

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 91, 119, 121, 125, 127, and 135**

[Docket No. 28154; Amendment Nos. 91-245, 119, 121-251, 125-23, 127-45, 135-58, SFAR 50-2, SFAR 71 and SFAR 38-12]

RIN 2120-AF62

Commuter Operations and General Certification and Operations Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule requires certain commuter operators that now conduct operations under part 135 to conduct those operations under part 121. The commuter operators affected are those conducting scheduled passenger-carrying operations in airplanes that have passenger-seating configurations of 10 to 30 seats (excluding any crewmember seat) and those conducting scheduled passenger-carrying operations in turbojet airplanes regardless of seating configuration. The rule revises the requirements concerning operating certificates and operations specifications for all part 121, 125, and 135 certificate holders. The rule also requires certain management officials for all certificate holders under parts 121 and 135. The rule is intended to increase safety in scheduled passenger-carrying operations and to clarify, update, and consolidate the certification and operations requirements for persons who transport passengers or property by air for compensation or hire.

EFFECTIVE DATE: January 19, 1996.

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Background

I. Introduction

On March 29, 1995, the Federal Aviation Administration (FAA) published a Notice of Proposed Rulemaking (NPRM) on "Commuter Operations and General Certification and Operations Requirements" (Notice No. 95-5; 60 FR 16230.) In Notice 95-5, the FAA proposed that commuter operations conducted in airplanes with 10-30 passenger seats be conducted under the domestic or flag rules of part 121 of title 14 of the Code of Federal Regulations. Currently, scheduled passenger-carrying operations in airplanes with passenger-seating configurations of over 30 seats or more than 7,500 pounds payload capacity are conducted under part 121. Scheduled passenger-carrying operations in airplanes with passenger-seating configurations of 30 seats or less and 7,500 pounds or less payload capacity

are conducted under part 135. Part 121, which provides the safety requirements for all major air carriers (as well as for any certificate holder conducting scheduled or nonscheduled operations with airplanes configured with more than 30 passenger seats), is generally considered to have more restrictive requirements than part 135. The regulatory changes were introduced in order to address the continually changing needs of the industry and to fulfill the agency's statutory requirement. This is the final rule, based on Notice 95-5.

II. History

Historically, the maximum certificated takeoff weight (MCTW) of an airplane determined both an airplane's categorization and operating requirements. Beginning in 1953, airplanes with an MCTW of 12,500 pounds or less were defined as "small airplanes" and were permitted to carry fewer than 10 passengers in on-demand air taxi service. The rules under which those operations were conducted were eventually codified as part 135. Airplanes with an MCTW of more than 12,500 pounds were defined as "large airplanes," and most large airplanes carried 20 or more passengers in scheduled air transportation. The Civil Aeronautics Board (CAB) used the large/small dividing line to separate major airline companies, who were required to obtain a Certificate of Public Convenience and Necessity (CPCN) from the CAB in order to operate in interstate commerce as a common carrier, from on-demand air taxi operators, who were exempted from obtaining a CPCN.

During this time, the CAB issued only a small number of CPCN's to major, publicly-recognized companies, such as Eastern, American, Delta, Pan Am, TWA, etc. In contrast, on-demand air taxi operators numbered in the thousands. These operators were typically fixed-base, usually at small airports, and owned fewer than five airplanes. They provided on-demand air transportation as well as other services, such as training new pilots and selling and renting small airplanes. Typically, the air taxi portion of such an operator's business was a small part of that business and rarely involved any scheduled operations.

Beginning in the late 1960's, airplane manufacturers began to design and build small airplanes, that is, less than 12,500 pounds maximum certified takeoff weight, that were capable of carrying more than 10 passengers, often close to 20. Some air taxi operators began to offer services that resembled