

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Adminis- tration, Department of Transportation

[Docket No. 8041; Amdts. 91-70, 121-54, 127-
13, 135-12]

ADDITIONAL OPERATING RULES AP- PLICABLE TO OPERATIONS FOR COMPENSATION OR HIRE WITH SMALL AIRCRAFT

The purpose of these amendments to Parts 91, 121, 127, and 135 of the Federal Aviation Regulations is to establish certain additional operating requirements for air taxi and commercial operators conducting operations with small aircraft under Part 135, and to require that persons holding certificates issued under Parts 121 and 127 conducting operations with small airplanes conduct those operations in accordance with Part 135.

These amendments are based on a notice of proposed rule making issued as Notice 69-4 and published in the FEDERAL REGISTER on January 30, 1969 (34 F.R. 1443).

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

Numerous comments were received in response to the notice. Based upon these comments and upon review within the FAA, a number of changes have been made to the proposed rule. Many of these changes involve rewording and reorganization for clarity and consistency. The final amendments, pertinent comments, and the more significant changes from the notice are discussed in the order in which they were proposed in the notice.

Operation of small airplanes and helicopters by Parts 121 and 127 certificate holders. This amendment provides for temporary continued effectiveness of existing operations specifications authorizing persons holding certificates issued under Parts 121 and 127 to conduct operations in small aircraft under Part 135 until new operations specifications are issued. Specifically, it will be noted that operations specifications authority to operate small aircraft under Part 135 expires on May 31, 1970, unless the certificate holder applies before that date for

new specifications authority.

The notice proposed to apply § 121.9 only to small airplanes, thereby removing small helicopters from its coverage. It is the intent of this amendment to require persons holding certificates issued under Part 121 or 127 to operate small helicopters in accordance with § 121.13 or Part 127, as appropriate, unless the Administrator finds that safety in air transportation and the public interest allow the operation of small helicopters under Part 135 in a particular case. Accordingly, § 121.13 has been changed by adding a new paragraph (d), that provides for operating small helicopters under Part 135, in accordance with appropriate operations specifications authority, if the Administrator finds that safety in air transportation and the public interest allow it.

Section 121.27 presently contains a provision for the issuance of deviations from the rules of Part 121 applicable to operations conducted by domestic air carriers in small airplanes. This amendment deletes that provision, since under the rules adopted herein, all domestic air carrier operations in small airplanes will be required to be conducted under the provisions of Part 135.

Applicability of Part 135. The notice proposed to broaden the applicability of Part 135 to accommodate certificate holders under Parts 121 and 127 operating small airplanes. However, such an amendment to the applicability provisions of Part 135 is unnecessary, since the applicability of the operating rules in Part 135 to Parts 121 and 127 certificate holders operating small aircraft is provided for in Part 121 by §§ 121.9 and 121.13, and in Part 127 by § 127.5, as amended herein.

Duration of ATCO certificate. Under this amendment, each ATCO certificate in effect immediately prior to the effective date of the amendment expires on May 31, 1970, unless the holder thereof applies for a new certificate and operations specifications before the expiration date. The amendment permits the certificate holder to continue operations, under the operations specifications and rules of Part 135 in effect immediately prior to the effective date of the amendment, until May 31, 1970, or if application for a new certificate is made, until a new certificate and operations specifications are issued or the application is denied.

(As published in the Federal Register /34 F.R. 19130/ on December 3, 1969)

Contents of operations specifications. The notice proposed to amend § 135.13 (b) (2) to broaden the contents of the operations specifications to include a list of the types of instrument approach procedures authorized and a list of aircraft required to be inspected in accordance with an approved aircraft inspection program. The proposed listing of instrument approach procedures has not been adopted. The FAA agrees with comments pointing out that the authorization of types of procedures is meaningful only if related to specific aircraft or pilots. It should be noted that § 135.131 requires a demonstration of those instrument approach procedures which the pilot is authorized to conduct.

The proposed listing of aircraft to be inspected in accordance with an approved aircraft inspection program is clarified by requiring those aircraft to be listed by registration number.

The proposed amendment to § 135.15 contained a statement that an air carrier or commercial operator holding a certificate under Part 121 or 127 is not eligible for a certificate under Part 135. Although an air carrier certificated under Part 121 or 127 may conduct operations in small airplanes in accordance with the rules of Part 135, it is excluded from the classification of air carriers designated as "air taxi operators" by the rules of the Civil Aeronautics Board (CAB) and, therefore, is not eligible to hold an ATCO certificate. In view of the fact that it is the rules of the CAB that make an air carrier ineligible for an ATCO certificate, the proposed statement of ineligibility with respect to persons holding air carrier certificates is considered unnecessary and is, therefore, not adopted in this amendment.

However, with respect to persons holding commercial operator operating certificates issued under Part 121, this amendment retains an eligibility requirement. In the past, the FAA has found that only on rare occasions or in special circumstances can an applicant show that his contract business conducted under Part 121 in large aircraft would not result directly or indirectly from his holding out as a common carrier in his air taxi operations. As amended, § 135.15 requires that a person holding a commercial operator operating certificate issued under Part 121 must, in order to obtain an ATCO certificate, show that his proposed operations will not result in common carriage operations conducted with large aircraft operated under Part 121. Of course, he may conduct commercial operations in small airplanes, as provided by § 121.9, by obtaining appropriate operations specifications authority.

Notification of establishment or change of location of business office or operations base. As amended, § 135.41 has been changed from the notice to allow operations from temporary operations bases without notifying the District Office. The notification requirement is not intended to apply to operators who establish a temporary operating base until a construction job is completed within operating range and then move

on to another temporary operations base or return to their home base. However, such operators must give notification before changing the location of any business office.

Briefing of passengers. In response to numerous comments, the method of briefing passengers before flight has been changed from the oral briefing proposed in the notice to allow other kinds of briefing such as printed cards and to avoid unnecessary repetition of an oral briefing before each flight when the same passengers are carried on several flights in the same aircraft on the same day. As adopted § 135.81 requires the pilot to insure that each passenger is familiar with the briefing information before takeoff.

Limitations for operations in icing conditions. Section 135.85(d) (3) has been changed from the notice to include airplanes certificated in accordance with Special Federal Aviation Regulation No. 23 in the list of airplanes in paragraph (d) of that section.

Some comments contended that proposed paragraph (e) of § 135.85 would allow a pilot to ignore forecast icing conditions; other comments recommended deleting the prohibitions against flying into forecast icing conditions. The amendment is intended to allow for changing weather conditions that obsolete a forecast before the next forecast is issued. The proposal as adopted herein has been revised for purposes of clarification.

Pilot in command qualifications. The proposal that pilots operating VFR must have a minimum of 500 hours of flight experience and hold an instrument rating received the greatest number of comments in response to the notice. It appears that a substantial number of air taxi pilots do not hold instrument ratings and the adoption of the proposed instrument rating requirement would create an unnecessary burden on air taxi operators that is not supported by past operating experience. An examination of records of accidents involving aircraft operated by ATCO certificate holders reveals that of 11 fatal accidents involving VFR flights into instrument conditions during an 18-month period, nine of the pilots held instrument ratings and during that period no pilots with less than 500 hours had any fatal accidents in ATCO operations. On the basis of this review of the accident statistics, the FAA has determined to make no change in the present pilot qualification requirements for day or night VFR flight. As proposed in the notice and as adopted herein, these requirements apply to all flights regardless of whether or not passengers are carried.

