

Title 14—Aeronautics and Space
CHAPTER 1—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15199, Amdt. Nos. 63-18; 91-133; 105-5; 121-130; 123-6; 129-7; 135-42; 146-15; and 147-3]

OPERATIONS REVIEW PROGRAM

Amendment No. 1: Clarifying and Editorial Changes

The purpose of these amendments is to incorporate into Parts 63, 91, 105, 121, 123, 129, 135, 145, and 147 of the Federal Aviation Regulations several clarifying and editorial revisions.

These amendments are based on a Notice of Proposed Rule Making (Notice 75-39), published in the *FEDERAL REGISTER* on December 8, 1975 (40 FR 57342) and are the first in a series of amendments to be issued as part of the First Biennial Operations Review Program.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all comments presented. Several changes have been made to the proposed rules based upon the relevant comments received and subsequent review by the FAA. Those changes and comments are discussed below and, except for those changes, the

reasons for the amendments remain the same as contained in Notice 75-39. The following discussion is keyed to the like-numbered proposals contained in Notice 75-39.

Proposal 1. Addition of class ratings to flight engineer certificates is presently controlled by § 63.33 and hence the proposed revision to § 63.45 would create a redundancy. As the applicable dates have passed, § 63.45 is no longer operative and therefore it is being deleted.

Proposal 4. This proposed change to § 91.24 is being deferred for consideration in a later notice.

Proposal 9. As December 30, 1975 has passed, § 91.52(g) is no longer applicable and is therefore deleted.

Proposal 13. This proposal to amend § 91.181 contained two typographical errors. The reference to §§ 91.127 and 91.129 should read §§ 91.217 and 91.219, respectively.

Proposal 27. This proposal to amend § 121.433(c) (1) (i) was intended to clarify the existing rule. Several commentators noted that the intended clarification had the opposite effect. Therefore, this proposal is being withdrawn to allow further study to determine whether a clarification is necessary and how best to accomplish it.

Proposal 39. One commentator opposed the addition of paragraph (b) to § 135.67 on the basis that it would be physically impossible for the pilot in command to make the determination that the inspections required under § 91.217 have been made. In light of this comment and the fact that review of Part 135 is presently underway, this proposal is being withdrawn from consideration at this time.

Proposal 41. One commentator pointed out that the preamble did not speak to this proposal to amend § 135.138(b). The

only change effected by this proposal is to correct the reference to revised Part 61. The commentator also objected to use of the words "related advisory circulars." As those words are contained in the current rule and removal would amount to a substantive change, the comment is beyond the scope of this regulatory action.

Proposals 43 and 44. One commentator stated, "The deletion of section 135.144a leaves the proposed rule incomplete in that FAR 23.1(a) applies to airplanes of nine seats or less and therefore no provisions are given for this in 135.144 as proposed." Such is not the case. The change to § 135.144 and the deletion of § 135.144a will in no way affect current substantive requirements for aircraft of nine seats or less. Section 135.144, as its title indicates, imposes additional requirements for airplanes carrying 10 or more passengers.

The commentator also noted substantive objections to § 135.144 and noted that no substantive discussion of the proposed change was included in the notice. Since the proposed rule change was non-substantive, it was not addressed in the preamble other than to note that an editorial change was being proposed. Substantive objections to the provisions of § 135.144 are beyond the scope of this regulatory action.

Proposals 48, 49, 50, and 51. Comments received on these proposals to make several changes to Part 137 indicate that further study is appropriate. The proposals are being withdrawn and will be addressed in a later notice.

Proposal 53. One commentator suggested that the phrase "or equivalent" be added after "inspection procedures manual" in proposed § 145.45(f) since several air carriers holding repair station certificates utilize different titles for their manuals. The intent of the regulation is not to require a manual of specific title but a manual of specific content. Therefore, to preclude confusion, the language is changed to "a manual containing inspection procedures".

These amendments are made under the authority of secs. 307, 313(a), 601, 603, and 607, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423, and 1427), and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, and for the reasons stated in Notice No. 75-39, Parts 63, 91, 105, 121, 123, 129, 135, 145, and 147 of the Federal Aviation Regulations are amended effective, November 29, 1976 as follows:

PART 63—CERTIFICATION: FLIGHT CREW MEMBERS OTHER THAN PILOTS

1. By deleting and reserving § 63.45.

§ 63.45 [Reserved]

PART 91—GENERAL OPERATING AND FLIGHT RULES

§ 91.4 [Amended]

2. By amending § 91.4 by deleting the words "After November 1, 1974, no" and inserting the word "No" in place thereof.

§ 91.17 [Amended]

3. By amending § 91.17(a) (1) by deleting the reference to "§ 61.38" and inserting "§ 61.69" in place thereof and by deleting and reserving § 91.17(c).

