

airplane performance requirements of part 121 within 15 months of the publication of the final rule.

2. Airplanes certificated under SFAR 41 or earlier certification standards will be allowed to continue to comply with the part 135 Subpart I and other airplane performance operating limitations requirements for 15 years. The FAA anticipates that some of the SFAR 41 airplanes will be able to meet the part 121 requirements within the 15-year period so they have the choice of either continuing to operate under the performance requirements of part 135 for the 15-year compliance period or complying with the performance requirements of part 121 during the 15-year compliance period. Some of the airplanes certificated under earlier certification standards, such as under part 135, Appendix A, part 23, with special conditions, and SFAR's 23 and 41C, will probably never be able to meet the part 121 standards. For affected commuters operating these airplanes, the 15-year period allows the operators sufficient time to plan for and obtain replacement airplanes or to modify them.

Although the FAA encourages affected commuters to comply with the performance operating requirements earlier than 15 years after publication of the final rule, it is allowing that length of time to ensure that there will be an adequate supply of replacement airplanes available for purchase. The current rate of production of new commuter category airplanes is approximately 30 per year. But most importantly, if the FAA were to impose a shorter compliance period and affected commuters were not able to obtain new airplanes from manufacturers, they might replace their equipment with airplanes configured for fewer than 10 passengers. This airplane group is not covered by this rulemaking and has a higher accident rate than the 10–19 passenger airplanes. Therefore, an unintended effect of this rule could be an increase in the accident rate.

In response to Jet Stream's comment, current FAA policy prohibits revisions to airplanes certificated under SFAR 41 that would increase the maximum weight or the number of passengers. This SFAR was terminated on September 13, 1983.

While the FAA understands that some of the older airplanes (i.e., normal category predecessors of commuter category airplanes) may not be able to meet certain performance requirements, the FAA has determined that some performance requirements, such as the maintaining of an altitude with an engine-out, are important safety

enhancements that provide for a higher level of safety. This level of safety required in part 121 should be available to all passengers flown on carriers operating under part 121.

Section 121.191 requires that the AFM show a one-engine inoperative net en route flight path which would provide a positive slope at an altitude of at least 1,000 feet above the terrain (2,000 feet in mountainous terrain) within 5 statute miles of the intended track. Section 121.191 also provides for a net flight path that would allow continued flight from the cruising altitude to an airport clearing all terrain and obstructions. Section 135.181(a)(2) requires airplanes to maintain a 50 feet per minute rate of climb when operating at the MEAs or 5,000 feet MSL whichever is higher. It does not provide for the continuation of the flight below the MEA.

Section 121.191 has continuously provided for safe engine out en route operations while allowing some flexibility. The flexibility allows the certificate holder to calculate maximum weights for maintaining a constant engine out altitude, a continuous flight path drift down to an airport when an altitude cannot be maintained, and provides off airways direct routing engine out performance requirements. The FAA understands that net en route flight path data must be provided by the manufacturer; however, the FAA believes that part 121 air carriers deserve the additional flexibility of § 121.191 and that commuters adopting the § 121.191 requirements may gain a flexible benefit with a continued higher level of safety.

In response to comments, the FAA points out that Notice 95–5 proposed to remove the words “transport category” wherever they appear in subpart I.

In reviewing part 121 to resolve comments, the FAA noted that several formulas are printed incorrectly. In the rate of climb formula for reciprocating engine powered transport category airplanes certificated under parts other than part 4a of the Civil Air Regulations (CAR), the parentheses are misplaced. This formula has been printed correctly in the corresponding part 135 section of § 135.371 (a) and (c)(1). Also, in the rate-of-climb formula for transport category airplanes certificated under CAR 4a [§ 121.181 (a) and (c)(1) and § 121.183 (a)(2) and (c)(1)] it is not clear as printed that the subscript  $s_0$  is to be squared. Appropriate corrections are made to both formulas.

#### VI.A.6 Subpart J—Special Airworthiness Requirements

*Internal doors.* Section 121.217 prescribes that in any case where internal doors are equipped with louvers or other ventilating means, there must be a means convenient to the crew for closing the flow of air through the door when necessary.

*Comments:* Raytheon Aircraft states that a new toilet installation for the 1900D has internal partitions with permanently open louvers. Compliance with § 121.217 would require Raytheon to redesign the partition louvers so a crewmember could leave his or her station to close the louvers when necessary or design the louvers for remote control closure.

*FAA Response:* Contrary to the commenter's assumption, the lavatory partition louvers in the commenter's airplanes would not have to be redesigned. As stated in § 121.213 (a) and (b), § 121.217 applies only to airplanes type certificated under Aero Bulletin 7A or part 04 of the Civil Air Regulations.

*Cargo carried in the passenger compartment.* Section 121.285 requires that cargo carried in passenger compartments must be stowed in a fully enclosed bin or carried aft of a bulkhead or divider and properly restrained. Section 135.87 allows certificate holders to carry cargo in an approved cargo compartment instead of a fully enclosed bin and to carry restrained cargo anywhere in the passenger compartment if it is restrained by a net that meets the requirements of § 23.787(e). The FAA proposed to amend § 121.285 to add an exception for commuter category (and predecessor) airplanes that would have the effect of allowing cargo to be carried in the passenger compartment as it is today under part 135.

*Comments:* AACA, an association of Alaskan air carriers, fully supports the proposal.

*FAA Response:* The final rule includes provisions from § 135.87 that have been moved into § 121.285 for nontransport category airplanes type certificated after December 31, 1964.

*Landing gear aural warning device.* Section 121.289 contains a requirement for a landing gear aural warning device for large airplanes. At present this section applies to any airplane with a maximum certificated takeoff weight of more than 12,500 pounds. Appendix A of part 135 requires a landing gear warning device for airplanes having retractable landing gear and wing flaps, but the device need not be aural. The FAA considers that the cost of replacing a warning light with a warning sound