Pilot in command qualifications: IFR flight. Section 135.125, as adopted herein, contains the pilot in command qualifications for IFR flight proposed in § 135.121(a) of the notice.

Deletion of § 135.129. Section 135.129 is deleted as proposed in the notice.

Manual requirements. Section No. 135.27 is assigned to Item 15 of the notice. Section 135.27 is changed to provide au-

thority for granting a deviation from the manual requirement where the operation is so small that a manual is not a necessary management device for the orderly and safe conduct of operations. In addition to the single-pilot-owner operation, some organizations may have no need for all or part of the manual because of the limited size and kind of their operations.

Section 135.27(b) (13) requires that those certificate holders who have a manual and an approved inspection program include the program in the manual.

Recordkeeping and administrative controls. Section No. 135.43 is amended to include Item 16 of the notice. The load manifest requirement is changed from the notice to apply only to multiengine aircraft for which a crew of two pilots is required for all Part 135 operations. This would include aircraft with a passenger configuration for more than nine passengers and aircraft that are required to have a crew of two pilots by their operating limitations. Weight and balance procedures for aircraft other than those to which § 135.43(c) applies are covered in the manual, when a manual is required, and the training program.

The information required to be contained in the load manifest concerning the weight and balance of the loaded aircraft is changed from the notice to simplify the manifest and the retention period for the manifest is changed from the proposed 3 months to 30 days.

Training of employed certificated mechanics. Item 17 of the notice is not adopted. The purpose of the proposal in Item 17 was to insure that no certificate holder uses the services of any person for supervision or approval of maintenance of alterations who has not satisfactorily performed the work concerned at an earlier date. This limitation on the privileges of a certificated mechanic is currently contained in § 65.81 of Part 65 of the Federal Aviation Regulations and § 135.33 prohibits a certificate holder from using the services of any person as an airman, which includes a mechanic, unless that person is qualified under the Federal Aviation Regulations. Accordingly, adoption of proposed Item 17 is considered unnecessary.

Compliance with types of instrument approach procedures authorized. Item 18 of the notice is not adopted. As explained above, the proposal to require approval of types of instrument approach procedures in the operator's operations specifications has not been adopted. However, under § 135.138(b) as adopted herein each pilot will be required to demonstrate his ability to conduct each type of instrument approach procedure that he is authorized to use.

Flight locating requirements. Some comments suggested that flight locating requirements in Item 19 should not apply to contract operations in remote areas where flights are made from temporary bases. However, there is sufficient latitude in the provisions of paragraph (a) (3) of § 135.29 to permit compliance under those circumstances. Therefore, § 135.29, assigned to Item 19 of the notice

is adopted herein as proposed in the notice.

Aircraft proving tests. Section No. 135.32 is assigned to Item 20 of the notice. The proposal is changed: (1) To clarify what was meant by "type" in the notice; (2) to provide for deviations from the specific hours of testing required in special circumstances; (3) to make the proving test requirements inapplicable to aircraft presently operated by a certificate holder under Part 135; and (4) to explain the phrase "materially altered in design."

Landing and takeoff distance limitations. Section No. 135.113 is assigned to Item 21 of the notice and is adopted as proposed in the notice.

Alcoholic beverages. Section No. 135.115 is assigned to Item 22 of the notice. The rule as adopted herein contains the same language as that contained in Part 121 of the air carrier rules.

One comment requested that the requirement of § 91.7 that each required crewmember be at his station, with certain exceptions, be relaxed to permit the second in command to serve as a flight attendant during portions of the flight. When a two-pilot crew is required, it should function as a team, whether observing traffic in normal operations or handling emergencies. It is not in the interest of safety to have that team effort interrupted by cabin attendant duties that are not essential to the safety of the flight, such as serving food or beverages. Accordingly, § 91.7 will remain applicable to the second in command in operations under Part 135.

Carriage of cargo. Section No. 135.117 is assigned to Item 23 of the notice. Section 135.117 has been changed from the notice to allow the carriage of cargo behind passengers, but not directly above passengers. Many small airplanes have a "station wagon" configuration with no cargo bulkhead between a rear cargo area and the passenger seats. If the cargo is properly secured so as to eliminate the possibility of shifting under all normally anticipated flight and ground loads, the cargo may be carried behind the passengers. Other requirements for cargo location and security, as proposed in the notice, must also be met. These requirements apply to cargo carried aboard any aircraft, regardless of whether or not passengers are carried. The rule has been drafted to clarify the three basic ways cargo may be carried; that is, (1) in approved racks, bins, or compartments installed in the airplane; (2) in accordance with the location and security requirements specified in paragraph (c); or (3) as otherwise approved by the Administrator. The third method is intended to cover situations involving nets, bins, and other devices not installed in the airplane, but available for use in a manner approved by the Administrator.

Flight and duty time limitations. Section No. 135.136 is assigned to Item 24 of the notice. Due to the great diversity in the operations conducted under Part 135 and the attendant need for flight time limitations that will accommodate those different operations, the weekly, monthly,

and annual flight time limitations proposed in the notice are not adopted by this amendment. Instead, the daily or 24-hour duty time limitations are changed to provide: (1) That a pilot of an aircraft requiring only one pilot may not be assigned for more than 8 hours of duty during flight time in any 24 consecutive hours; (2) that a pilot of an aircraft required to have two pilots may not be assigned for more than 10 hours of duty during flight time in any 24 consecutive hours; (3) that flight crewmembers must be given at least 10 consecutive hours free from all duties in connection with operations under Part 135 during any 24-hour period; and (4) that in the event a pilot exceeds 8 hours of assigned flight time during any 24 consecutive hours, because of circumstances beyond his control such as adverse weather conditions, he must have at least 16 hours free from all duty in operations under Part 135 before he can be assigned to another flight. We believe the foregoing daily limitations will provide adequate flight time limitations. However, we intend to keep this matter under study and will conduct periodic surveillance of the industry to determine whether there is a need for further limitations.

The term "duty during flight time" has been substituted for "duty aloft" used in the notice in response to requests to clarify the meaning of "duty aloft."

Since the certificate holder may not know the extent of a pilot's other commercial flying during any 24 consecutive hours, the pilot is responsible for not accepting an assignment that would exceed the flight time limitations.

Second in command for aircraft with more than 10 occupants. Sections Nos. 135.52 and 135.53 are assigned to Item 25 of the notice. The two-pilot requirement in the notice was intended to apply to any aircraft capable of carrying 10 or more passengers and to apply whether or not passengers are carried or the seats are installed, so as to include passenger-cargo versions of aircraft capable of carrying 10 or more passengers. However, the rule as drafted in the notice did not provide a clear identity of the aircraft to which the rule would apply, since it is not clear which aircraft are capable of carrying 10 or more passengers, except when the seats are installed. As adopted, the rule requires two pilots whether or not passengers are carried if more than nine passenger seats (excluding any pilot seat) are installed.

