

14 CFR Parts 121, 127, and 135

(Docket No. 18510; SFAR No. 38-1)

Special Federal Aviation Regulation No. 38 Certification and Operating Requirements**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; request for comments.

SUMMARY: This amendment extends the effectiveness of Special Federal Aviation Regulation (SFAR) No. 38. In 1978, the FAA promulgated SFAR 38 as an interim regulation to address regulatory questions arising from legislation that resulted in economic deregulation of the air transportation industry, and from the Civil Aeronautics Board's (CAB) scheduled demise (or "sunset") on December 31, 1984. Having generally reviewed the FAA regulations to determine the most appropriate regulatory response to the Airline Deregulation Act of 1978 and the termination of CAB functions attendant on the CAB sunset, the FAA concludes that it is appropriate to extend the termination date of SFAR 38 to allow time for the FAA, in separate rulemaking, to propose and receive comments on certain revisions to present SFAR 38.

DATES: Effective January 1, 1985, the termination date for SFAR 38 is extended to June 1, 1985. Comments must be received on or before March 5, 1985.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn. Rules Docket (AGC-204), Docket No. 18510, 800 Independence Avenue, SW, Washington, D.C. 20591, or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW, Washington, D.C. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. David Catey, Project Development Branch, Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Ave., SW, Washington, D.C., 20591; telephone (202) 472-4621.

SUPPLEMENTARY INFORMATION**Background**

On December 12, 1978, the FAA promulgated SFAR 38 in consequence of the Airline Deregulation Act of 1978 (Pub. L. 95-304, 33 U.S.C. 857-14). That Act embodies the Congressional intent that the Federal Government diminish its involvement in regulating the economic aspects of the airline industry. To accomplish this, Congress directed that the Civil Aeronautics Board (CAB) be abolished, and in anticipating its sunset, the CAB curtailed or suspended much of its regulatory activity. On October 4, 1984, additional legislation was enacted further defining the process for CAB sunset.

Because some aspects of FAA safety regulation rest upon CAB definitions and authority, the FAA found it necessary in 1978 to adopt an interim measure to provide for an orderly transition from CAB and FAA interlocking authority, to a regulatory regime with no CAB in existence. SFAR 38 set out FAA certification and operating requirements applicable to all "air commerce" and "air transportation" operations for "compensation or hire". (SFAR 38 does not address Part 133 external load operations, Part 137 agriculture aircraft operations, or Part 91 training and other special purpose operations.) The FAA has reviewed SFAR 38 and has concluded that it should be revised and clarified and that its effectiveness should be continued until at least May 1, 1986, to give the FAA time to review all of its regulations in a post-CAB sunset light. A proposed revision of SFAR 38 will soon be published for public comment in the *Federal Register*. This amendment merely extends the termination date of SFAR 38 to June 1, 1985, to allow adequate time for receipt and consideration of public comment on the proposed revisions to present SFAR 38 which are being undertaken in separate rulemaking.

Good Cause Justification for Immediate Adoption

The termination date for SFAR 38, and for the operating certificates issued under SFAR 38, is January 1, 1985. The reasons which justified the adoption of SFAR 38 still exist. Therefore, it is in the public interest to extend the termination

date of SFAR 38 from January 1, 1985, to June 1, 1985. This action is necessary to permit continued operations under operating certificates issued under SFAR 38 and to avoid confusion in the administration of FAA regulations regarding operating certificates and operating requirements.

In addition, since this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures hereon are unnecessary, impracticable, and contrary to the public interest, and that the amendment may be made effective in less than 30 days. However, interested persons are invited to submit such comments as they may desire regarding this amendment.

Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the close of the comment period will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

Trade Impact Statement

The FAA finds that this amendment will have no impact on international trade.

Regulatory Flexibility Determination

The FAA finds that the amendment will have no significant economic impact on small entities.

The FAA has determined that this document involves a rule change which imposes no additional burden on any person. Accordingly, it has been determined that: the rule change does not involve a major rule under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979); and its anticipated impact is so minimal that full regulatory evaluation is not required.

List of Subjects**14 CFR Part 121**

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airmen.

14 CFR Part 127

Aircraft, Air carriers, Airworthiness,
Airmen.

14 CFR Part 135

Air carriers, Aviation safety, Safety,
Air transportation, Air taxis,
Airworthiness, Airmen, Aircraft.

Adoption of the Amendment

In consideration of the foregoing,
Parts 121, 127 and 135 of the Federal
Aviation Regulations are amended as
follows, effective January 1, 1985.

By amending Special Federal Aviation
Regulation No. 38 in 14 CFR Parts 121,
127, and 135, to change the termination
date from "January 1, 1985," to "June 1,
1985."

(Secs. 313, 601, 603, 604 and 1102, Federal
Aviation Act of 1958 as amended (49 U.S.C.
1354, 1421, 1423, 1424, and 1502); 49 U.S.C.
106(g) (Revised, Pub. L. 97-449, January 12,
1983)).

Issued in Washington, D.C. on December
27, 1984.

Donald D. Engen,
Administrator.

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