proposed rule would require compliance with § 121.353.

Comments: Two commenters state that application of § 121.353 to affected commuters would provide relief from compliance with § 91.205, which would reduce the standards. One of these commenters claims that S-type ELT's as required by § 121.353 are useful for sea ditching but are of no use over uninhabited terrain. According to the commenter, they are intended for extended overwater operations, are immersion activated, are not intended for fixed installation on aircraft, lack any impact G-force activation feature, are very bulky, are extremely expensive, and, by design, are not suitable for surviving situations other than sea ditching. The commenter states that incapacitated survivors on uninhabited terrain cannot expect any help from an S-type ELT. The commenter recommends revising § 121.353 to state that the provisions are in lieu of part 91 provisions and that an airplane subject to part 121 must be equipped with an ELT or pyrotechnic signal device in accordance with § 121.353 or § 121.339 (extended overwater).

RAA also states that the requirement for pyrotechnic signaling devices is impractical for airplanes operating under part 121 and recommends that § 91.205(b)(11) be amended to exclude these certificate holders.

RAA and ASA point out that the requirement for ELT's in § 91.207 exempts turbojet-powered aircraft and aircraft engaged in scheduled flights by scheduled air carriers. RAA and ASA believe that all jet-powered airplanes that normally operate under part 121 whether or not they utilize propellers should be exempt from the requirements of § 91.207 during flight operations under part 91, such as ferry, training, testing, proving runs, which are incidental to or in support of scheduled operations. RAA and ASA recommend revising § 91.207(f)(1) to read: ''Large turbine powered airplanes.''

AACA indicates that the economic analysis did not include the weight penalties or costs for installing, maintaining, repairing, and training for the use of survival kits. AACA also states that the rule is unclear as to when the kits are required since ''uninhabited areas'' is not defined. AACA recommends clarifying the applicability of these requirements to Alaska. AACA, as well as other commenters, also states that there is an Alaskan state law requiring extensive survival equipment on board any aircraft operated in the State.

FAA Response: In response to the applicability to Alaska, although scheduled intrastate operations within the States of Alaska and Hawaii are currently conducted under flag rules, as a result of this final rule, these will now be domestic operations and the survival equipment requirements do not apply to domestic operations. The FAA did not intend to reduce requirements for operations over uninhabited terrain in Alaska or Hawaii as currently applicable. Therefore, the title of § 121.353 has been revised and an applicability statement added to include Alaska and Hawaii. Since these operators have been meeting flag requirements, this revision will not be a change for them.

The revisions requested to part 91 to exempt ferry flights and other types of flight incidental to scheduled flights is a separate issue from the requirements of § 121.353 which pertain only to emergency equipment for operations over uninhabited terrain. Any amendment to part 91 would need to be part of a separate rulemaking.

The FAA does not agree that the language of § 121.353 should be revised to clarify that it replaces the requirements for pyrotechnic signaling devices in § 91.205(b)(11) pertaining to aircraft for hire operated over water beyond power off gliding distance to shore. The proposed applicability of § 121.353 to affected commuters if they fly a supplemental or flag operation does not affect the applicability of part 91 requirements. The requirements of § 91.205(b)(11) would continue to apply under applicable circumstances. Part 121 requirements are in addition to part 91, not in lieu of part 91.

The FAA does not agree with the commenter's claim that survival-type ELT's do not work except in water ditchings. It is true that S-type ELT's must meet certain buoyancy, waterproofness, and immersion in salt water requirements. While many S-type ELT's employ water-activated batteries, they are not required. Regardless of the type of battery used, each ELT must have a means by which it can be activated manually.

In addition, this rulemaking does not define ''uninhabited terrain.'' When the predecessor regulation to § 121.353 was proposed in CAB draft release 58–24 in 1960, ''uninhabited terrain'' was defined as ''flights for long distances over frigid or tropical land areas for which the Director finds such equipment to be necessary for search and rescue operations because of the character of the terrain to be flown over.'' When the rule was adopted, the wording was changed to provide the Administrator more flexibility in identifying uninhabited areas. Since implementation is on a case-by-case basis through operations specifications, it was determined that the proposed wording was not necessary. This provision has been in effect for over 30 years without any problem about the meaning of ''uninhabited areas.''

Airborne weather radar. The proposed rule would require all affected commuters to have airborne weather radar in accordance with § 121.357. Currently, part 135 requires weather radar for 20–30 passenger seat airplanes and weather radar equipment or approved thunderstorm detection equipment for 10–19 passenger airplanes.

Comments: Three comments were received on the proposal. RAA and AMR Eagle support the proposed requirement. AMR Eagle states that commuter operations are typically characterized by high frequency operations at lower altitudes with short stage lengths which necessarily limits preplanning, planning, or executing a desired deviation in flight profile because of changing weather. Hence a flightcrew needs all available tools to conduct safe operations.

One commenter states that airborne weather radar is not needed in Alaska because severe thunderstorms and tornadoes do not occur there.

AACA claims that Notice 95–5 is silent about the exceptions for operations within the states of Alaska and Hawaii and within parts of Canada. AACA requests that the FAA specifically address the issue that airborne weather radar and airborne thunderstorm detection equipment will not be required for operations previously excepted under part 121 and part 135 (§§ 121.357(d) and 135.173(e)). According to the commenter, there have been no meteorological changes in Alaska since the regulation was originally written; therefore, this equipment is no more necessary now than it ever was.

FAA Response: The FAA agrees with AACA that, in accordance with § 121.357(d), airborne weather radar is not required for airplanes used solely within the State of Hawaii or the State of Alaska or that part of Canada west of longitude 130 degrees W, between latitude 70 degrees N and latitude 53 degrees N, or during any training, test, or ferry flight. This exception is retained in the final rule. In Notice 95–5 the FAA did not propose to delete the § 121.357(d) exception.

All other affected operators would have to have airborne weather radar within the 15-month compliance period.

Traffic Alert and Collision Avoidance System (TCAS). Under the proposal,