The FAA will continue to consider, as a future rule-making action, a two-pilot requirement for airplanes based on type certificated cargo and passenger-carrying capacity rather than the seating configuration. In the meantime, the two-pilot requirement is limited to that presently in the standard operations specifications held by some ATCO certificate holders. As drafted, the rule is intended to allow the operation of an 11-seat airplane with one pilot, provided only nine passenger seats are installed and the copilot seat is not occupied by any person other than those persons authorized by the regulation.

As adopted, the two-pilot requirement applies only to airplanes and not to all aircraft as proposed. Comments pointed out correctly that insofar as the proposal applies to helicopters, it exceeds the crew requirements for scheduled air carrier helicopter operations under Part 127.

Flight attendant crewmember requirement. Section No. 135.54 is assigned to Item 26 of the notice. The proposed requirement for a flight attendant is changed in this amendment to apply to aircraft having a passenger seating capacity of 20 or more. This change is made in view of the requirement in Part 127 for a flight attendant in helicopters with a passenger capacity of more than 19 and in view of the second-in-command requirement.

Pilot and flight attendant crewmember training programs. Sections Nos. 135.55 and 135.137 are assigned to Item 27 of the notice. Section 135.55 is changed from the notice by transferring the substance of the provisions of proposed paragraphs (b), (c), and (d) to § 135.137 because they pertain, more appropriately, to pilot testing. Other changes have been made to avoid adopting redundant requirements and to clarify the contents of the training program.

The proposed requirement that the training program contain the minimum time to be spent in completion of the curriculum has not been adopted in view of the variations in air taxi operations, qualifications of pilots, and aircraft used. It is considered preferable to require only that the program be adequate to insure that each required pilot and flight attendant is adequately trained to meet the applicable knowledge and skill test requirements.

Initial and recurrent pilot testing requirements. Section No. 135.138 is assigned to Item 28 of the notice. Questions have arisen as to the standard of performance to be met in demonstrating competence in the flight tests required by § 135.138. A general standard of competence is expressed in § 61.23 of this chapter. That standard is flexible enough to apply to differences in the levels of competence expected between private and commercial pilots. In contrast to that standard, the standard in § 135.138 to be applied in the case of pilots will require the pilot to be the obvious master of the aircraft with the outcome of the maneuver never in doubt. The result is to require a higher standard of performance in testing pilots under § 135.138 than is required for the issuance of a private or commercial pilot certificate or an instrument rating under Part 61 of the chapter.

Initial and recurrent flight attendant crewmember testing requirements. Section No. 135.139 is assigned to Item 29 of the notice and is adopted as proposed.

Pilot-in-command qualifications for routes and airports. Section No. 135.122 is assigned to Item 30 of the notice. Paragraphs (a) and (b) of Item 30 are not adopted; since the substance of these paragraphs is adequately covered by the testing requirements in § 135.138.

The words "in operations under this part" have been added to paragraph (b) of § 135.122 to make it clear that the duties and responsibilities to be satisfactorily performed in the check are those of a pilot in command of an aircraft in operations under Part 135.

Emergency flotation means for over-water operation. It appears that the accident record does not support the proposed requirement in Item 31 of the notice which would involve retrofitting many of the 10,000 or more aircraft used in air taxi operations. Accordingly, the proposal is not adopted.

It will be noted that § 91.33(b)(11) applies to all operations under Part 135 and requires approved flotation gear readily available to each occupant if the aircraft is operated beyond power-off gliding distance from shore. If, for example, a take-off is made over water, the aircraft must at all times be in a position from which it can glide to the shore, all power off, maneuvering as necessary, unless flotation means are available.

Reporting of mechanical irregularities. Section No. 135.119 is assigned to Item 32 of the notice and is adopted as proposed in the notice.

Empty weight and center of gravity. Section No. 135.167 is assigned to Item 33 of the notice. The rule proposed in Item 33 of the notice has been changed by the addition of two exceptions to the requirement in § 135.167(a) that current empty weight and center of gravity calculations be calculated from values established by actual weighing of the aircraft within the preceding 3 years. One exception is made for aircraft originally certificated for airworthiness within the preceding 3 years. The other exception is for aircraft operated under a weight and balance system approved in the operations specifications of the operator.

In addition, the compliance date for § 135.167(a) has been changed to require compliance 12 months after the effective date of this amendment and application of the rule is restricted to multiengine aircraft.

Approved aircraft inspection program. Section No. 135.60 has been assigned to Item 34 of the notice.

As adopted, a certificate holder may apply for an amendment to his operations specifications to allow him to have his aircraft inspected in accordance with an approved aircraft inspection program instead of the annual, 100-hour, or progressive inspection requirements of §§ 91.169 and 91.171. An inspection program may be submitted for approval by the Administrator for any make and model aircraft if the certificate holder has the exclusive use of at least one aircraft of that make and model. A separate inspection program must be submitted and approved for each different make and model aircraft that the certificate holder desires to have inspected in accordance with an approved aircraft inspection program. Each aircraft subject to an approved aircraft inspection program is listed in the certificate holder's operations specifications and may be operated by a certificate holder or any other person without

an annual, progressive, or 100-hour inspection in any operation that would otherwise require those inspections, as long as it is inspected in accordance with the approved aircraft inspection program. Section 91.169 of Part 91 is amended to exclude from the annual and 100-hours inspection requirements small aircraft that are inspected in accordance with an approved inspection program.

Section 135.60 also sets out procedures whereby the Administrator may amend the certificate holder's operations specifications to require certain aircraft to be inspected in accordance with an approved aircraft inspection program. Such an amendment of the operations specifications is governed by § 135.19 and the certificate holder may submit written information, views, and arguments concerning the proposed amendment and may petition the Administrator for reconsideration of such an amendment. Section 135.60 also prescribes requirements for approval of an aircraft inspection program and procedures for changes in the program, including procedures for reconsideration of any change requested by the Administrator.

Inasmuch as all certificate holders are not required to have a manual, a provision has been added for an approved aircraft inspection program manual.

Mechanical reliability reports. Section No. 135.57 has been assigned to Item 35 of the notice. As adopted, § 135.57 is limited to multiengine aircraft. Provision has been made in paragraph (d) for delaying the submission of reports on aircraft operated in areas where mail is not collected.

Mechanical interruption summary report. Section No. 135.59 has been assigned to Item 36 of the notice. Section 135.59, as adopted, is limited to multiengine aircraft. This amendment does not adopt proposed paragraph (b) in Item 36, which pertained to the number of engines removed prematurely.

Check pilot authorization. Section 135.135 is amended to make it clear that a check pilot's authorizations will be specified in terms of the kinds of tests he is qualified to give.

Second in command qualification. The point has been raised by air carriers operating under Part 121 that under Part 121 a second in command is not required to hold a category, class, or type rating appropriate to the aircraft on which he serves. These carriers have suggested that category, class, and type ratings not be required of a second in command who is subject to an approved training program conducted under Part 121. This suggestion is not adopted in this amendment. The completion of an approved training program should enable the second in command to pass a test for a rating. The flight test for a type rating may be given in conjunction with the testing portion of the operator's training program to avoid the cost of an additional flight test.

Some operators use the services of a second in command pilot when they are not required to do so by the regulations. Accordingly, § 135.127 is amended to require category and class ratings only

when a second in command is required.

Autopilot: minimum altitude for use. Section 135.79(b) is amended to make it conform to the new Terminal Instrument Procedures (TERPS) terminology.

