 1973, and compliance by the operator with the requirements of that section.

Amendment 139-2 to Part 139 (38 FR 17714; July 3, 1973) amended § 139.12 by extending from July 5, 1973, to October 5, 1973, the time within which persons, who on May 20, 1973, were operating an airport or heliport serving a CAB-certificated air carrier conducting only unscheduled operations or operations with small aircraft, might apply for an extension of their airport operating certificate, and to extend the time for filing the reports required by holders of these certificates. Amendment 139-3 to Part 139 (38 FR 27294; October 2, 1973) extended the time for application and the filing of reports from October 5, 1973, to December 15, 1973, for the reasons stated therein.

Amendment 139-4 to Part 139 (38 FR 34461; December 4, 1973) extended the December 15, 1973, date for application and the date for filing of reports to April 2, 1974, and Amendment 139-5 (39 FR 11929; April 1, 1974) further extended the date for submitting the schedule for compliance, and extended the certificate termination date to December 15, 1974.

Accordingly, as explained in Notice 73-10, the FAA considers it necessary in the interest of safety in air transportation to amend Parts 121 and 127 to be consistent with the safety objectives of Part 139 and the broadening of its applicability by Amendment 139-1, by requiring air carriers certificated under Parts 121 and 127 to use airports certificated under Part 139. This amendment applies

(As published in the Federal Register
[39 F.R. 29341] on Aug. 15, 1974)

to all air carrier operations governed by Part 121 regardless of the size of the aircraft used in the operation. It is to be noted that charter operations are also included as they, too, are governed by Part 121.

Upon further consideration of the proposal in Notice 73-10, in light of comments received, the FAA has concluded that since air taxi operators conducting operations under a CAB approved route substitution agreement do not hold CAB certificate authority, it is not appropriate to restrict those operations to airports certificated under Part 139. Accordingly, that part of the proposal is not adopted in this amendment.

As adopted herein, § 121.590 will prohibit a domestic, flag, or supplemental air carrier, and an air carrier certificated under Part 127, in the conduct of operations governed by Part 121, from operating an aircraft into a land airport in the United States or any territory or possession, unless that airport is certificated under Part 139.

It will be noted that a provision has been added in paragraph (b) of § 121.590 which clearly provides for the applicability of that section to helicopter and small airplane operations.

In addition, it should be pointed out that § 121.590 applies only when the particular operation of the aircraft is governed by Part 121. That section will not, therefore, require the use of an airport certificated under Part 139 for those aircraft operations that are governed by Part 91 rather than Part 121, as in the case of training, ferry, and test flights.

As proposed and adopted herein, § 121.590 explicitly permits the designation and use, as a required alternate airport for departure or destination, an airport that is not certificated under Part 139. All other airports to be used, including regular, provisional, and refueling airports, must be certificated in accordance with Part 139.

The applicability of § 121.590 has been changed from the proposal to include air carriers certificated under Part 127 for scheduled helicopter operations, since they are governed by the provisions of §§ 121.3(g) and 121.5 when conducting charter flights or other special services.

In addition, this amendment adds a new § 127.218 to Part 127 as proposed in the notice.

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

604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Parts 121 and 127 of the Federal Aviation Regulations are amended, effective September 14, 1974, as follows:

1. By amending § 121.590 of Part 121 to read as follows:

§ 121.590 Use of certificated land airports: Domestic, flag, and supplemental air carriers certificated by the CAB including their charter operations and their operations with small aircraft.

(a) Unless otherwise authorized by the Administrator, no domestic, flag, or supplemental air carrier, or air carrier certificated under Part 127 of this chapter, and no pilot being used by them may, in the conduct of operations governed by this part, operate an aircraft into a land airport in any State of the United States, the District of Columbia, or any territory or possession of the United States, unless that airport is certificated under Part 139 of this chapter. However, an air carrier may designate and use as a required alternate airport for departure or destination an airport that is not certificated under Part 139 of this chapter.

(b) Notwithstanding §§ 121.9(a) and 121.13(a) and (b), the provisions of this section apply to air carriers specified herein when conducting operations with helicopters or small airplanes.

2. By adding a new § 127.218 to Subpart N of Part 127 to read as follows:

§ 127.218 Use of certificated heliports: scheduled helicopter air carriers.

Unless otherwise authorized by the Administrator, no scheduled helicopter air carrier and no pilot being used by it may, in the conduct of operations governed by this part, operate a helicopter into a heliport in any State of the United States, the District of Columbia, or any territory or possession of the United States, unless that heliport is certificated under Part 139 of this chapter.

Issued in Washington, D.C., on August 12, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.