affected commuters would comply with the requirements of § 121.161(a).

Section 121.161(b) contains a separate requirement that (with some exceptions for certain older airplanes) no person may operate a land plane in extended overwater operations unless it is certificated or approved as adequate for ditching. The FAA proposed that affected commuters would also comply with the requirements of § 121.161(b). In Notice 95–5, the FAA invited specific comments on the potential impact of these proposals on operations in Alaska.

*Comments:* Several comments were received on the § 121.161(a) requirement to be within 1 hour of an airport with one engine inoperative. One commenter suggests that § 121.161 be rewritten to reflect today's environment, since no airport in the U.S. is more than 1 hour away for these commuter airplanes. The commenter also states that the rule should specify the requirements for two-engine operations over the water.

<sup>•</sup> Fairchild and AIA both state that § 121.161(a) would require single-engine cruising speed data and this data is unlikely to be included in some Airplane Flight Manuals (AFM). The commenters also state that there appears to be no safety benefit and it will be difficult to show compliance. According to these commenters, the final rule should except 10–30 passenger seat airplanes.

Phoenix Air anticipates that its operations with a Grumman G–159 Gulfstream airplane would be disrupted due to the requirements of § 121.161, since they intend to start service between Honolulu and Midway Island. There are no airports that would be within 1 hour of the intended flight path.

Jetstream concurs with the requirement that airplane routes should be within 1 hour of an adequate airport.

Three comments were received on the certification ditching requirements of § 121.161(b). Fairchild and AIA note an apparent oversight in that the FAA did not propose to exclude part 23 Normal or Commuter Category airplanes from the ditching requirements of § 121.161(b).

AACA notes that several certificate holders fly affected aircraft on extended overwater routes in Alaska. Compliance with the part 25 ditching requirements would add certification costs, impose equipment weight penalties, and reduce payloads. According to the commenter, the FAA did not calculate these costs. The commenter supplies information indicating that costs to comply with the ditching requirements of part 25 are substantial.

FAA Response: Despite the comments to the contrary, the FAA has decided to adopt its proposal to apply the route limitation requirements of § 121.161(a) to the 10- to 30-seat airplanes operated by the affected commuters. Under that section any route flown by a twin engine commuter type airplane must be flown so that it is within 1 hour of an adequate airport for landing. Part 121 and its predecessor regulations have applied route limitation requirements to airplanes operating under those requirements since 1936. While the specific details of the route limitation requirement have changed over the years, the underlying safety issue has not; the certificate holder must show, before operating affected airplanes over a route, that it can safely continue flight in an emergency situation to an airport adequate for landing. The FAA understands that some of these airplanes will require an AFM revision that will provide engine-out cruise speed data. There are routes in areas outside of the contiguous U.S. that are more than 1 hour flying time (with one engine inoperative) from an adequate airport. In accordance with § 121.161(a), the Administrator may authorize a deviation from the requirement, if the operator can show that the 1-hour flight time limit is not necessary based on the character of the terrain, the kind of operation, or the performance of the airplane. Obtaining authorization to conduct extended range operations with two-engine airplanes is dependent upon many factors. Some of these factors are a type design review of the airframe system, a review of the in-service history of the airplane propulsion system, and an assessment of the certificate holder's maintenance and inspection program capability for extended range operations. Advisory Circular 120–42 provides the guidelines for this authority. Other rules provide the requirements for extended overwater routes.

The Douglas DC–3 and Curtiss C–46 airplanes excluded from § 121.161(b) were type certificated and manufactured before the present standards of part 25 were adopted. These aircraft were excluded because of their previous operating experience which showed, in some cases through actual ditchings, that these old airplanes could ditch satisfactorily. The Convair 240, 340, and 440 and Martin 404 airplanes were also type certificated before the present standards were adopted. They were excluded because tests conducted by the National Advisory Committee for Aviation showed they would have excellent ditching characteristics.

Unlike current part 25, part 23 contains no standards for ditching approval. Unlike those older airplanes excluded in § 121.161, none of the part 23 airplanes have been shown to comply with any ditching standards. Contrary to the commenter's assumption, requiring part 23 airplanes used in extended overwater operations to meet the ditching certification requirements was not an oversight. In Notice 95–5 preamble, the FAA concluded that these requirements should be applied to the operations that would be moved from part 135 to part 121.

After considering the comments, the FAA has determined that until 15 years after the date of publication of the final rule a certificate holder may operate in an extended overwater operation a nontransport category land airplane type certificated after December 31, 1964, that was not certificated for ditching under the ditching provisions of part 25 of this chapter. Section 121.161(c) has been added accordingly.

Proving tests. Section 121.163 provides proving test requirements for part 121. In addition to aircraft certification tests, an aircraft to be operated under part 121 must have at least 100 hours of proving tests for an airplane not previously proven for use in part 121 operations, and 50 hours of proving tests for an airplane previously proven for use in part 121 operations. The number of hours may be reduced by the Administrator. Section 135.145 requires 25 hours of proving tests in addition to certification tests for certificate holders that operate turbojet airplanes or airplanes for which two pilots are required for operations under VFR if that airplane or an airplane of the same make and similar design has not been previously proved in any operations under part 135. Both §§ 135.145 and 121.163 require proving tests for materially altered airplanes. However, under § 121.163, proving tests apply to each airplane to be operated under part 121. Under part 135 proving tests apply to each aircraft or to aircraft of similar make and design. Part 121 also describes three types of proving tests. Under part 121, the initial operator of a type of airplane must conduct at least 100 hours of proving tests, acceptable to the FAA, which can be reduced in appropriate circumstances. Moreover, for each kind of operation (e.g., domestic, flag, supplemental) that a certificate holder conducts, 50 hours of proving tests are required, which are reducible in appropriate circumstances.

*Comments:* Six substantive comments were received. Comair and RAA concur with the requirement for an air carrier