Airworthiness check. Section 135.67 is amended to include inspections under the approved inspection program. It will be noted that under § 135.27 the certificate holder must develop procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the aircraft has been approved for return to service in compliance with applicable maintenance requirements.

In consideration of the foregoing, Parts 91, 121, 127, and 135 of the Federal Aviation Regulations are amended, effective April 1, 1970; as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

§ 91.169 [Amended]

1. By revising § 91.169(c) by striking out the word "or" at the end of subparagraph (2), striking out the period at the end of subparagraph (3) and substituting "; or" in place thereof, and adding the following new subparagraph (4):

(4) Any small aircraft that is inspected in accordance with an approved aircraft inspection program under Part 135 of this chapter and is so identified, by registration number, in the operations specifications of the certificate holder having the approved inspection program.

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

2. By amending § 121.9 to read as follows:

§ 121.9 Operation of small airplanes.

(a) No person may conduct operations with small airplanes unless he conducts those operations in accordance with the rules of Part 135 of this chapter, except §§ 135.9 and 135.19 of Subpart A and §§ 135.41, 135.45, 135.47, and 135.51 of Subpart B, and appropriate operations specifications in lieu of Subparts E through V of this Part 121. However, the holder of an air carrier operating certificate issued under this part may maintain its small airplanes in accordance with a continuous airworthiness maintenance program that meets the requirements in Subpart L of this part and operations specifications issued to it under this part. Operations specifications issued under this section contain such operating limitations and requirements as the Administrator finds necessary.

(b) Operations specifications issued as authority to operate small airplanes under Part 135 of this chapter and in effect on March 31, 1970, expire on May 31, 1970, and the certificate holder may conduct the operations authorized in accordance with those operations specifications and the rules of Part 135 of this

chapter effective on March 31, 1970, until the specifications expire. However, if the certificate holder applies before May 31, 1970, for new operations specifications authority to operate small airplanes under Part 135 of this chapter, he may continue those operations until new specifications are issued to him, or until the Administrator notifies him that his application is denied.

§ 121.13 [Amended]

3. By amending § 121.13 by striking out the reference to § 121.9 in paragraph (a) and adding a new paragraph (d) to read as follows:

(d) Upon application the Administrator may issue operations specifications to a certificate holder, authorizing it to conduct operations other than scheduled operations with small helicopters under Part 135 of this chapter if he finds that safety in air commerce and the public interest allow it. Operations specifications issued under this paragraph contain such operating limitations and requirements as the Administrator finds necessary.

§ 121.27 [Amended]

4. By amending § 121.27 by striking out the words "conducted under the rules of this part applicable to domestic air carriers in small airplanes, or" in the first sentence of paragraph (b).

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

5. By adding a new § 127.5 to Part 127 to read as follows:

§ 127.5 Operation of small airplanes.

(a) No person may conduct operations with small airplanes unless he conducts those operations in accordance with Part 135 of this chapter and appropriate operations specifications. However, the holder of an air carrier operating certificate issued under this part may maintain its small airplanes in accordance with a continuous airworthiness maintenance program that meets the requirements of Subpart I of this part and operations specifications issued to it under this part. Operations specifications issued under this section contain such operating limitations and requirements as the Administrator finds necessary.

(b) Operations specifications issued as authority to operate small airplanes under Part 135 of this chapter and in effect on March 31, 1970, expire on May 31, 1970, and the certificate holder may conduct the operations authorized in accordance with those operations specifications and the rules of Part 135 of this chapter in effect on March 31, 1970, until the specifications expire. However, if the certificate holder applies before May 31, 1970, for new operations specifications authority to operate small airplanes under Part 135 of this chapter, he may continue those operations until new specifications are issued to him, or until the Administrator notifies him that his application is denied.

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

§ 135.1 [Amended]

6. By amending § 135.1 by striking out the word "and" at the end of subparagraph (2), striking out the period at the end of subparagraph (3) and substituting "and" in place thereof, and adding the following new subparagraph (4):

(4) Each person who is on board an aircraft being operated under this part.

7. By amending § 135.9 to read as follows:

§ 135.9 Certificate and operations specifications required.

Except as provided in § 135.11(b), no person may operate an aircraft in operations to which this part applies without, or in violation of, an ATCO operating certificate and appropriate operations specifications issued under this part or, in the case of operations with large aircraft, operations specifications issued under Part 121 of this chapter.

8. By amending § 135.11 to read as follows:

§ 135.11 Duration of certificate.

(a) An ATCO certificate issued after March 31, 1970, is effective until surrendered, suspended, or revoked. The holder of an ATCO certificate that is suspended or revoked shall return it to the Administrator.

(b) An ATCO certificate in effect on March 31, 1970, expires on May 31, 1970, and the holder thereof may conduct operations in accordance with the rules of this part and operations specifications in effect on March 31, 1970, until the certificate expires. However, if the holder of the certificate applies before May 31, 1970, for a new ATCO certificate and operations specifications under this part, the certificate held continues in effect and he may continue those operations until a certificate and specifications are issued to him under this part, or until the Administrator notifies him that his application is denied.

9. By amending paragraph (b)(2) of § 135.13 to read as follows:

§ 135.13 Application and issue of certificate and operations specifications.

(b) * * *

(2) Separate operations specifications containing the type and area of operations authorized, the class and category of aircraft that he may use in those operations, registration numbers of aircraft that are inspected in accordance with an approved aircraft inspection program, any authorized deviations from this part, and such other items as the Administrator may require or allow to meet any particular situation.

10. By amending § 135.15 by adding a new flush paragraph following paragraph (c) to read as follows:

§ 135.15 Eligibility for certificate and operations specifications.

(c) * * *

However, no person holding a commercial operator operating certificate issued under Part 121 of this chapter is eligible for an ATCO certificate unless he shows to the satisfaction of the Administrator that his contract carriage business in large aircraft will not result directly or indirectly from his air taxi business.

11. By adding the following new section to Subpart B of Part 135:

§ 135.27 Manual requirements.

(a) Each certificate holder, other than one who uses only himself as a pilot, shall prepare and keep current a manual for the use and guidance of flight, ground operations, and maintenance personnel in conducting its operations. However, the Administrator may authorize a deviation from this paragraph if he finds that because of the limited size of the operation, all or part of the manual is not necessary for guidance of flight, ground, or maintenance personnel.

(b) Each manual shall be kept in a form that is easy to revise and shall have the date of the last revision on each revised page. The manual must include—

(1) The identity of each person in a management capacity who is authorized to act for the certificate holder in his assigned area of responsibility;

(2) Procedures for ensuring compliance with aircraft weight and balance limitations and in the case of multiengine airplanes for ascertaining compliance with the requirements of § 135.167;

(3) Copies of the certificate holder's operations specifications or appropriate extracted information, including area of operations authorized, category and class of aircraft authorized, crew complements, and types of operations authorized (such as VFR, IFR, day, night, passenger, cargo);

(4) Procedures for complying with accident notification requirements;

(5) Procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the aircraft has been approved for return to service in compliance with applicable maintenance requirements;

(6) Procedures for reporting of mechanical irregularities that come to the attention of the pilot in command during flight time or defects noted during pre-flight inspection;

(7) Procedures to be followed by the pilot in command for ascertaining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(8) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the aircraft at a place where prior arrangements have not been made by the operator, when the pilot is authorized to so act for the operator;

(9) Procedures for refueling aircraft, eliminating fuel contamination, protection from fire (including electrostatic protection), and supervising and protecting passengers during refueling;

(10) Flight locating procedures, when applicable;

(11) Procedures for ensuring compliance with emergency procedures;

(12) En route qualification procedures for pilots, when applicable;

(13) The approved aircraft inspection program, when applicable; and

(14) Other procedures and policy instructions pertinent to the certificate holder's operations, that are issued by the certificate holder.

