121 and commuter and on-demand operations to be conducted under part 135. Section 119.21(a)(3) states that the Administrator may authorize or require that (1) Certain certificate holders conducting supplemental operations between airports that are also served by the air carrier's domestic or flag operations, conduct those operations under the domestic or flag rules; and (2) certain all-cargo operations that regularly and frequently serve the same two airports may be required to be conducted under the domestic or flag rules.

Comments: The National Air Carrier Association (NACA) recommends deleting ''or require'' in the second sentence of proposed § 119.21(a)(3). The language goes far beyond the current language of SFAR 38–2.4(a)(3) or part 121 in its application to supplemental passenger operations conducted ''between points that are also served by the certificate holder's domestic or flag operations.'' The preamble does not provide sufficient explanation or justification to require the application of domestic or flag operating requirements to supplemental passenger operations that are operated over routes where an operator also has domestic or flag operations. There are sufficient economic and operational safeguards already in place to preclude abuse. NACA believes that what ''may be required'' will quickly become ''what is required,'' with the FAA unilaterally imposing the requirement to operate certain nonscheduled passenger operations under domestic or flag rules. There is no safety or accident history to justify more restrictive regulations. NACA concurs that frequency of service between a pair of points should not be the criterion for determining which rules apply.

FAA Response: The FAA concurs with the comments from NACA on the wording of the rule and the words ''or require'' have been removed in the final rule.

Section 119.25—Rotorcraft operations. Section 119.25 directs that all rotorcraft operations be conducted under part 135 regardless of the size or seating capacity of the rotorcraft. However, external-load operators and agricultural aircraft operators must comply with part 133 or part 137 of the FAR, respectively.

Notice 95–5 proposed to rescind part 127 because rotorcraft operators that previously operated under part 127 are directed in § 119.25 to conduct those operations under part 135. Part 135 has been more recently updated and, therefore, provides a more appropriate level of safety for rotorcraft operators than part 127.

Comments: HAI opposes removing part 127 at this time. HAI supports a review and update of this part in the future, but states that to simply remove this part now would be to allow the certificate-issuing district office unlimited discretionary powers in the design of appropriate operations specifications.

FAA Response: Part 127 is not a current part because SFAR 38–2 directed all rotorcraft operators to conduct their operations under part 135. Appropriate operations specifications for each certificate holder operating either airplanes or any size rotorcraft are developed by FAA Headquarters. The standard paragraphs are completely designed by Headquarters, while nonstandard paragraphs are reviewed and concurred on by Headquarters. Therefore, the certificate-holding district office does not have unlimited discretionary powers.

Section 119.33—General requirements. In § 119.33 the FAA proposed that applicants for certificates be required to conduct the proving tests required for certification under the appropriate requirements of part 121 or part 135. The purpose of the tests is to demonstrate (as one of the last steps in the certification process) that the applicant is qualified and eligible to receive a certificate. The change permits applicants to complete the certification process without having to obtain either a deviation or certification to conduct operations under part 125. The FAA also proposed to amend §§ 121.163, 125.1, and 135.145 to make the proving test requirements consistent in those parts. No comments were received on these § 119.33 issues and the final rule is adopted as proposed.

Section 119.35—Certificate application. This section requires a certificate applicant to submit the application 90 days prior to the intended date of operation instead of the current standard of 60 days. This length of time accounts for the actual amount of time required by the FAA to properly process applications and to allow for agency documentation in the formal review period.

Paragraphs (c) through (h) of this section are a recodification of §§ 121.47, 121.48, and 121.49, which deal generally with the disclosure of financial information and of people/entities that would control the new certificate holder, applicable only to two categories of carriers: those who are not air carriers and those applying for authority to engage in intrastate common carriage but have not undergone fitness review by the Department of Transportation. The FAA believes that these requirements are crucial to ensuring safety by providing a check of financial, management, and other information about of the certificate holder and his or her ability to conduct safe operations.

Comments: NATA expresses concern about the utility of requiring detailed financial reporting, because safety problems are ''more appropriately discovered through operational inspections'' than through financial data. SP Aircraft comments that requiring detailed financial reporting seems excessive for small craft operators of on demand service since this requirement has not been proposed before now, and no explanation was provided for it in Notice 95–5. This commenter shares the concern that the reporting of financial records would in no way enhance the safety of operations that the FAA claims this proposal serves. Additionally, the commenter criticizes the requirement for insurance in that requiring the applicant to have insurance prior to submitting the application is an unnecessary burden due to the uncertain time span before application and review is complete. Thus, it recommends requiring that insurance should be in place before operations begin.

Fairchild Aircraft comments that § 119.35 fails to define the requirements for submitting detailed financial data, and recommends that the FAA establish the minimum qualifications that must be met under part 119, subpart C.

FAA Response: The financial reporting requirements in § 119.35(c) through (h) apply only to persons who are not air carriers, commonly called ''commercial operators,'' and who are applying for authority to engage in intrastate common carriage but have not undergone a fitness review by the Department of Transportation. The rule language has been updated to make it consistent with new definitions and certification requirements applicable to these operators. For persons applying for authority to conduct intrastate common carriage operations under part 135 these would be new requirements, as commenters point out. The FAA believes these requirements are necessary because financial information, management information, and information concerning who controls the certificate holder can reveal potential shortcomings on the applicant's ability to conduct a safe operation. The requirement for insurance information in § 119.35(h)(7) provides that the applicant report the period of coverage, not that it be in