4. By revising the first sentence of § 91.33(c) (3) and by revising § 91.33(e) to read as follows:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

(c)

(3) An approved aviation red or aviation white anticollision light system on all U.S. registered civil aircraft.

(e) *Flight at and above 24,000 feet MSL.* If VOR navigational equipment is required under paragraph (d) (2) of this section, no person may operate a U.S. registered civil aircraft within the 50 states, and the District of Columbia, at or above 24,000 feet MSL unless that aircraft is equipped with approved distance measuring equipment (DME). When DME required by this paragraph fails at and above 24,000 feet MSL, the pilot in command of the aircraft shall notify ATC immediately, and may then continue operations at and above 24,000 feet MSL to the next airport of intended landing at which repairs or replacement of the equipment can be made.

5. By revising the first sentence of § 91.43(e) to read as follows:

§ 91.43 Special rules for foreign civil aircraft.

(e) *Flight at and above 24,000 feet MSL.* If VOR navigation equipment is required under paragraph (c) (1) (ii) of this section, no person may operate a foreign civil aircraft within the 50 states and the District of Columbia at or above 24,000 feet MSL, unless the aircraft is equipped with distance measuring equipment (DME) capable of receiving and indicating distance information from the VORTAC facilities to be used.

§ 91.45 [Amended]

6. By amending § 91.45(a) (2) (iv) by deleting the words "After February 20, 1967," and by amending § 91.45(a) (3) (ii) by deleting the words "After February 20, 1967, a" and inserting the word "A" in place thereof.

§ 91.51 [Amended]

7. By amending § 91.51(a) by deleting the words "after February 29, 1972,".

8. By deleting § 91.52(g) and by revising § 91.52(a) to read as follows:

§ 91.52 Emergency locator transmitters.

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c), and (d) of this section.

§ 91.53 [Amended]

9. By amending § 91.53(a) by deleting the words "July 1 of each of the years 1970 and 1971, and April 1 of each year thereafter" and inserting the words "April 1 of each year" in place thereof.

10. By amending § 91.90 by deleting from paragraph (c) the words "After the date specified in § 91.24(b)(3), no" and inserting the word "No" in place thereof, and by revising subdivisions (a)(3)(iii) and (b)(2)(iii) to read as follows:

§ 91.90 Terminal control areas.

- (a) * * *
- (3) * * *

(iii) The applicable equipment specified in § 91.24.

- (b) * * *
- (2) * * *

(iii) The applicable equipment specified in § 91.24, except that automatic pressure altitude reporting equipment is not required for any operation within the terminal control area, and a transponder is not required for IFR flights operating to or from an airport outside of but in close proximity to the terminal control area, when the commonly used transition, approach, or departure procedures to such airport require flight within the terminal control area.

§ 91.173 [Amended]

11. By inserting a comma between the words "airframe" and "engine" in § 91.173(a)(2)(vi).

12. By revising § 91.181(a) to read as follows:

§ 91.181 Applicability.

(a) Sections 91.181 through 91.215 prescribe operating rules. In addition to those prescribed in other subparts of this part, governing the operation of large and of turbojet-powered multiengine civil airplanes of U.S. registry. The operating rules in this subpart do not apply to those airplanes when they are required to be operated under Parts 121, 123, 129, 135, and 137 of this chapter. Sections 91.217 and 91.219 prescribe an inspection program for large and for turbine-powered (turbojet and turboprop) multiengine airplanes of U.S. registry when they are operated under this subpart or Parts 129 or 137 and for small turbine-powered multiengine airplanes operated under Part 135 of this chapter.

§ 91.213 [Amended]

13. By amending § 91.213(a) by deleting the words "after January 22, 1973," and by amending § 91.213(c) by deleting the words "After January 22, 1973, no" and inserting the word "No" in place thereof.

§ 91.217 [Amended]

14. By amending § 91.217, as follows:

(a) By deleting the words ", and after January 22, 1973, except as provided in paragraph (f) of this section," in paragraph (a) and inserting the word "and" in place thereof;

(b) By deleting the words "after January 22, 1973, except as provided in paragraph (f) of this section," in paragraph (b); and

(c) By deleting paragraph (f).

