

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Admin- istration, Department of Transpor- tation

SUBCHAPTER G—AIR CARRIER AND COMMERCIAL OPERATOR CERTIFICATION AND OP- ERATIONS

[Docket No. 7654; Amdts. 121-42, 127-8]

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

PART 127—CERTIFICATION AND OP- ERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

Aircraft Proving Tests

The purpose of these amendments is to eliminate the requirement that aircraft proving tests be conducted by Part 121 and 127 certificate holders over "authorized routes," and to except aircraft proving tests from the deviation authority contained in § 127.17(b).

A notice of proposed rule making was published in the FEDERAL REGISTER on October 25, 1967 (32 F.R. 14777), containing proposed amendments to Parts 121 and 127. The notice was issued in response to the petition of the Airline Transport Association of America (ATA) for amendment of § 121.163 by deleting the requirement for conduct of proving tests over "authorized routes" and by deleting the further requirement that such tests be conducted under the supervision of the Administrator. While the ATA petition related only to § 121.163, the FAA felt that the proving test requirements for helicopters under Part 127 involved the same considerations and should be identical with the requirements for airplanes. For that reason, amendments to §§ 127.17(b) and 127.73 were also proposed in the notice.

Interested persons were afforded an opportunity to participate in the rule making through submission of written comments. Due consideration has been given to all relevant matter presented.

The Air Transport Association of America and the Airline Pilots Association commented on the notice of proposed rule making. The ATA, while commenting favorably on the elimination of the requirement that proving tests be conducted over authorized routes, re-

stated its objection to the requirement that the tests be conducted under the supervision of the Administrator. It further objected to the possibility that the phrase "representative number of flights into en route airports, as approved by the Administrator," might be subject to differences in understanding, and result in the certificate holder being required to fly a greater number of hours than presently required, over greater distances, and over routes where operations are not initially planned.

On behalf of helicopter operators, the ATA suggested that since helicopter operations by a certificate holder are typically conducted over short route segments and at a limited number of stations, accomplishment of proving tests for helicopters should be based on a limited number of entries into a station rather than on time, and that the deviation authority provided for in § 127.17(b) should therefore remain unchanged.

The Airline Pilots Association (ALPA) supported the proposed amendments insofar as they provide for elimination of the requirement for conducting proving tests over authorized routes and require that flights into a representative number of en route airports be made with helicopters as well as airplanes. It comments, however, that proving tests ought to be conducted under the most realistic of operational conditions during which day-to-day problems such as servicing, ground operation, approach and departure, runway lengths, takeoff and landing weights, etc., as they relate to new equipment, can be evaluated. The ALPA further objected to the suggestion contained in the notice that flight training, publicity and advertising activities, and delivery flights might be combined with proving test activities and unduly interfere with the primary purpose of proving the aircraft.

With respect to the objection by the ATA that the requirement for conducting proving tests under the "supervision" of the Administrator was retained in the notice, it is the FAA's belief that evaluation of the combined performance and functioning of the aircraft, airman, and the certificate holder in day-to-day operational situations prior to entering into regular service is essential to flight safety. This is the Administrator's single opportunity to make the necessary preliminary determination that the certificate holder can operate the new equipment with the high standard of safety required by the Federal Aviation Act. However, on reconsideration, the word "observation" has been substituted for the word "supervision" in all places

where it appeared in the rule, since the FAA's function and purpose in this instance is not to supervise or direct, but rather to observe and evaluate. In this sense, it is essential that a representative of the Administrator be in the aircraft to make the observation and evaluation.

With respect to the objection that the requirement for "a representative number of flights into en route airports as determined by the Administrator" may result in difficulties resulting from differences in interpretation, it should be noted that this provision will allow for some flexibility in planning and conducting the aircraft proving program, depending upon circumstances which may be peculiar to individual test programs, and that Regional personnel will be guided in the exercise of this discretion by FAA policy materials furnished to them. It is anticipated that this element of flexibility will result in more efficient and effective aircraft proving tests.

As previously indicated, the ATA expressed the view that proving tests for helicopters should be based on entries into a limited number of heliports rather than on the accumulation of a specified amount of flight time, by reason of their operation over typically short route segments, and that the provision for deviations now contained in § 127.17(b) should be retained to allow for this difference. The ALPA, on the other hand, commented that helicopters should make proving flights into all authorized en route airports. We do not completely agree with the views expressed by either the ATA or the ALPA. In the opinion of the FAA, an adequate measure of flexibility in the conduct of proving tests is afforded by allowing for the representative selection of airports. In addition, retention of the uniform time requirement for helicopters and airplanes is a judgment made in the interest of safety and based on experience gained in helicopter operations. Furthermore, the recognized differences between helicopter and airplane operations are not considered so significant as to allow for abbreviation of the minimum hours of proving tests required for helicopters.

The ALPA expressed concern that training flights, publicity activities, and delivery flights conducted in conjunction with proving flights might unduly interfere with the tests. In this regard, it should be pointed out that, while the rule does not prohibit such activities, to the extent that these activities were more than ancillary to the proving test, or actually interfered with the primary purpose of proving that the aircraft can be operated safely under operational con-

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ditions and situations, the flight could not be considered as a proving test.

In consideration of the foregoing, Parts 121 and 127 of the Federal Aviation Regulations are amended effective August 18, 1968, as follows:

1. By amending paragraphs (a) and (b) of § 121.163 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 under the Administrator's observation, including a representative number of flights into en route airports, as determined by the Administrator. At least 10 hours of the proving tests must be flown at night.

(b) A certificate holder may not operate an aircraft of a type that has been proven for use in its class of operation if it has not previously proved that type, or if that aircraft has been materially altered in design, unless—

- (1) The aircraft has been tested for

at least 50 hours under the Administrator's observation, including a representative number of flights into en route airports as determined by the Administrator; or

- (2) The Administrator specifically authorizes deviations when special circumstances make full compliance with this paragraph unnecessary in a particular case.

§ 127.17 [Amended]

2. By amending § 127.17(b) by inserting the parenthetical phrase "(except § 127.73)" after the word "part" and before the phrase "for a particular operation";

3. By amending § 127.73 to read as follows:

§ 127.73 Proving tests.

(a) No air carrier may operate a helicopter not before proven for use in air carrier operations, unless a helicopter of that type has had, in addition to the helicopter certification tests, at least 100 hours of proving tests under the Administrator's observation, including a representative number of flights into en route heliports as determined by the Administrator. At least 10 hours of the

proving tests must be flown at night, if night operations are authorized.

(b) An air carrier may not operate a helicopter of a type that has been proven in commercial or extensive military service, if it has not previously used that type, or if that helicopter has been materially altered in design, unless—

- (1) The helicopter has been tested for at least 50 hours under the Administrator's observation, including a representative number of flights into en route heliports as determined by the Administrator; or

(2) The Administrator specifically authorizes deviations when special circumstances make full compliance in a particular case.

(c) No air carrier may carry passengers in a helicopter during proving tests, except for those needed to make the test and those designated by the Administrator. However, it may carry mail, express, or other cargo, when approved.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on July 12, 1968.

D. D. THOMAS,
Acting Administrator.