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# **federal register**

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## **Part II**

### **Department of Transportation**

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**Federal Aviation Administration**

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**Operations Review Program Amendment  
No. 9**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 65, 91, and 121

[Docket No. 18241; Amdt. Nos. 65-26; 91-165; and 121-162]

Operations Review Program:  
Amendment No. 9

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments update and improve certain requirements applicable to general operations and flight, to airmen other than flight crewmembers, and to domestic, flag, and supplemental air carriers and commercial operators of large aircraft. These amendments are part of the Operations Review Program and are based on a compilation of proposals discussed at the Operations Review Conference.

**EFFECTIVE DATE:** September 9, 1980. Compliance dates for certain provisions are different from the effective date.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Norman C. Miller, Regulatory Review Branch, AVS-22, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 755-8714.

**SUPPLEMENTARY INFORMATION:****History**

This amendment is issued as part of the Operations Review Program. The following amendments have previously been issued as part of this program:

**Title and Federal Register (FR) Citation**

Amendment No. 1: Clarifying and Editorial Changes (41 FR 47227; October 28, 1976).

Amendment No. 2: Rotorcraft External-Load Operations (42 FR 24196; May 12, 1977 and 42 FR 32531; June 27, 1977).

Amendment No. 2A: Special Federal Aviation Regulation No. 36, Development of Major Repair Data (43 FR 3084; January 23, 1978).

Amendment No. 3: Airspace, Air Traffic, and General Operating Rules (44 FR 15654; March 15, 1979).

Amendment No. 4: Miscellaneous Amendments (43 FR 22636; May 25, 1978).

Amendment No. 5: Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft (43 FR 22643; May 25, 1978, 43 FR 28403; June 29, 1978, and 44 FR 25201; April 30, 1979).

Amendment No. 6: General Operating and Flight Rules and Related Airworthiness Standards and Crewmember Training (43 FR 46230; October 5, 1978).

Amendment No. 10: Airworthiness, Equipment, and Operating Rules (44 FR 61323; October 25, 1979).

These amendments are based on Notice of Proposed Rule Making 78-11 published in the Federal Register on August 17, 1978 (43 FR 36464). Interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review by the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below, these amendments and reasons for their adoption are the same as those contained in Notice 78-11.

**Discussion of Comments**

The following discussions are keyed to the like-numbered proposals contained in Notice 78-11.

**Proposals 9-1 and 9-2.** These proposals would allow applicants for a flight engineer certificate, or for an additional class rating on an existing certificate, to complete the flight portion of the practical test and to gain operational experience in an approved simulator for the type of aircraft on which the applicant would serve. The comments received reflected may inconsistencies in these proposals, such as: (1) Whether the Flight Engineer Certificate would be issued after the practical test or after completion of the operating experience; (2) that there were no guidelines established for an approved simulator under Part 63; (3) that there were no qualifications specified for the position of a "check flight engineer"; and (4) that § 121.434 requires initial operating experience to be obtained on an airplane and has not been amended to allow such experience to be gained in a simulator. Therefore, § 121.434 is incompatible with § 63.40. Correction of these inconsistencies would result in what is, in effect, a new rule upon which the public has not had the opportunity to comment. These proposals are withdrawn for further study.

**Proposal 9-3.** This proposal would exempt an applicant for a flight engineer certificate, employed by a Part 121 certificate holder, from the 10-hour flight training requirement in Appendix C of Part 63 if that applicant successfully completes an approved training program and is recommended by an instructor.

Paragraph (a)(3)(iv)(b) of Appendix C of Part 63 already allows an applicant, who holds at least a commercial pilot

certificate with an instrument rating, to substitute training received in either a training device or simulator for up to all of the required 10 hours of airplane time. A Part 121 certificate holder can take advantage of the reduced flight time provisions by applying for such a course under the provisions of § 63.43. The FAA considers the requirements of Appendix C of Part 63 to be the minimum training required for a flight engineer certificate.