(c) The manual must not be contrary to any applicable Federal regulation, foreign regulation applicable to the certificate holder's operations in foreign countries, or the certificate holder's operations specifications or operating certificate.

(d) A copy of the manual, or appropriate portions of the manual (and changes and additions thereto) shall be made available to maintenance personnel by the certificate holder and furnished to—

(1) Its ground operations personnel;

(2) Its crewmembers; and

(3) Representatives of the Administrator assigned to the certificate holder.

(e) Each person to whom a manual or appropriate portions of it are furnished under subparagraphs (1) and (2) of paragraph (d) of this section shall keep it up to date with the changes and additions furnished to him.

(f) Except as provided in paragraph (g) of this section, each certificate holder shall carry appropriate parts of the manual on each aircraft when away from the principal base. The appropriate parts must be available for use of ground or flight personnel.

(g) If a certificate holder is able to conduct inspections at specified stations where it keeps the approved aircraft inspection program part of the manual, or approved inspection program manual, it does not have to carry the manual aboard the aircraft en route to those stations.

12. By adding the following new section to Subpart B of Part 135:

§ 135.29 Flight locating requirements.

(a) Each certificate holder must have procedures established for locating each flight, for which an FAA flight plan is not filed, that—

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Establish a procedure for timely notification of an FAA facility or search and rescue facility, if an aircraft is overdue or missing; and

(3) Provide the certificate holder with the locations, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where radio communications cannot be maintained.

(b) Flight locating information shall be retained at the certificate holder's

principal place of business, or at such other places as may be designated by the certificate holder in the flight locating procedures, until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions thereto, unless those procedures are included in a manual required to be maintained under this part.

13. By adding the following new section to Subpart B of Part 135:

§ 135.32 Aircraft proving tests.

(a) No certificate holder may operate a turbojet airplane, or an aircraft for which two pilots are required by this chapter for operations under VFR, if it has not previously proved that aircraft or an aircraft of the same make and similar design in any operation to which this part applies unless, in addition to the aircraft certification tests, at least 25 hours of proving tests acceptable to the Administrator have been flown by that certificate holder including—

(1) Five hours of nighttime, if night flights are to be authorized;

(2) Five instrument approach procedures under simulated or actual instrument weather conditions, if IFR flights are to be authorized; and

(3) Entry into a representative number of en route airports as determined by the Administrator.

(b) No certificate holder may carry passengers in an aircraft during proving tests, except those needed to make the tests and those designated by the Administrator to observe the tests. However, pilot flight training may be conducted during the proving tests.

(c) For the purposes of paragraph (a) of this section, an aircraft is considered to be materially altered in design if the alterations include—

(1) The installation of powerplants other than those of a type similar to those with which it is certificated; or

(2) Alterations to the aircraft or its components that materially affect flight characteristics.

(d) This section does not apply to an aircraft of the same make and similar design as an aircraft operated more than 25 hours under this part by the certificate holder before the date on which this section becomes effective with respect to his operation.

(e) The Administrator may authorize deviation from this section if he finds that special circumstances make full compliance with this section unnecessary.

14. By revising § 135.41 (a) and (b) and by adding a new paragraph (c) to read as follows:

§ 135.41 Business office and operations base.

(a) Each certificate holder shall maintain a principal business office.

(b) Each certificate holder shall, before establishing, or changing the loca-

tion of any business office or operations base, except a temporary operations base, notify in writing the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located.

(c) No certificate holder who establishes or changes the location of any business office or operations base, except a temporary operations base, may operate an aircraft in operations subject to this part unless he has complied with paragraph (b) of this section.

15. By revising § 135.43 to read as follows:

§ 135.43 Recordkeeping requirements.

(a) Each certificate holder shall keep at his principal business office and make available for inspection by the Administrator the following:

(1) His ATCO certificate;

(2) His operations specifications;

(3) A current list of the aircraft used or available for use by him in operations subject to this part and the operations for which each is equipped; and

(4) An individual record of each pilot used by him in operations subject to this part, including the following information:

(i) The full name of the pilot.

(ii) The pilot certificate (by type and number) and ratings that the pilot holds.

(iii) The pilot's aeronautical experience, in sufficient detail to determine his qualifications to pilot aircraft in operations subject to this part.

(iv) The pilot's current duties and the date of his assignment to those duties.

(v) The effective date and class of the medical certificate that the pilot holds.

(vi) The date and result of each of the initial and recurrent proficiency tests and instrument and route checks required by this part and the type of aircraft flown during that test or check.

(vii) The pilot's flight time in sufficient detail to determine compliance with the flight time limitations of this part.

(viii) The pilot's check pilot authorization, if any.

(ix) Any action taken concerning the pilot's release from employment or physical or professional disqualification.

(b) Each certificate holder shall keep each record required by paragraph (a) (3) or (4) of this section for at least 6 months after it is made.

(c) For multiengine aircraft for which two pilots are required by this chapter for operations under VFR, each certificate holder shall prepare or cause to be prepared a load manifest containing the following information concerning the loading of the aircraft at takeoff time—

(1) The number of passengers;

(2) The total weight of the loaded aircraft;

(3) The maximum allowable takeoff weight for that flight;

(4) The center of gravity of the loaded aircraft; and

(5) The center of gravity limits for the loaded aircraft.

(d) The pilot in command of an aircraft for which a load manifest is required to be prepared shall carry a copy

of the completed load manifest in the aircraft to its destination, and the certificate holder shall keep copies of completed load manifests for at least 30 days at its principal operations base, or at another location used by it and approved by the representative of the Administrator assigned to it.

16. By adding the following new section to Subpart B of Part 135:

§ 135.52 Composition of flight crew.

(a) No certificate holder may operate an aircraft with less than the minimum flight crew specified in the aircraft operating limitations or the Aircraft Flight Manual for that aircraft and required by this part for the kind of operation being conducted.

(b) No certificate holder may operate an airplane without a second in command if that airplane has a passenger seating configuration, excluding any pilot seat, of ten seats or more.

17. By adding the following new section to Subpart B of Part 135:

§ 135.53 Passenger occupancy of pilot seat.

No certificate holder may operate an aircraft that has a passenger seating configuration, excluding any pilot seat, for more than eight passengers if any person other than the pilot in command, a second in command, a company check airman, or an authorized representative of the Administrator, the National Transportation Safety Board, or the Post Office Department occupies a pilot seat.

18. By adding the following new section to Subpart B of Part 135:

§ 135.54 Flight attendant crewmember requirement.

No certificate holder may operate an aircraft that has a passenger seating capacity of more than 19 unless there is a flight attendant crewmember on board the aircraft.