PART 105—PARACHUTE JUMPING

15. By revising § 105.25(a)(5) to read as follows:

§ 105.25 Information required, and notice of cancellation or postponement of jump.

(a) * * *

(5) The duration of the intended jump.

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

§ 121.55 [Amended]

16. By amending § 121.55 by deleting paragraphs (b) and (c), by deleting the designation "(a)", and by redesignating § 121.55(a)(1), (2), (3), (4), and (5) as § 121.55(a), (b), (c), (d), and (e) respectively.

17. By revising § 121.289 by deleting paragraph (d) and amending paragraph (a) as follows:

§ 121.289 Landing gear: aural warning device.

(a) Each large airplane must have a landing gear aural warning device that functions continuously under the following conditions:

§ 121.305 [Amended]

18. By amending § 121.305(d) by deleting the words "after August 5, 1971, on" and inserting the word "On" in place thereof and by deleting the flush paragraph at the end of the section which begins with the words "A certificate holder * * *."

§ 121.313 [Amended]

19. By amending § 121.343 by:

a. Deleting the words "After September 18, 1973, for" in paragraph (a)(2) and inserting the word "For" in place thereof;

b. Deleting the words "After March 18, 1974, each" in paragraph (f) and inserting the word "Each" in place thereof; and

c. Deleting the words "After September 18, 1972, each" in paragraph (g) and inserting the word "Each" in place thereof.

20. By amending § 121.349(c) to read as follows:

§ 121.349 Radio equipment for operations under VFR over routes not navigated by pilotage or for operations under IFR or over-the-top.

(c) Whenever VOR navigational receivers are required by paragraph (a) or (b) of this section, at least one approved distance measuring equipment unit (DME) capable of receiving and indicating distance information from VOR TAC facilities must be installed on each airplane when operated in the 50 states and the District of Columbia.

§ 121.357 [Amended]

21. By amending § 121.357 by deleting

the words, "in passenger-carrying operations," in paragraph (a) and by deleting paragraph (b) and marking it "Reserved".

22. By revising § 121.359(a) to read as follows:

§ 121.359 Cockpit voice recorder.

(a) No certificate holder may operate a large turbine engine powered airplane or a large pressurized airplane with four reciprocating engines unless an approved cockpit voice recorder is installed in that airplane and is operated continuously from the start of the use of the checklist (before starting engines for the purpose of flight), to completion of the final checklist at the termination of the flight.

23. By revising § 121.409(c) as follows:

§ 121.409 Training courses using airplane simulators and other training devices.

(c) * * *

(1) A course of pilot training in an airplane simulator as provided in § 121.424(d); or

(2) A course of flight engineer training in an airplane simulator or other training device as provided in § 121.425(c).

24. By amending § 121.415 by deleting the flush paragraph immediately following paragraph (a)(3), by revising the introductory text in paragraph (a)(1) and by revising paragraph (b) as follows:

§ 121.415 Crewmember and dispatcher training requirements.

(a) Each training program must provide the following ground training as appropriate to the particular assignment of the crewmember or dispatcher:

(1) Basic indoctrination ground training for newly hired crewmembers or dispatchers including 40 programmed hours of instruction, unless reduced under § 121.405 or as specified in § 121.401(d), in at least the following—

(b) Each training program must provide the flight training specified in §§ 121.424 through 121.426, as applicable.

§ 121.132 [Amended]

25. By deleting § 121.432 (a) and (b) and redesignating § 121.432 (c), (d), (e), and (f) as § 121.432(a), (b), (c), and (d) respectively.

§ 121.133a [Amended]

26. By amending § 121.433a(a) by deleting the words, "After December 6, 1973, no" and inserting the word "No" in place thereof.

§ 121.533 [Amended]

27. By amending § 121.533(b) by deleting the words ", before February 6, 1972,".

§ 121.576 [Amended]

28. By amending § 121.576 by deleting the words "After May 1, 1974, means must be provided" and inserting the words "The certificate holder must pro-

vide means" in place thereof.

§ 121.579 [Amended]

29. By amending § 121.579 by deleting the words "automatic pilot" wherever they appear in the title and text and inserting the word "autopilot" in place thereof.

PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES

30. By revising § 123.3 to read as follows:

§ 123.3 Certificate and operations specifications required.