After comprehensive review of the proposal and all comments, and recognition of the relative ease by which a Part 121 certificate holder can obtain a Part 63 flight engineer training course and the FAA policy to simplify and streamline regulations, further relief is unnecessary and the proposal is withdrawn.

**Proposal 9-4.** All comments favor the deletion of § 65.15a, which allows the reissuance of certificates without expiration dates to persons who are not U.S. citizens, and it is deleted and reserved.

**Proposal 9-5.** All commenters favor the change to § 65.81, "General privileges and limitations," which adds the words "preventive maintenance" to this section to make it consistent with § 43.3 which authorizes persons to perform maintenance, preventive maintenance, rebuilding and alterations, and it is adopted without substantive change. This extends the present privileges and limitations for maintenance, rebuilding, and alterations to preventive maintenance and § 65.81 is adopted without substantive change.

**Proposal 9-6.** A majority of commenters favor adoption of § 65.93 which provides additional qualifying activities for renewal of inspection authorization (IA) including recurrent training. Several commenters recommend that performance of inspections under § 91.217 be included as an additional qualifying activity for IA renewal. A certificated mechanic may perform inspections under § 91.217, but they are not inspections that must be performed only by a person holding an IA. The eligibility for renewal of an IA should not be determined on the basis of § 91.217 inspections but should be based on those inspections which only an IA may do.

One commenter suggests that the person holding an IA should present a list of the aircraft that person inspected during the previous year as evidence of that person's activity. Section 65.93 does not require a list. This requirement would impose additional and unnecessary recording requirements on the IA applicant.

Accordingly, § 65.93 is adopted without substantive change.

*Proposal 9-7.* All commenters favor § 65.103 which: (1) Extends to certificated repairmen the privileges of performing preventive maintenance or alterations already authorized under § 43.3(a); (2) replaces the phrase "maintenance manual" in § 65.103(b) with the phrase "instructions for continued airworthiness" for consistency with the concept of continued airworthiness used throughout the FAR (Parts 43, 121, 127 and 135) and because instructions may exist in documents other than maintenance manuals; and (3) replaces the phrase "repair station, commercial operator, or air carrier" with the phrase "certificate holder" since all of the listed organizations are certificate holders. Section 65.103 is adopted without substantive change.

*Proposals 9-8 and 9-9.* Sections 121.97 and 121.117 would require the certificate holders to establish and maintain an approved system to obtain, disseminate and use, on a continuous basis, current aeronautical data for each airport the holders serve. One commenter objects to requiring airport data stating it is unnecessary, unrealistic, should be withdrawn, and that many of the requirements are not clearly stated. Another commenter states that the sections duplicate information now provided for FAA airport certification. A third commenter states that the requirement for an approved system involves the decision of a principal operations inspector, who has little or no guidance on which to base the approval.

The FAA has determined that expansion of the present rules to describe the airport data and provide an approved system for its collection and dissemination is necessary. Present rules do not adequately describe the airport data which the air carrier must have available. In addition, National Transportation Safety Board (NTSB) Report 72-17 (Pan American World Airways Boeing 747, San Francisco, CA; July 30, 1971) states that "irregularities involving the collection and dissemination of airport information" cause the air carrier operational control systems to be ineffective.

No comments were received on the proposed 1-year compliance date. Under the requirements of §§ 121.97 and 121.117, each certificate holder must have an approved system for obtaining, maintaining, and distributing the current aeronautical data specified in §§ 121.97(b) and 121.117(b). The FAA estimates that, depending on the size and complexity of each certificate holder's operation, it will take

approximately 6 months to gather the required information and another 6 months to design, establish, and gain approval of such a comprehensive system. Accordingly, §§ 121.97 and 121.117 take effect 1 year after the effective date of these amendments. Although these sections may duplicate some information required for airport certification under Part 139, a comprehensive system ensures that the air carrier has adequate airport and other data available for safe operation. To provide guidance for the principal operations inspectors and the public in obtaining approval of this system, an advisory circular will be used. After considering the comments, §§ 121.97 and 121.117 are adopted without substantive change.