19. By adding the following new section to Subpart B of Part 135:

§ 135.55 Pilot and flight attendant crewmember training programs.

(a) Each certificate holder, other than one who uses only himself as a pilot, shall establish and maintain a pilot training program, and each certificate holder who uses a flight attendant crewmember shall establish and maintain a flight attendant training program, that is appropriate to the operations to which each required pilot and flight attendant is to be assigned and will ensure that he is adequately trained to meet the applicable initial and recurrent knowledge and practical testing requirements of this part.

(b) Each certificate holder required to have a training program by paragraph (a) of this section shall include in that program ground and flight training curriculums for—

(1) Initial training;

(2) Additional training necessary to ensure qualification in new kinds of equipment, procedures, and techniques; and

(3) Recurrent training every 12 calendar months to ensure proficiency in procedures, techniques, and information essential to the satisfactory performance of each crewmember.

(c) Each certificate holder required to have a training program by paragraph (a) of this section shall provide current and appropriate study materials for use by each required pilot and flight attendant.

(d) The certificate holder shall furnish copies of the pilot and flight attendant crewmember training program, and all changes and additions thereto, to the representative of the Administrator assigned to it. If the certificate holder uses training facilities of other persons, a copy of training programs or appropriate portions used for those facilities shall also be furnished. Curriculums that follow FAA published curriculums may be cited by reference in the copy of the training program furnished to the representative of the Administrator and need not be furnished with the program.

(e) Whenever the Administrator finds that revisions to a training program are necessary for the continued adequacy of the program the operator shall, after notification by the Administrator, make any changes in the program found by the Administrator to be necessary. The operator may petition the Administrator to reconsider the notice to make a change in a program. The petition should be filed with the representative of the Administrator assigned to it within 30 days after the operator receives the notice. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

20. By adding the following new section to Subpart B of Part 135:

§ 135.57 Mechanical reliability reports.

(a) Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect in a multi-engine aircraft concerning—

(1) Fires during flight and whether the related fire-warning system functioned properly;

(2) Fires during flight not protected by a related fire-warning system;

(3) False fire warning during flight;

(4) An engine exhaust system that causes damage during flight to the engine, adjacent structure, equipment, or components;

(5) An aircraft component that causes accumulation or circulation of smoke, vapor, or toxic or noxious fumes in the crew compartment or passenger cabin during flight;

(6) Engine shutdown during flight because of flameout;

(7) Engine shutdown during flight when external damage to the engine or aircraft structure occurs;

(8) Engine shutdown during flight due to foreign object ingestion or icing;

(9) Shutdown of more than one engine during flight;

(10) A propeller feathering system or ability of the system to control overspeed during flight;

(11) A fuel or fuel-dumping system that affects fuel flow or causes hazardous leakage during flight;

(12) A landing gear extension or retraction or opening or closing of landing gear doors during flight;

(13) Brake system components that results in loss of brake actuating force when the airplane is in motion on the ground;

(14) Aircraft structure that requires major repair;

(15) Cracks, permanent deformation, or corrosion of aircraft structures, if more than the maximum acceptable to the manufacturer or the FAA; and

(16) Aircraft components or systems that result in taking emergency actions during flight (except action to shut down an engine).

(b) For the purpose of this section "during flight" means the period from the moment the aircraft leaves the surface of the earth on takeoff until it touches down on landing.

(c) In addition to the reports required by paragraph (a) of this section, each certificate holder shall report any other failure, malfunction, or defect in an aircraft that occurs or is detected at any time if, in its opinion, that failure, malfunction, or defect has endangered or may endanger the safe operation of an aircraft used by it.

(d) Each certificate holder shall send each report required by this section, in writing, covering each 24-hour period beginning at 0900 hours local time of each day and ending at 0900 hours local time on the next day to the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located. The report must be mailed or delivered to that office on the following day. However, a report that is due on Saturday or Sunday may be mailed or delivered on the following Monday and one that is due on a holiday may be mailed or delivered on the next work day. For aircraft operated in areas where mail is not collected, reports may be mailed or delivered within 24 hours after the aircraft returns to a point where mail is collected.

(e) The certificate holder shall transmit the reports required by this section on Form FAA 8330-2 "Malfunction or Defect Report," and shall include as much of the following as is available:

(1) Type and identification number of the aircraft.

(2) The name of the operator.

(3) The date.

(4) The nature of the failure, malfunction, or defect.

(5) Identification of the part and system involved, including available information pertaining to type designation of the major component and time since overhaul, if known.

(6) Apparent cause of the failure, malfunction, or defect (e.g., wear, crack, design deficiency, or personnel error).

(7) Other pertinent information necessary for more complete identification, determination of seriousness, or corrective action.

(f) Failures, malfunctions, or defects reported under the accident reporting provisions of Part 430 of the regulations

of the National Transportation Safety Board of this title need not be reported under this section.

(g) No person may withhold a report by this section even though all information required by this section is not available.

21. By adding the following new section to Subpart B of Part 135:

§ 135.59 Mechanical interruption summary report.

Each certificate holder shall mail or deliver, before the end of the 10th day of the following month, a summary report of the following occurrences in multiengine aircraft for each month to the FAA District Office having jurisdiction over the area in which the certificate holder's principal business office is located:

(a) Each interruption to a flight, unscheduled change of aircraft en route, or unscheduled stop or diversion from a route, caused by known or suspected mechanical difficulties or malfunctions that are not required to be reported under § 135.57.

(b) The number of propeller featherings in flight, listed by type of propeller and engine and airplane on which it was installed. Propeller featherings for training, demonstration, or flight check purposes need not be reported.

22. By adding the following new section to Subpart B of Part 135:

§ 135.60 Approved aircraft inspection program.

(a) Whenever the Administrator finds that the aircraft inspections required or permitted under § 91.169 or § 91.171 of this chapter are not adequate to meet the requirements of this part, or upon application by a certificate holder, the Administrator may amend the certificate holder's operations specifications, in accordance with § 135.19, to require or allow an approved aircraft inspection program for any make and model aircraft of which the certificate holder has the exclusive use of at least one aircraft (as defined in § 135.31(b)).

(b) A certificate holder who applies for an amendment of his operations specifications to allow an approved aircraft inspection program must submit a program for approval by the Administrator with his application.

(c) Each certificate holder who is required by his operations specifications to have an approved aircraft inspection program shall submit a program for approval by the Administrator within 30 days of the amendment of his operations specifications or within such other period as the Administrator may prescribe in the operations specifications.

(d) The aircraft inspection program submitted for approval by the Administrator must contain the following:

(1) Instructions and procedures for the conduct of aircraft inspections (which must include necessary tests and checks), setting forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including emer-

gency equipment, that must be inspected.

(2) A schedule for the performance of the aircraft inspections under subparagraph (1) of this paragraph expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

(3) Instructions for recording defects found during inspections, including form and disposition of records.

(e) After approval, the certificate holder shall include the approved aircraft inspection program in the manual required by § 135.27.

(f) Whenever the Administrator finds that revisions to an approved aircraft inspection program are necessary for the continued adequacy of the program the certificate holder shall, after notification by the Administrator, make any changes in the program found by the Administrator to be necessary. The certificate holder may petition the Administrator to reconsider the notice to make any changes in a program. The petition should be filed with the representative of the Administrator assigned to it within 30 days after the certificate holder receives the notice. Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

(g) Each certificate holder who has an approved aircraft inspection program shall have each aircraft that is subject to the program inspected in accordance with the program.

