

forced to cancel a flight and finds it impractical on extremely short notice to arrange for a substitute carrier with operations specifications that fully meet the proposed requirements. In the rare situation where passengers could be stranded, the FAA and OST have agreed to procedures that would give the passengers the option of taking a charter flight in place of the flight originally scheduled. In such a situation, the operator providing the substitute flight would have to obtain a waiver of 14 CFR part 380 requirements from OST based on an emergency need. See proposed § 119.53(f). The passengers would then be given the option of making their own arrangements, working out arrangements with the original carrier, or taking the charter flight. Each passenger who elects to take the emergency charter flight would be given an appropriate ticket (or other flight document) by the charter operator before the passenger boards the charter flight aircraft. The operator of this charter flight would have operational control and would conduct the flight under the supplemental or on-demand rules, as applicable. Comments are solicited on whether this procedure is adequate to cover any potential hardships.

*Section 119.55—Obtaining deviation authority to perform operations under a U.S. military contract.* This section contains various requirements for an operator who performs military contract services, involving deviations from their normal operations. These requirements include, among others, (1) an application requesting authority to perform the service, (2) certification by the Department of Defense that the service cannot be performed without the deviation, and (3) an appropriate amendment to the certificate holder's operations specifications by the Administrator. Many of these requirements are currently set forth in § 121.57, which applies only to supplemental operations.

In this NPRM, the FAA is proposing a new procedure in order to obtain deviation authority to perform under a U.S. military contract. Under this proposed procedure, the certificate holder must submit its request for deviation authority to the Department of Defense's Air Mobility Command (AMC). AMC would review the requests and forward the carriers' consolidated requests, along with AMC's recommendations, to the FAA for review. The FAA is making this proposal because during the Desert Shield/Desert Storm operations, the agency was inundated with requests for deviations. The FAA believes that the

AMC has the resources to consolidate these requests, identify the specific FARs from which relief is sought, and evaluate the requests to determine whether the relief sought would be needed to accomplish the military mission. The FAA believes that this proposed procedure would enable the agency to process these requests more efficiently, should the need arise in the future.

*Emergency Operations (Sections 119.57 and 119.58).* The FAA is proposing two new sections concerning emergency situations. These two new sections are generally recodifications of §§ 121.57(c), 121.557, 121.559, and 135.19. On the one hand, § 119.57 is designed to address emergency situations in which it is impossible for the certificate holder planning to conduct emergency operations to act without complex and thorough planning. For example, § 119.57 would most often be used to respond to natural disasters such as massive floods and earthquakes. On the other hand, § 119.58 is designed to address an emergency situation in which complex and thorough planning are not possible because of the nature of the emergency. In other words, the nature of the emergency may be such that unless immediate action is taken, all would be lost, and any delayed action would be futile. Readers are reminded that in pure part 91 operations, § 91.3 applies.

*Section 119.59—Conducting tests and inspections.* Proposed language has been included in § 119.59(b)(1) and (e) to emphasize both the authority of FAA inspectors to gain access to a certificate holder's books and records and the fact that a certificate holder risks suspension of part or all of its operations specifications if it fails to provide that access. This language is an important reminder of the FAA's statutory authority and duty to determine whether an operator continues to be properly equipped to comply with the FAR and whether the operator can operate safely. Without access to those records, the FAA cannot fulfill its safety mission. The proposed paragraph makes explicit the intent of present §§ 13.7 and 121.81, Subpart V of part 121, and § 135.63. The purpose of the principal base of operations is for each certificate holder to provide to the FAA one location that the FAA would use as its main point of contact. It is the focus of liaison between representatives of the FAA and the operational management of the certificate holder. The FAA requires notification when this location changes so that it can adjust its staff accordingly. Proposed § 119.59(b)(1) would require that the operations specifications and

certificate must be maintained at the principal base; other records must be identified in a current listing at the principal base that shows the location and person responsible for each individual report and record.

*Section 119.63—Recency of operation.* Proposed § 119.63 would prohibit a certificate holder from conducting a kind of operation if that kind of operation has not been conducted for a period of 30 consecutive days. To resume that kind of operation the certificate holder must advise the Administrator at least 5 consecutive calendar days prior to resumption of that kind of operation and make itself available for any FAA reexamination that the FAA considers necessary. This requirement is being proposed because the FAA believes that the safety requirements for a particular kind of operation might not be met adequately by an operator that does not conduct that kind of operations for that length of time. Safety requires at least 5 days notice so that the FAA has the opportunity to conduct an inspection or reexamination to determine whether the certificate holder remains properly and adequately equipped and able to conduct a safe operation. Unless the FAA suspends or revokes the operator's certificate or withdraws the authorization in the operations specification for that kind of operation, the certificate holder may resume that kind of operation on the sixth consecutive calendar day after it notified the FAA of its plans to resume that kind of operation. Even if the FAA decides not to conduct a reinspection or a reexamination during that 5-consecutive-calendar-day period, the certificate holder may nonetheless resume operations on the sixth consecutive calendar day after the notification. For seasonal operators, advance planning and coordination with the certificate holding district office would make resumption of operations smoother.

*Management Requirements Proposed For Part 119 (Proposed Sections 119.65 through 119.71).* Currently the FAA has specific regulations governing qualifications for the management personnel of supplemental air carriers and commercial operators (§§ 121.59–121.61) and air taxi/commercial operators (§§ 135.37–135.39). Part 121 does not have specific regulations governing management personnel of domestic and flag carriers. Under the authority of 49 U.S.C. 44705 and as stated in § 121.27(a)(2) of the FAR, the Administrator must find that "the applicant is properly and adequately equipped and able to conduct a safe