

## **Title 14—AERONAUTICS AND SPACE**

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

[Docket No. 10051; Amdts. 121-56; 135-14]

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

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

##### **Emergency Mail Service**

The purpose of these amendments to the Federal Aviation Regulations is to clarify the application of Parts 121 and 135 to emergency mail service conducted under the provisions of section 405(h) of the Federal Aviation Act of 1958.

Section 405(h) of the Federal Aviation Act of 1958 authorizes the Postmaster General, in the event of emergency caused by flood, fire, or other calamitous visitation, to contract for the emergency transportation of mail by aircraft to or from the localities affected by such calamity, where normal mail transportation facilities are inadequate to meet the requirements of the Postal service during the emergency. The language of that section clearly provides that operations conducted pursuant to such contracts are not "air transportation" within the purview of the Act. As a result, these operations are also excepted from the provisions of Parts 121 and 135 of the Federal Aviation Regulations that are applicable to "air transportation." However, it is not clear whether operations conducted pursuant to such contracts are also excepted from the provisions of those parts that are applicable to carriage of property other than in "air transportation." For example, the provisions of Parts 121 and 135 apply to intrastate common carriage, or interstate and intrastate contract operations conducted for compensation or hire, even though such operations do not involve "air transportation" within the purview of the Act. Since such an application of the commercial opera-

tor provisions of Parts 121 and 135 could defeat the purpose of § 405(h) of the Act, §§ 121.1 and 135.1 of those parts are hereby amended to expressly exclude emergency mail service conducted under § 405(h) of the Act.

The Post Office Department has advised the FAA that during emergency situations it must have the flexibility to exercise alternate options when operators certificated under Part 121 or 135 are not available. This amendment to the applicability of Parts 121 and 135 will provide the Post Office Department with the needed flexibility to transport the mail by aircraft during emergency situations.

Since this amendment merely clarifies existing regulations and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary, and that good cause exists for making it effective on less than 30 days notice.

In consideration of the foregoing, Parts 121 and 135 of the Federal Aviation Regulations are amended as follows, effective January 6, 1970:

1. Section 121.1(b) is amended to read:

##### **§ 121.1 Applicability.**

(b) This part does not apply to operations conducted under Part 127, 133, or 135 of this chapter, or emergency mail service conducted under § 405(h) of the Federal Aviation Act of 1958.

2. Section 135.1(b) is amended by deleting subparagraph (6) and adding new subparagraphs (6) and (7) to read:

##### **§ 135.1 Applicability.**

(b) \* \* \*

(6) Emergency mail service conducted under § 405(h) of the Federal Aviation Act of 1958; or

(7) Any other operations specified by the Administrator.

(Secs. 313(a) and 601 of the Federal Aviation Act of 1958; 49 CFR 135.1(a) and 142.1 and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on December 24, 1969.

J. H. SHAFFER,  
Administrator.