(h) The registration number of each aircraft that is subject to an approved aircraft inspection program is included in the operations specifications of the certificate holder.

23. By revising § 135.67 to read as follows:

§ 135.67 Airworthiness check.

The pilot in command may not begin a flight unless he determines that the airworthiness inspections required by § 91.169 of this chapter or § 135.60, whichever is applicable, have been made.

24. By revising the first sentence of § 135.75 to read as follows:

§ 135.75 Exception to second in command requirements: limited IFR conditions.

Unless two pilots are required by this chapter for operations under VFR, the pilot in command of an airplane carrying passengers may—

25. By revising § 135.77(a) to read as follows:

§ 135.77 Exception to second in command requirement: approval of use of autopilot system.

(a) Unless two pilots are required by this chapter for operations under VFR, a person may operate an airplane without a second in command if it is equipped with an operative autopilot system and the use of that system is authorized by appropriate operations specifications.

26. By revising § 135.79(b) to read as follows:

§ 135.79 Autopilot: Minimum altitudes for use.

(b) If an approach coupler is used, a pilot may use an autopilot system during an approach to an airport under IFR while descending to the DH or MDA, but not below, unless the autopilot system is otherwise limited.

27. By amending § 135.81 to read as follows:

§ 135.81 Briefing of passengers before flight.

Before each takeoff each pilot in command shall ensure that all passengers are familiar with information on—

- (a) Smoking;
- (b) Use of seat belts;
- (c) Location and means for opening the passenger entry door and emergency exits;
- (d) Location of survival equipment;
- (e) If the flight involves extended over-water operation, ditching procedures and the use of required flotation equipment; and
- (f) If the flight involves operations above 10,000 feet MSL, the normal and emergency use of oxygen.

§ 135.85 [Amended]

28. By amending § 135.85(b) (2) by striking out the word "and" immediately following the words "functioning deicing" and inserting the word "or" in place thereof and by adding new paragraphs (d) and (e) to read as follows:

(d) Paragraphs (b) and (c) of this section do not apply—

(1) To reciprocating engine powered airplanes that have ice protection provisions that comply with § 25.1419 (a) through (c) of this chapter, in effect after March 31, 1970;

(2) To turbine engine powered airplanes that have ice protection provisions that comply with §§ 25.1093(b) and 25.1419 (a) through (c) of this chapter, in effect after March 31, 1970; or

(3) To airplanes certificated in accordance with section 34 of Appendix A of this part or section 34 of Special FAR No. 23 of this chapter.

(e) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing condition that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

29. By adding the following new section to Subpart C of Part 135:

§ 135.113 Landing and takeoff distance limitations.

Each pilot in command shall, before beginning a flight, familiarize himself with all available information concerning runway lengths at airports of intended use and the landing and takeoff distance

required for the aircraft. This information must include takeoff and landing distance data contained in the approved aircraft flight manual, or other reliable data appropriate to the aircraft relating to aircraft performance under expected values of airport elevation, wind, and temperature.

30. By adding the following new section to Subpart C of Part 135:

§ 135.115 Alcoholic beverages.

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage to him.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft.

31. By adding the following new section to Subpart C of Part 135:

§ 135.117 Carriage of cargo.

No person may carry cargo in any aircraft unless—

(a) It is carried in an approved cargo rack, bin, or compartment installed in the aircraft;

(b) It is secured by means approved by the Administrator; or

(c) It is carried in accordance with each of the following.

(1) It is properly secured by a safety belt or other tiedown having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(2) It is packaged or covered to avoid possible injury to passengers.

(3) It does not impose any load on seats or on the floor structure that exceeds the load limitation for those components.

(4) It is not located in a position that restricts the access to or use of any required emergency or regular exit, or the use of the aisle between the crew and the passenger compartment.

(5) It is not carried directly above seated passengers.

32. By adding the following new section to Subpart C of Part 135:

§ 135.119 Reporting of mechanical irregularities.

The pilot in command shall report to the certificate holder each mechanical irregularity that comes to his attention during flight time and each defect noted by him during preflight inspection of the aircraft.

33. By revising the title of Subpart D to read "Crewmember Qualifications."

34. By revising § 135.121 to read as follows:

§ 135.121 Pilot-in-command qualifications: Night flight.

No person may act as pilot in command of an aircraft at night unless—

(a) He has had at least 500 hours of flight time as pilot, including at least 100 hours of cross-country flight time, at least 25 hours of which were at night; and

(b) In the case of an airplane, he holds an instrument rating or an airline transport pilot certificate with an airplane category rating.

35. By adding the following new section to Subpart D of Part 135:

§ 135.122 Pilot-in-command qualifications: Routes and airports.

(a) The certificate holder may not utilize a pilot, nor may any person serve, as pilot in command of a flight under IFR unless, since the beginning of the 12th calendar month before that service he has passed a flight check in one of the types of airplanes that he is to fly, given by an approved check pilot who is qualified in the aircraft, or by the Administrator, consisting of at least one flight over a representative airway or approved off-airway route, or portion thereof, over which he may be assigned to fly.

(b) The pilot who conducts the check shall determine whether the pilot being checked satisfactorily performs the duties and responsibilities of a pilot in command in operations under this part, and shall so certify in the pilot training record.

36. By amending § 135.123(a)(2) to read as follows:

§ 135.123 Pilot-in-command qualifications: VFR flight over-the-top.

(a) * * *

(2) An instrument rating or, in the case of helicopters, a helicopter instrument rating, or an airline transport pilot certificate with a category and class rating for that aircraft, not limited to VFR.

37. By revising § 135.125 to read as follows:

§ 135.125 Pilot-in-command qualifications: IFR flight.

No person may act as pilot in command of an aircraft under IFR unless he has had at least 1,200 hours of flight time as a pilot, including 500 hours of cross-country flight time, 100 hours of cross-country flight time, including at least 10 night takeoffs and landings, and 75 hours of actual or simulated instrument flight time, at least 50 hours of which were in actual flight.

§ 135.127 [Amended]

38. By amending § 135.127 by inserting the words "and, when a second in command is required by this chapter," immediately following the words "commercial pilot certificate."

§ 135.129 [Deleted]

39. By deleting § 135.129. *

40. By revising § 135.131 by revising paragraphs (a), (b), and (c) and adding a new paragraph (b) to read as follows:

§ 135.131 Pilot in command: Instrument check requirements.

(a) No certificate holder may use a pilot, nor may any person serve as a pilot in command of an aircraft under IFR unless, since the beginning of the sixth calendar month before that use, he has passed an instrument check and the Administrator or an authorized check pilot has so certified in a letter of competency.

(b) No pilot may use any type of instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, he has successfully demonstrated that procedure and the Administrator or an authorized check pilot has so certified in a letter of competency.

(c) The instrument check required by paragraph (a) of this section consists of an oral or written equipment test and a flight check under simulated instrument conditions. The equipment test includes questions on emergency procedures, engine operation, fuel and lubrication systems, power settings, stall speeds, best engine-out speed, propeller and supercharger operations, and hydraulic, mechanical, and electrical systems. The flight check includes navigation by instruments, recovery from simulated emergencies, and standard instrument approaches involving navigational facilities that he is to be authorized to use. Each person taking the instrument check must show that standard of competence required by paragraph (d) of § 135.138.

