

14 CFR Part 121

[Docket No. 19652; Amdt. No. 121-105]

Petition for Rulemaking—Carriage of Weapons; Military Charter Flights

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to remove any prohibition against the carriage of weapons by military personnel aboard aircraft under charter or contract to the Department of Defense (DOD) or its component military departments and to clarify the requirements applicable to carriage of firearms in checked baggage aboard aircraft. The amendment pertaining to military personnel results from a petition for rule making submitted by the DOD. These amendments are necessary to provide for safety in air commerce.

EFFECTIVE DATE: March 31, 1980.

COMMENTS DUE: May 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Eli Newberger, Regulatory Projects Branch (AVS-24), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

ADDRESS: Comments on this amendment may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 19652, 800 Independence Avenue, S.W., Washington, D.C. 20591;

or be delivered in duplicate to:
Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Comments delivered must be marked "Docket No. 19652".

Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

Discussion

Currently, § 121.585 only permits certain persons to carry weapons aboard U.S. domestic, flag, and charter (supplemental) air carriers and intrastate air carrier flights when these persons have a need to have such weapons during flight (such as a law enforcement officer escorting a dangerous prisoner).

On August 28, 1979, Department of Defense (DOD) petitioned the agency to amend § 121.585 of the Federal Aviation Regulations to remove the prohibition against the carriage of weapons by military personnel aboard aircraft under charter or contract to DOD or its component military departments.

In accordance with FAA rulemaking procedures (14 CFR Part 11), a summary of this petition was published in the Federal Register (44 FR 61376; October 25, 1979), to improve the public awareness of this aspect of FAA's regulatory activities. Closing date for comments on the petition was December 24, 1979. No comments were received.

As a result of experience gained over the years during training exercises, DOD states that they have become concerned about the adequacy of methods employed to air transport individual carry-on weapons aboard civil aircraft under contract or charter flights. Present acceptable methods are to carry weapons assembled in containerized compartments in the baggage hold area(s) or render the weapon inoperable by having the bolts removed and securely stored in baggage compartments not accessible during flight.

Use of these methods has revealed that in an actual contingency situation during peacetime, when no national emergency has been declared, the time required to pack or disassemble the weapons at origin for movement and to distribute or make them operational at destination may be excessive. Matching of bolts with original weapons is extremely time consuming but essential to avoid possible damage to the mechanism or injury to personnel. These factors extend response time and consequently impede the effectiveness of contingency operations and training exercises designed to test unit readiness. DOD further stated that these exercises should simulate as closely as possible deployment under actual emergency conditions.

DOD advises that the Military Airlift Command routinely transports military personnel with operable weapons aboard its aircraft and that during 1979, approximately 4,000 flights were completed and during its long history of this practice, no injury to personnel or damage to aircraft has resulted.

The restriction imposed on the carriage of weapons aboard air carrier flights were part of the agency's program to counter the increased threat of hijacking. These security measures were primarily aimed at individually ticketed passengers. In promulgating these standards, the agency was not concerned with planeloads of military troop movements airlifted by civil aircraft. However, the prohibitions contained in § 121.585 prevent military personnel from carrying weapons on chartered flights.

Amendment of the regulation to permit carriage of weapons by military personnel on chartered flights under

limited conditions would be in the public interest and will not adversely affect safety. Weapons may only be carried aboard flights in which the cabin load of the aircraft is under exclusive use of military forces of the United States Government. A precaution is added that unit commanders or officers in charge of the air movements shall notify the certificate holder prior to the boarding and that all weapons taken aboard are not loaded and that all bolts to firearms are locked in the open position. In situations in which representatives of the certificate holder are not available, notification may be made to the pilot.

In addition to addressing the matters presented by DOD, this amendment clarifies the intent of § 121.585(b). It has always been the intent of § 121.585 that a firearm is considered loaded if ammunition is in a magazine, clip, or cylinder attached to the weapon. There are apparently some members of the public who do not interpret "loaded" to include ammunition in a magazine or clip inserted into the weapon.

Accordingly, to ensure that the intent of § 121.585(b) is clear, it is amended to include a definition of "loaded."

Need For Immediate Adoption

Since these amendments are only clarifying in nature and establish provisions necessary for the DOD to support contingency operations and are in the national interest, the FAA has concluded that good cause exists for this amendment and that notice and public procedure are unnecessary and contrary to the public interest and that these amendments may be made effective without notice. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and shall be submitted in duplicate to the address specified above. All communications received on or before the date for comments specified above will be considered by the Administrator and the amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment, shall submit with those comments, a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 19652". The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, § 121.585 (14 CFR 121.585) is amended effective March 31, 1980 by amending paragraph (b) by adding a new sentence and by adding a new paragraph (e) to read as follows:

§ 121.585 Carriage of weapons.

* * * * *

(b) * * * For the purpose of this section, a loaded firearm means a firearm which has a live round of ammunition, cartridge, detonator or powder in the chamber or in a clip, magazine, or cylinder inserted in such firearm.

* * * * *

(e) Except for paragraphs (b) and (d), § 121.585 does not apply to the carriage of weapons aboard air carrier flights conducted for the military forces of the Government of the United States when the total cabin load of the airplane is under exclusive use by those military forces if the following conditions are met:

(1) No firearm is loaded and all bolts to such firearms are locked in the open position; and

(2) The certificate holder is notified by the unit commander or officer in charge of the charter prior to boarding that weapons will be carried aboard the aircraft.

(Secs. 313(a), 316, 601, 1005, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1357, 1421, and 1485); and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979), and that, since it is clarifying in nature and imposes no additional burden on any person, the anticipated impact is so minimal that an evaluation is not required.

Issued in Washington, D.C. on February 20, 1980.

Langhorne Bond,
Administrator.

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