No person may operate an airplane in operations to which this part applies without, or in violation of, an air travel club operating certificate and appropriate operations specifications issued under this part.

§ 123.5 [Reserved]

31. By deleting and reserving § 123.5.

§ 123.11 [Amended]

32. By amending § 123.11(a) by deleting the words "Except as provided in § 123.3(b), the" and inserting the word "The" in place thereof.

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

33. By revising § 129.17(b) to read as follows:

§ 129.17 Radio equipment.

(b) Whenever VOR navigational equipment is required by paragraph (a) of this section, at least one distance measuring equipment unit (DME), capable of receiving and indicating distance information from the VORTAC facilities to be used, must be installed on each airplane when operated at or above 24,000 feet MSL within the 50 states, and the District of Columbia.

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

§ 135.2 [Amended]

34. By deleting § 135.2(d) and marking it "Reserved".

35. By revising § 135.11 to read as follows:

§ 135.11 Duration of certificate.

An ATCO certificate is effective until surrendered, suspended, or revoked. The holder of an ATCO certificate that is suspended or revoked shall return it to the Administrator.

§ 135.13 [Amended]

36. By amending § 135.13(b) by deleting the word "or" and inserting the word "and" in place thereof.

§ 135.127 [Amended]

37. By amending § 135.127 by deleting the reference to "§ 61.47(d)" and inserting "§ 61.57(e)" in place thereof.

38. By revising § 135.138(b) to read as follows:

§ 135.138 Initial and recurrent pilot testing requirements.

(b) No certificate holder may use the services of a pilot, nor may any person serve as a pilot, in any aircraft unless, since the beginning of the 12th calendar month before that service, he has passed a flight check given to him by the Administrator or an authorized check pilot in that class of aircraft, if single-engine airplane other than turbojet, or the type of aircraft, if helicopter, multiengine, or turbojet; to determine the pilot's competence in practical skills and techniques

in that aircraft or class of aircraft, including at least the maneuvers that are set forth in § 61.127(a) (except (5)), § 61.127(b) (except (7)), § 61.127(c) (except (7)), and § 61.65(c) (1) and (5) of this chapter, and related advisory circulars for pilot certification in the class of aircraft the pilot is to operate. However, a pilot who holds an instrument rating need not demonstrate the instrument flight maneuvers in § 61.65(c) (1) and (5).

§ 135.140 [Amended]

39. By amending § 135.140(a) by deleting the words "After December 6, 1973, no" and inserting the word "No" in place thereof.

§ 135.144 [Amended]

40. By amending § 135.144 by deleting the words "After May 31, 1972, no" and inserting the word "No" in place thereof.

§ 135.144a [Deleted]

41. By deleting § 135.144a.

§ 135.155 [Amended]

42. By amending § 135.155(e) by deleting the words "After March 6, 1965, and" and inserting the word "An" in place thereof.

43. By revising the first sentence of § 135.163(b) to read as follows:

§ 135.163 Emergency equipment: extended over-water operations.

(b) No person may operate an aircraft in extended over-water operations unless there is attached to one of the liferafts required by paragraph (a) of this section, a survival type emergency locator transmitter that meets the applicable requirements of § 37.200 of this chapter.

§ 135.167 [Amended]

44. By amending § 135.167(a) by deleting the words "After April 1, 1971, no" and inserting the word "No" in place thereof.

PART 145—REPAIR STATIONS

§ 145.43 [Amended]

45. By amending § 145.43(b) (3) by deleting the word "date,".

46. By amending § 145.45 by revising the first sentence of paragraph (f) to read as follows:

§ 145.45 Inspection systems.

(f) At the time he applies for a repair station certificate, the applicant must provide a manual containing inspection procedures, and thereafter maintain it in current condition at all times.

§ 145.71 [Amended]

47. By amending § 145.71 by deleting the word "to" in the last sentence and inserting the word "through" in place thereof.

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

48. By revising § 147.3 to read as follows:

§ 147.3 Certificate required.

No person may operate as a certificated aviation maintenance technician school without, or in violation of, an aviation maintenance technician school certificate issued under this part.

§ 147.7 [Amended]

49. By deleting § 147.7(c).

§ 147.38a [Amended]

50. By changing the word "test" wherever it appears in § 147.38a to the plural word "tests".

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on October 20, 1976.

J. W. COCHRAN,
Acting Administrator.