*Proposal 9-10.* This proposal would require all Part 121 certificate holders to provide guidance in their operations manuals to enable their flight and ground operations personnel to recognize and handle packages containing hazardous materials. One commenter objects to § 121.135(b)(23) stating it is unnecessary, unrealistic, and should be withdrawn. The commenter argues that training programs now exist for air carriers that carry hazardous material and to require training for those operators not engaged in the carriage of that cargo is a waste of time. The rule requires that Part 121 certificate holders who do not carry hazardous materials have procedures and instructions of sufficient detail to ensure that their employees can recognize shipments of these materials and refuse to accept them. This reduces the possibility of the carrier inadvertently carrying them. No comments were received on the proposed 90-day compliance date. Ninety days allow adequate time for the operator to include these procedures and instructions in their operations manuals. Accordingly, § 121.135(b)(3) is adopted without substantive change.

*Proposal 9-11.* All commenters support § 121.137. This proposal requires each person to whom a manual or appropriate parts of it are furnished, to have it accessible when performing assigned duties. One commenter wants the words "each person" changed to "each crewmember" and wants to require the crewmember to carry or have the manual or appropriate parts available for other persons to use. The manual contains company procedures and guidance for both crewmembers and ground personnel. The rule does not restrict its use to crewmembers. The manual must be accessible to every person when performing assigned

duties. Accordingly, § 121.137 is adopted without substantive change.

*Proposal 9-12.* All comments support § 121.161(a) to require certificate holders to comply with the same route and airport restrictions for passenger and cargo operations. Section 121.161(a) is adopted without substantive change.

*Proposal 9-13.* All comments support § 121.163 that allows a reduction of proving tests if a satisfactory level of proficiency is demonstrated. Section 121.163 is adopted without substantive change.

#### Amendment to § 91.33

Amendment No. 91-154 (43 FR 46230; October 5, 1978) amended § 91.33 to require that after December 4, 1980, each safety belt in an aircraft must be equipped with an approved metal to metal latching device. As discussed in the preamble to that amendment, the FAA intended to allow 3 years to install the metal to metal latching devices. However, the compliance period was inadvertently set at 2 years. This amendment corrects the discrepancy by setting a 3-year compliance period. Since this amendment is relaxatory and clarifying in nature and does not impose a burden on the public, I find that notice and public procedure are unnecessary and that good cause exists for adopting this amendment.

#### Amendment to § 121.220

Amendment No. 121-154 (45 FR 3880; January 21, 1980) incorently designated the cabin ozone concentration requirements as § 121.220, placing them in Subpart J, Special Airworthiness Requirements. The proper location for this requirement is in Subpart T, Flight Operations, since it is an operational requirement. Accordingly § 121.220 is redesignated as § 121.578.

#### Adoption of the Amendments

Accordingly, Parts 65, 91, and 121 of the Federal Aviation Regulations (14 CFR Parts 65, 91, and 121) are amended as follows, effective September 9, 1980.

#### PARTS 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

##### § 65.15a [Amended]

1. By deleting § 65.15a and marking it "[Reserved]".

##### § 65.81 [Amended]

2. By amending § 65.81 by inserting the phrase ", preventive maintenance," after the word "maintenance" in § 65.81(a).

3. By revising § 65.93 to read as follows:

**§ 65.93 Inspection authorization: Renewal.**

(a) To be eligible for renewal of an inspection authorization for a 1-year period an applicant must present evidence annually, during the month of March, at an FAA General Aviation District Office, a Flight Standards District Office, or an International Field Office that the applicant still meets the requirements of § 65.91(c) (1) through (4) and must show that, during the current period that the applicant held the inspection authorization, the applicant—

(1) Has performed at least one annual inspection for each 90 days that the applicant held the current authority; or

(2) Has performed inspections of at least two major repairs or major alterations for each 90 days that the applicant held the current authority; or

(3) Has performed or supervised and approved at least one progressive inspection in accordance with standards prescribed by the Administrator; or

(4) Has attended and successfully completed a refresher course, acceptable to the Administrator, of not less than 8 hours of instruction during the 12-month period preceding the application for renewal; or

(5) Has passed on oral test by an FAA inspector to determine that the applicant's knowledge of applicable regulations and standards is current.

