

10–19 passenger seat operators with airplanes certificated after 1964. These smaller airplanes have more flexibility in VFR to find a suitable landing airport. This flexibility provides functional equivalency to part 121.

VI.A.15 Subpart V—Records and Reports

Subpart V prescribes requirements for the preparation and maintenance of records and reports for all certificate holders operating under part 121.

Although many of the requirements are identical to or similar to the recordkeeping requirements in §§ 135.63 and 135.65, part 121 requires additional information, including new records and reports. Notice 95–5 proposed that affected commuters comply with the recordkeeping requirements of part 121.

Comments: Jetstream supports the application of subpart V to affected commuter operations.

RAA and ASA point out that § 121.715 on in-flight medical emergency reports is an obsolete requirement that should be eliminated. These commenters also contend that § 121.711 on retention of communication records would require affected commuters to record each enroute radio contact and keep the record for 30 days. According to these commenters, recent interpretations of this requirement have caused some certificate holders to establish elaborate recording systems. The commenters question the need for these records and suggest that the requirement be eliminated if it no longer serves a useful purpose.

FAA Response: The FAA agrees with commenters that § 121.715, relating to inflight medical emergencies, is obsolete and it has been deleted in the final rule. The commenters are correct that § 121.711 requires certificate holders to record each en route radio contact and keep the record for 30 days. This requirement is necessary for all certificate holders and has been retained in the final rule.

VI.B. Part 119—Certification: Air Carriers and Commercial Operators: Summary

Part 119 is a new part that consolidates into one part the certification and operations specifications requirements for persons who operate under parts 121 and 135. For the most part, these regulations are currently in SFAR 38–2, which replaced the certification and operations specification requirements in parts 121 and 135 in response to the Airline Deregulation Act of 1978.

Part 119 was originally proposed in 1988 (53 FR 39853; October 12, 1988; Docket No. 25713). Based on comments received on the

definition of “scheduled operation” in that notice, the FAA published a Supplemental Notice of Proposed Rulemaking (SNPRM) in 1993 (58 FR 32248; June 8, 1993; Docket No. 25713). In Notice 95–5, the FAA republished the entire text of part 119 for comment because of the length of time since the first NPRM, the number of changes that were made to the proposed text, and the significance of the changes to part 119 that resulted from the review of commuter operations. Each section of part 119 that had been changed since the previous notices was explained in the preamble to Notice 95–5.

The first objective of part 119 is to establish a permanent guide in a new part that will enable persons who provide transportation of people or cargo to determine what certification, operations, maintenance, and other regulatory requirements they must comply with. A second objective is to set out procedural requirements for the certification process that apply to all certificate holders conducting operations under part 121 or part 135.

Part 119 accomplishes the following:

- (1) Incorporates much of SFAR 38–2 as Subparts A and B;
- (2) Revises certification procedures now in parts 121 and 135 and consolidates them as Subpart C;
- (3) Revises wet leasing requirements;
- (4) Provides definitions for terms such as “direct air carrier” and “kind of operation,” and clarifies the requirements for operations specifications by adding definitions for terms such as “domestic operation” and “supplemental operation;”
- (5) Provides a roadmap for certificate holders to lead them to the operating rules in part 121, 125, or 135 that they must comply with for the kind of operations that they conduct;
- (6) Adds a new requirement for a Director of Safety; adds management requirements for domestic and flag operations conducted under part 121 consistent with those that now exist for supplemental operations conducted under part 121; and consolidates part 121 and part 135 management requirements;
- (7) Rescinds part 127 and any requirements that pertain solely to helicopters in part 121, Subparts A through D; and
- (8) Throughout part 121, Subparts A through D, and part 135, Subpart A, changes various references from CAB requirements to DOT requirements, changes terminology where needed, and makes incidental editorial changes.

Comments on Part 119

This section contains a summary and a response to the comments received on specific sections of part 119.

General Comments on part 119.

USAir Express expresses concern over the 7-year time lag between when part 119 was originally introduced and the issuance of Notice 95–5. This commenter suggests that since many changes have occurred in the air industry and in the FAA, it may be best to issue subparts A and B of part 119, but to leave the requirements in subpart

C in their current form in parts 121 and 135. NATA similarly contends that “the unknown effects of the requirements contained in part 119 are not adequately considered in Notice 95–5’s cost-benefit analysis.” Both of these commenters believe that the new requirements in part 119 impose unnecessary administrative burdens for certificate holders.

FAA Response: The FAA disagrees with the arguments presented by the commenters. For the most part, subchapter C is a recodification of the existing part 121 and 135 certification requirements for applicants for air carrier or operating certificates. In some instances, such as wet leases under § 119.53, recency of operation under § 119.63, and management personnel under §§ 119.65 and 119.67, where substantive changes are made, further discussion is contained elsewhere in this preamble.

Section 119.2—Compliance. The final rule contains a new § 119.2 that states that certificate holders shall continue to comply with SFAR 38–2 until 15 months after the publication date of the final rule or the date on which the certificate holder is issued part 121 operations specifications, whichever occurs first.

Section 119.3—Definitions. Section 119.3 contains definitions for the five kinds of operations conducted under parts 121 and 135 (Domestic, Flag, and Supplemental in part 121 and Commuter and On-demand in part 135). The FAA proposed to move the affected commuters to part 121 by changing the definitions for “Commuter operations,” “Domestic operations,” and “Flag operations.” Comments on these definitions as they relate to affected commuters are discussed earlier in the preamble under “V.B. Applicability.” Other comments on proposed definitions are discussed in this section.

General comments on definitions. There were several comments on the lack of definitions for certain terms in the proposed rule, and, in some cases, the lack of distinctions drawn among certain terms. Helicopter Association International (HAI) cites the lack of a definition for “common carrier,” saying that it is hard to understand the difference between this and the “noncommon carrier.” One commenter recommends that “nonscheduled operations” should substitute for “on-demand operations” and “supplemental operations” and that “scheduled operations” should replace the words “domestic,” “flag,” and “commuter” in order to simplify and standardize the regulations. Additionally, whenever the phrase “flag operations” needs to be