

Title 14—AERONAUTICS AND SPACE

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

[Docket No. 11482, Amdt. 121-85]

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

Aviation Security; Certain Air Carriers and Commercial Operators—Secu- rity Programs and Other Require- ments

The purpose of this amendment is to make immediately effective the recently adopted Amendment 121-85 to § 121.538 of the Federal Aviation Regulations requiring each of certain air carriers and commercial operators operating large aircraft (other than helicopters) to (1) prepare in writing and submit for approval to the Administrator its security program; (2) notify the pilot in command of aircraft being operated and conduct certain security inspections, when it receives a bomb or air piracy threat; and (3) immediately notify the Administrator upon receipt of information that an act or suspected act of aircraft piracy has been committed.

Amendment 121-85 issued February 28, 1972 (37 F.R. 4904) was to become effective April 6, 1972. However, because of the recent alarming increase in hijackings, and the bomb threats and actual bombing of aircraft, the Administrator is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce, and that this amendment is essential in the interest of safety in air commerce particularly in air transportation, to meet the emergency. On March 9, 1972, the President issued a statement summarizing newly directed actions to tighten air security and announcing that Amendment 121-85 would take effect at once.

Accordingly, the effective date of Amendment 121-85 is being changed from April 6, 1972, to March 9, 1972, and each certificate holder is being required to immediately adopt and put its security program into use. Also, the 60-day period for submission of security programs for approval is being changed to reflect the new effective date, and consequently the affected certificate holders operating before March 9, 1972, are now required to submit their security program for approval no later than May 8, 1972.

Because of the emergency nature of the threat to the safety of persons and property carried in air commerce due to hijacking and bomb threats, I find that notice and public procedure on this amendment are impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, effective March 9, 1972, the effective date of Amendment 121-85, published in the FEDERAL REGISTER (37 F.R. 4904) on March 7, 1972, is changed to March 9, 1972; the dates "April 6, 1972," "June 5, 1972," and "April 5, 1972" appearing in paragraph (d) of § 121.538 are changed to "March 9, 1972," "May 8, 1972," and "March 8, 1972," respectively; and the following sentence is added in paragraph (b) of § 121.538:

§ 121.538 Aircraft security.

(b) . . . Each certificate holder shall immediately adopt and put into use its security program prescribed in paragraph (c) of this section.

(Sections 313(a), 601, 604, and 1606 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1424, 1485. Section 5(e) of the Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on
March 9, 1972.

J. H. SHAFFER,
Administrator.

(As published in the Federal Register
[37 F.R. 5254] on March 11, 1972)

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Title 14—AERONAUTICS AND SPACE

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

[Docket No. 10562, Amdt. 121-86]

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

Flight Attendants

The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to increase, from 44 to 50, the maximum seating capacity for which one flight attendant is required on large passenger-carrying airplanes in operations under Part 121.

Since Parts 123 and 135 of the Federal Aviation Regulations incorporate the flight attendant requirements in Part 121 by reference in §§ 123.27 and 135.2, this amendment affects operations conducted with large aircraft by air travel clubs governed by Part 123 and by air taxi and commercial operators governed by Part 135.

This amendment is based on a notice of proposed rule making issued as Notice 70-35 and published in the FEDERAL REGISTER on September 11, 1970 (35 F.R. 14327). The notice was issued in response to a petition of the Air Transport Association (ATA) filed with the FAA.

Subsequently, at the request of the Air Line Pilots Association (ALPA), the FAA held a public hearing on July 29, 1971, regarding the amendment proposed in Notice 70-35.

All of the written comments received in response to Notice 70-35, including the statements and supporting information submitted in connection with the July 29 public hearing, have been carefully considered by the FAA to the extent that they were pertinent to, and within the scope of, the proposal contained in Notice 70-35.