(b) The holder of an inspection authorization that has been in effect for less than 90 days before the expiration date need not comply with paragraphs (a) (1) through (5) of this section.

4. By revising § 65.103 to read as follows:

**§ 65.103 Repairman certificate: Privileges and limitations.**

(a) A certificated repairman may perform or supervise the maintenance, preventive maintenance, or alteration of aircraft or aircraft components appropriate to the job for which the repairman was employed and certificated, but only in connection with duties for the certificate holder by whom the repairman was employed and recommended.

(b) A certificated repairman may not perform or supervise duties under the repairman certificate unless the repairman understands the current instructions of the certificate holder by whom the repairman is employed and the manufacturer's instructions for continued airworthiness relating to the specific operations concerned.

**PART 91—GENERAL OPERATING AND FLIGHT RULES****§ 91.33 [Amended]**

5. By amending § 91.33 by deleting the numerals "1980" and substituting the numerals "1981" in paragraph (b)(12).

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

6. By amending § 121.97 by revising the heading, designating the current paragraph as paragraph (a), and adding new paragraphs (b) and (c) to read as follows:

**§ 121.97 Airports: Required data.**

(a) \* \* \*

(b) After September 9, 1981, each domestic and flag air carrier must show that it has an approved system for obtaining, maintaining, and distributing to appropriate personnel current aeronautical data for each airport it uses to ensure a safe operation at that airport. The aeronautical data must include the following:

- (1) Airports.
  - (i) Facilities.
  - (ii) Public protection.
  - (iii) Navigational and communications aids.
  - (iv) Construction affecting takeoff, landing, or ground operations.
  - (v) Air traffic facilities.
- (2) Runways, clearways and stopways.
  - (i) Dimensions.
  - (ii) Surface.
  - (iii) Marking and lighting systems.
  - (iv) Elevation and gradient.
- (3) Displaced thresholds.
  - (i) Location.
  - (ii) Dimensions.
  - (iii) Takeoff or landing or both.
- (4) Obstacles.
  - (i) Those affecting takeoff and landing performance computations in accordance with Subpart I of this part.
  - (ii) Controlling obstacles.
- (5) Instrument flight procedures.
  - (i) Departure procedure.
  - (ii) Approach procedure.
  - (iii) Missed approach procedure.
- (6) Special information.
  - (i) Runway visual range measurement equipment.
  - (ii) Prevailing winds under low visibility conditions.

(c) If the Flight Standards District Office charged with the overall inspection of the certificate holder's operations finds that revisions are necessary for the continued adequacy of the certificate holder's system for

collection, dissemination, and usage of aeronautical data that has been granted approval, the certificate holder shall, after notification by the Flight Standards District Office, make those revisions in the system. Within 30 days after the certificate holder receives such notice, the certificate holder may file a petition to reconsider the notice with the Director of Flight Operations. This filing of a petition to reconsider stays the notice pending a decision by the Director of Flight Operations. However, if the Flight Standards District Office finds that there is an emergency that requires immediate action in the interest of safety in air transportation, the Director of Flight Operations may, upon statement of the reasons, require a change effective without stay.

7. By amending § 121.117 by revising the heading, designating the current paragraph as paragraph (a), and adding new paragraphs (b) and (c) to read as follows:

**§ 121.117 Airports: Required data.**

(a) \* \* \*

(b) After September 9, 1981, each supplemental air carrier and commercial operator must show that it has an approved system for obtaining, maintaining, and distributing to appropriate personnel current aeronautical data for each airport it uses to ensure a safe operation at that airport. The aeronautical data must include the following:

- (1) Airports.
  - (i) Facilities.
  - (ii) Public protection.
  - (iii) Navigational and communications aids.
  - (iv) Construction affecting takeoff, landing, or ground operations.
  - (v) Air traffic facilities.
- (2) Runways, clearways, and stopways.
  - (i) Dimensions.
  - (ii) Surface.
  - (iii) Marking and lighting systems.
  - (iv) Elevation and gradient.
- (3) Displaced thresholds.
  - (i) Location.
  - (ii) Dimensions.
  - (iii) Takeoff or landing or both.
- (4) Obstacles.
  - (i) Those affecting takeoff and landing performance computations in accordance with Subpart I of this part.
  - (ii) Controlling obstacles.
- (5) Instrument flight procedures.
  - (i) Departure procedure.
  - (ii) Approach procedure.
  - (iii) Missed approach procedure.
- (6) Special information.
  - (i) Runway visual range measurement equipment.