(h) The Administrator or authorized check pilot issues a letter of competency to each pilot, if he passes the instrument check, containing the types of instrument approach procedures authorized and the types of instrument approach procedures authorized using an autopilot, if any.

41. By amending § 135.135 to read as follows:

§ 135.135 Check pilot authorization: Application and issue.

Each certificate holder desiring FAA approval of a check pilot shall submit his request in writing to the FAA District Office having jurisdiction over the area in which the holder's principal business office is located. The Administrator may issue a letter of authority to each check pilot if he passes the appropriate oral and flight test. The letter of authority lists the tests in § 135.138 that the check pilot is qualified to give and the class and type aircraft, where appropriate, for which the check pilot is qualified.

42. By adding the following new section to Subpart D of Part 135:

§ 135.136 Flight and duty time limitations.

(a) No certificate holder may assign any flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time if the total flight time of that flight in addition to any other commercial flying by that

flight crewmember exceeds the following during any 24 consecutive hours:

(1) Eight hours for a flight crew consisting of one pilot.

(2) Ten hours for a flight crew consisting of two pilots required by this chapter.

(b) No certificate holder may assign a flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time unless that assignment provides for at least 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment.

(c) A flight crewmember is not considered to be assigned for duty during flight time in excess of flight time limitations if the flights to which he is assigned would normally terminate within the limitations, but due to circumstances beyond the control of the certificate holder or the flight crewmember (such as adverse weather conditions) are not at the time of departure expected to reach their destination within the planned flight time.

(d) No certificate holder may assign a flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time if, because of circumstances beyond the control of the certificate holder or flight crewmember, the flight crewmember has been on duty during flight time for more than 8 hours during any 24 consecutive hours unless he has had 16 hours of rest since the completion of his last assigned flight.

(e) Time spent in transportation, not local in character, that the certificate holder requires of a flight crewmember and provides to transport the crewmember to the airport at which he is to serve on a flight as a flight crewmember, or from an airport at which he has completed an assigned flight to his home station, is not considered part of a rest period.

(f) No certificate holder may assign any flight crewmember, and no flight crewmember may accept an assignment, for duty during flight time if he has been assigned to any duty with the certificate holder in connection with operations under this part during any required rest period.

43. By adding the following new section to Subpart D of Part 135:

§ 135.137 Initial and recurrent training requirements.

No certificate holder may use the services of, nor may any person serve as, a pilot or flight attendant crewmember in operations under this part unless that crewmember has completed the appropriate initial or recurrent training phase of the training program appropriate to the type of operation in which he is to serve since the beginning of the 12th calendar month before that service. This section does not apply to a certificate holder who uses only himself as a pilot.

44. By adding the following new section to Subpart D of Part 135:

§ 135.138 Initial and recurrent pilot testing requirements.

(a) No certificate holder may use the services of a pilot, nor may any person serve as a pilot, unless, since the beginning of the 12th calendar month before that service, he has passed a written or oral test, given to him by the Administrator or an authorized check pilot, on his knowledge in the following areas:

(1) The appropriate provisions of Parts 61, 91, and 135 of this chapter and the operations specifications and the manual of the certificate holder.

(2) For each type of aircraft to be flown by the pilot, the aircraft powerplant, major components and systems, major appliances, performance and limitations, standard and emergency operation procedures, and the contents of the approved aircraft flight manual or owner's handbook, as applicable;

(3) For each type of aircraft to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing, and en route operations;

(4) Navigation and use of air navigation aids appropriate to the operation or pilot authorization, including when applicable, instrument approach facilities and procedures;

(5) Air traffic control procedures, including IFR procedures when applicable;

(6) Meteorology, in general and as appropriate to the operations of the certificate holder;

(7) Procedures for avoiding operations in thunderstorms and hail, and for operating in turbulent air or in icing conditions; and

(8) New equipment, procedures, or techniques, as appropriate.

(b) No certificate holder may use the services of a pilot, nor may any person serve as a pilot, in any aircraft unless 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 that type of aircraft, if helicopter, multi-engine, or turbojet, to determine the pilot's competence in practical skills and techniques in that aircraft or class of aircraft, including at least—

(1) Those maneuvers that are set forth in Part 61 of this chapter and related advisory circulars for pilot certification in the class of aircraft the pilot is to operate;

(2) Instrument demonstrations appropriate to the operations authorized for the pilot, including the types of instrument approach procedures authorized in his letter of authorization; and

(3) If a pilot is to be assigned to areas or routes that must be navigated by pilotage, a demonstration of his skill in navigation solely by pilotage.

(c) The 6-month instrument check required by § 135.131 may be substituted for the tests required by this section for the type of aircraft used in the check, if that check also includes takeoffs, landings, and ground handling maneuvers.

(d) For the purposes of this part, competent performance of a procedure or maneuver by a person to be used as pilot requires that he be the obvious master of the aircraft, with the successful outcome of the maneuver never in doubt.

(e) The Administrator or authorized check pilot certifies the competency of each pilot who passes the knowledge or flight check in the certificate holder's pilot records.

45. By adding the following new section to Subpart D of Part 135:

§ 135.139 Initial and recurrent flight attendant crewmember testing requirements.

Each certificate holder who uses a flight attendant crewmember shall determine by appropriate initial and recurrent testing that each flight attendant crewmember is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities, before he is assigned to serve as a flight attendant crewmember—

(a) Authority of the pilot in command;

(b) Passenger handling, including procedures to be followed in the event of the presence of deranged persons or other persons whose conduct might jeopardize the safety of other passengers;

(c) Crewmember assignments, functions, and responsibilities during ditching and evacuation;

(d) Briefing of passengers;

(e) Location and operation of portable fire extinguishers;

(f) Proper use of cabin equipment and controls;

(g) Location and operation of passenger oxygen equipment; and

(h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes.

46. By adding the following new section to Subpart E of Part 135:

§ 135.167 Empty weight and center of gravity: Current requirement.

(a) After April 1, 1971, no person may operate a multiengine aircraft in operations to which this part applies unless the current empty weight and center of gravity are calculated from values established by actual weighing of the aircraft within the preceding 3 years.

(b) Paragraph (a) of this section does not apply to—

(1) Aircraft originally certificated for airworthiness within the preceding 3 years; and

(2) Aircraft operated under a weight and balance system approved in the operations specifications of the certificate holder.

§§ 135.33, 135.35, 135.37, 135.39, 135.49, 135.101 [Amended]

47. By amending §§ 135.33, 135.35, 135.37, 135.39, 135.49, and 135.101 by striking out the words "person holding an ATCO certificate" or "holder of an ATCO certificate" wherever they appear

and inserting the words "certificate holder" in place thereof.

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

NOTE: The recordkeeping and reporting requirements contained in Notice No. 69-4 have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Since the recordkeeping and reporting requirements contained in the rules as adopted herein have been modified in response to comments submitted and are decreased from those proposed, approval by the Bureau of the Budget has not been obtained prior to their adoption.

Issued in Washington, D.C., on November 26, 1969.

J. H. SHAFFER,
Administrator.