

deviation authority for certain emergency operations does not appear in current part 121 or part 135. Therefore, this section is retained in the final rule. This new section will provide procedures for such situations as the recent hurricane in the U.S. Virgin Islands. Deviation authority was needed in order to allow rescue and supply flights into and out of damaged airports.

Section 119.59—Conducting tests and inspections. In § 119.59, the FAA proposed language to emphasize both the authority of FAA inspectors to gain access to a certificate holder's books and records and the fact that a certificate holder risks suspension of part or all of its operations specifications if it fails to provide that access. Without access to those records, the FAA cannot fulfill its safety mission. No comments were received on this issue and the final rule is adopted as proposed.

Section 119.61—Duration of certificate and operations specifications. Section 119.61 sets out the conditions under which certificates or operations specifications become ineffective.

Comments: Two commenters recommend that when operations specifications are changed or superseded, the carrier should be required to surrender the obsolete copies to the FAA. This would preclude the chance of outdated operations specifications being in the hands of the "field operators."

FAA Response: It is the responsibility of the certificate holder to have procedures in place to ensure that the most current copies of the operations specifications are adequately and accurately distributed. The FAA is not requiring that outdated operations specifications be surrendered to the FAA because of the administrative burden that such a requirement would entail. However, the FAA has decided to incorporate into § 119.61 a new paragraph (c), which contains the § 135.35 language for surrender of operations specifications and certificate if a certificate holder terminates business.

Section 119.63—Recency of operation. Proposed § 119.63 would prohibit a certificate holder from conducting a kind of operation if that kind of operation has not been conducted for a period of 30 consecutive days. The certificate holder must advise the Administrator at least 5 consecutive calendar days prior to resumption of that kind of operation and make itself available for any FAA reexamination that the FAA considers necessary.

Comments: Eight commenters address this proposed requirement. One says

that 30 days is too short a period and recommends a 6–12 month period. NACA recommends a 6-month period. Comair comments that the requirement is burdensome to active air carriers wanting to conduct supplemental operations; this commenter says that the requirement should be changed to apply to certificate holders or air carriers who have not conducted any operations, not just a particular kind of operation, in the previous 30 calendar days. A similar comment is made by another individual. NACA comments that this requirement is burdensome to air carriers conducting any type of operation (domestic, flag, or supplemental), especially to carriers who provide these services under short-term, short notice wet leases. USAir Express states that the proposed rule would seriously impact the ability of part 121 domestic and flag operators to conduct occasional supplemental operations since these operations are often required on less than 5 days notice. Also, since many part 121 certificate holders conduct their supplemental operations using the same procedures as their scheduled operations, there is no benefit from this requirement. SP Aircraft says that the requirement would be burdensome to on-demand small aircraft operators and to the FAA and that the rule should provide relief for these certificate holders.

Mesa and RAA point out that the proposed rule is unclear in its use of the term "kind of operation" and recommend that the FAA define this term.

FAA Response: In response to comments, the FAA has made the following changes to § 119.63 in the final rule:

If part 121 and part 135 scheduled operators do not conduct scheduled operations for more than 30 days, the 5-day notification provision would apply. For part 121 and 135 scheduled operators, no notification is required to conduct supplemental or on-demand operations provided they continue to conduct scheduled operations without being dormant for more than 30 days.

Part 121 supplemental operators or part 135 on-demand operators who have not conducted supplemental or on-demand operations for more than 90 days must notify the FAA at least 5 days before resuming operations.

In response to the comment to define "kind of operations," § 119.3 defines five kinds of operation as one of the various operations a certificate holder is authorized to conduct as specified in the operations specifications; that is, domestic, flag, supplemental, commuter, or on-demand.

Management Requirements (Proposed Sections 119.65 through 119.71). Notice 95–5 proposed to consolidate management personnel requirements for operations conducted under part 135 or part 121 into new part 119 and to apply management personnel requirements to domestic and flag operations. The management personnel requirements for operations conducted under part 135 (§§ 119.69 and 119.71) would be substantially the same as those currently in §§ 135.37 and 135.39. The management personnel requirements for operations conducted under part 121 (§§ 119.65 and 119.67) would be similar to those currently in §§ 121.59 and 121.61, which now apply only to supplemental operations.

The only significant changes under the proposed management requirements for part 121 and part 135 are as follows:

Director of safety. The FAA proposed that each certificate holder that conducts operations under part 121 must have a director of safety. This person would be responsible for keeping the highest management officials of the certificate holder fully informed about the safety status of the certificate holder's entire operation. The FAA believes that an independent, full time position is important if at all available or possible. However, it recognizes that in smaller operations, the director of safety function may be an additional function of a current manager. Section 119.65(b) provides flexibility in the requirements for positions and number of positions for management personnel, including the director of safety.

Director of operations. The FAA proposed for § 119.67(a) to require a director of operations to have both 3 years experience as a PIC of an aircraft under part 121 or part 135 and 3 years supervisory experience in a position that exercised control over any operations conducted with aircraft under part 121 or part 135.

In the case of a person becoming a director of operations for the first time, the FAA proposed that the PIC experience in large aircraft be recent, i.e., 3 years of experience within the past 6 years. (See proposed § 119.67(a)(3)(i).) Additionally, for all directors of operation under part 121, the minimum of 3 years of supervisory or managerial experience must have been obtained within the last 6 years. (See proposed § 119.67(a)(2).)

Additionally, for operations conducted under part 135, the FAA proposed that the director of operations have the following experience:

(1) At least 3 years of supervisory or managerial experience within the last 6 years, in a position that exercised