The ratio of passengers to flight attendants currently required by Part 121 was adopted in 1962 and established the minimum number of flight attendants that the FAA then considered necessary for the proper performance of safety functions related to the normal and emergency operation of aircraft, including emergency evacuation and decompression. Since that time, numerous changes have been made by the FAA in aircraft safety requirements. Specifically, the changes in crashworthiness and passenger evacuation standards for transport category airplanes include improved emergency exit access, exterior exit markings, more efficient emergency exits, escape slides that erect within 10 seconds

after opening the exit, and fire resistance standards for cabin and cockpit materials. In addition, those changes include a 90-second evacuation demonstration requirement.

Both the Air Line Pilots Association (ALPA) and the Air Line Stewards and Stewardesses Association (ALSSA) expressed opposition to the proposal, and questioned the effectiveness of the changes made in crashworthiness and passenger evacuation standards with respect to older airplanes. However, we believe that such changes support the adoption of this amendment.

It is recognized that under Part 121 of the Federal Aviation Regulations deviations are permitted for older airplanes that do not have the required crewmember standing room alongside each Type I and Type II exit and window exits not over the wing. However, such deviations are permitted under the regulations only when special circumstances exist that provide an equivalent level of safety. Furthermore, the regulations require access to each Type II and Type IV exit to be unobstructed and that each such exit meet the emergency exit access requirements prescribed in § 25.813(c). In addition, the exits on older airplanes have been made more efficient through compliance with requirements relating to emergency lighting control, exterior emergency lighting illumination, and slip-resistant escape routes. With respect to escape slides for older aircraft, some cannot meet the automatic deployment requirement due to exit design and must be manually deployed. However, any time delay associated with manual deployment must be accounted for through a 90-second emergency evacuation demonstration conducted in accordance with § 121.291.

The National Transportation Safety Board comments expressed agreement that improvements made in crashworthiness and evacuation provisions have been considerable. However, the Board recommended that the proposed amendment not be adopted until the FAA has conducted an appropriate study of the magnitude of the improvements made in crashworthiness and evacuation, including further analysis of existing accident data and controlled studies concerning passenger loads and their effect on flight attendants' service workload, routine safety procedures, and ability to handle various emergency procedures. It was recommended that such a study also include an FAA study of flight attendant redundancy (more than one attendant) as a factor in ensuring availability of leadership in response to emergency situations.

The ALPA also recommended that the FAA undertake a comprehensive study of cabin working conditions and its effect on the ability of flight attendants to provide safety services.

The FAA does not believe that such studies are necessary or appropriate for the adoption of this particular amendment. In 1965, certain air carriers were authorized to operate passenger-carrying airplanes under Part 121 with more than 50 passengers and only one flight attendant. Those operations were initially conducted under deviation authority prescribed in the regulations of Part 121. They are currently authorized by exemption No. 1108, but are now limited to the carriage of no more than 50 passengers with only one flight attendant. In our opinion, this record of operating experience, together with the changes made in aircraft crashworthiness and passenger evacuation requirements, is

adequate support for the adoption of this amendment.

Since the commencement of this rule-making action, the FAA has investigated numerous instances of alleged crashworthiness deficiencies reported by the ALPA and initiated appropriate corrective action where deemed necessary. Interested persons may be assured that the FAA will continue to be responsive to such reports and take appropriate action to provide adequately for safety in air commerce.

Finally, inasmuch as deviation authority is no longer prescribed in § 121.391, and all outstanding deviations have lapsed, paragraph (b)(3) is no longer necessary. Accordingly, paragraph (b)(3) of § 121.391 has been deleted.

In consideration of the foregoing, § 121.391 of the Federal Aviation Regulations is amended, effective June 15, 1972, as follows:

§ 121.391 Flight attendants.

(a) Each certificate holder shall provide at least the following flight attendants on each passenger-carrying airplane used:

(1) For airplanes having a seating capacity of more than nine but less than 51 passengers—one flight attendant.

(2) For airplanes having a seating capacity of more than 50 but less than 101 passengers—two flight attendants.

(3) For airplanes having a seating capacity of more than 100 passengers—two flight attendants plus one additional flight attendant for each unit (or part of a unit) of 50 passenger seats above a seating capacity of 100 passengers.

(b) * * *

(3) [Deleted]

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1424; sec. 6 (c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on
March 10, 1972.

J. H. SHAFFER,
Administrator.