(ii) Prevailing winds under low visibility conditions.

(c) If the Flight Standards District Office charged with the overall inspection of the certificate holder's operations finds that revisions are necessary for the continued adequacy of the certificate holder's system for collection, dissemination, and usage of aeronautical data that has been granted approval, the certificate holder shall, after notification by the Flight Standards District Office, make those revisions in the system. Within 30 days after the certificate holder receives such notice, the certificate holder may file a petition to reconsider the notice with the Director of Flight Operations. This filing of a petition to reconsider stays the notice pending a decision by the Director of Flight Operations. However, if the Flight Standards District Office finds that there is an emergency that requires immediate action in the interest of safety in air transportation, the Director of Flight Operations may, upon a statement of the reasons, require a change effective without stay.

8. By revising § 121.135(b)(23) to read as follows:

**§ 121.135 Contents.**

\* \* \*

(B) \* \* \*

(23) After December 9, 1980, procedures and information to assist personnel to identify packages marked or labeled as containing hazardous materials and, if these materials are to be carried, stored, or handled, procedures and instructions relating to the carriage, storage, or handling of hazardous materials, including the following:

(i) Procedures for determining the proper shipper certification required by 49 CFR Subchapter C, proper packaging, marking, labeling, shipping documents, compatibility of materials, and instructions on the loading, storage, and handling.

(ii) Notification procedures for reporting hazardous material incidents as required by 49 CFR Subchapter C.

(iii) Instructions and procedures for the notification of the pilot in command when there are hazardous materials aboard, as required by 49 CFR Subchapter C.

\* \* \*

9. By revising the heading of § 121.137 and revising § 121.137(b) to read as follows:

**§ 121.137 Distribution and availability.**

\* \* \*

(b) Each person to whom a manual or appropriate parts of it are furnished under paragraph (a) of this section shall

keep it up-to-date with the changes and additions furnished to that person and shall have the manual or appropriate parts of it accessible when performing assigned duties.

\* \* \*

10. By revising § 121.161(a) to read as follows:

**§ 121.161 Airplane limitations: Type of route.**

(a) Unless authorized by the Administrator, based on the character of the terrain, the kind of operation, or the performance of the airplane to be used, no certificate holder may operate two-engine or three-engine airplanes (except a three-engine turbine powered airplane) over a route that contains a point farther than 1 hour flying time (in still air at normal cruising speed with one engine inoperative) from an adequate airport.

\* \* \*

11. By revising § 121.163(a) to read as follows:

**§ 121.163 Aircraft proving tests.**

(a) No domestic or flag air carrier may operate an aircraft not before proven for use in scheduled air carrier operations, and no supplemental air carrier or commercial operator may operate an aircraft not before proven for use in air carrier or commercial operator operations; unless an aircraft of that type has had, in addition to the aircraft certification tests, at least 100 hours of proving tests acceptable to the Administrator, including a representative number of flights into en route airports. The requirement for at least 100 hours of proving tests may be reduced by the Administrator if the Administrator determines that a satisfactory level of proficiency has been demonstrated to justify the reduction. At least 10 hours of proving tests must be flown at night.

\* \* \*

**§ 121.220 [Redesignated].**

12. By redesignating § 121.220 as § 121.578.

(Secs. 313, 314, 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

**Note.**—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the person and address listed under "For Further Information Contact."

Issued in Washington, D.C., on July 1, 1980.

Langhorne Bond,  
Administrator.

[FR Doc. 80-20474 Filed 7-9-80; 8:45 am]

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