

was applicable only to land airports serving "scheduled" air carriers operating large aircraft (other than helicopters). Amendment 139-1 (38 FR 9795) published in the FEDERAL REGISTER on April 20, 1973, amended Part 139, effective May 21, 1973, to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board. As noted in the preamble to Amendment 139-1 the FAA recognized that the additional airports that are required to comply with Part 139 by virtue of Amendment 139-1 would not be able to comply with all of the requirements of Part 139 before the May 21, 1973 effective date. The FAA had determined that those airports were able to conduct a safe operation, and that provisional airport operating certificates, subject to such terms, conditions and limitations as the Administrator finds are reasonably necessary to assure safety in air transportation, should be issued to those airports pending their compliance with Part 139. Accordingly, a new § 139.12 was added to Part 139 which provisionally certificated for a period of 45 days (until July 5, 1973) airports and heliports which, on May 20, 1973, were serving CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft in order that they might continue to serve such air carriers pending compliance with Part 139. Section 139.12 also provided for the extension of that certification to May 21, 1974, upon the request of the airport operator prior to July 5, 1973, and compliance by the operator with the requirements of that section.

On June 28, 1973, the FAA issued Amendment 139-2 to Part 139 (38 FR 1774; July 3, 1973) amending § 139.12 by extending the July 5, 1973 date to October 5, 1973 (the time within which the operators of airports provisionally certificated under § 139.12(a) might meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974), and by extending the dates within which airport operators would comply with the reporting requirements of § 139.12(e) (2) and (3) from September 1, 1973 and January 15, 1974, to November 1, 1973, and February 15, 1974, respectively, it then appearing to the FAA that the 45-day provisional certification period originally provided for in § 139.12 of Amendment 139-1 did not allow sufficient time for operators of those airports to determine the extent to which they might not be in full compliance with Part 139 and the consequent need to apply for an extension of their provisional certificate.

On September 10, 1973 the FAA issued a notice of proposed rulemaking (Docket No. 13202, Notice No. 73-25; 38 FR 26389, September 20, 1973) which proposed amendment of Part 139 to clarify the meaning of the word "serving" used in prescribing the applicability of the part and in certain provisions of the part, including § 139.12.

In order to allow time for receipt of views and comments in response to

Notice 73-25, and time for consideration of those views and comments, prior to possible rule making, the FAA issued Amendment 139-3 to Part 139 (38 FR 27294; October 2, 1973) extending from October 5, 1973, to December 15, 1973, the time within which the operators of airports provisionally certificated under § 139.12(a) might meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974, and extending from November 1, 1973, to December 15, 1973, the time within which a certificate holder under § 139.12 would be required to submit a schedule for compliance showing how compliance with each requirement of Part 139 will be achieved and any requests for exemptions from any of those requirements.

On further consideration, the FAA determined that the proposed amendment would not fully implement the intent of the Congress, and that all airports serving CAB-certificated air carriers should be certificated. Accordingly, Notice 73-25 was withdrawn. In view of this withdrawal the FAA believed an extension of time to comply with the requirements of Part 139 was necessary for those operators who may have anticipated exclusion under the proposal contained in Notice 73-25. Therefore, the FAA (Amendment 139-4; 38 FR 34461; December 14, 1973) further extended from December 15, 1973, to April 2, 1974, the time within which the operators of airports provisionally certificated under § 139.12(a) might meet the requirements of § 139.12(b) in order to apply for an extension of that certificate, and the period of the extension was increased to October 15, 1974. In addition, the time within which a certificate holder under § 139.12 was required to submit a schedule for compliance showing how compliance with each requirement of Part 139 would be achieved and any requests for exemptions from any of those requirements was extended to April 2, 1974; and the last day for filing the supplementary compliance status report was extended to July 1, 1974.

It now appears, with respect to airports to which § 139.12(a) is applicable that compliance with the generally applicable certification and operating requirements of Part 139 is, in many cases, infeasible and impracticable, and that requiring compliance in such cases would be contrary to the public interest.

A substantial group of airports now serve CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft. This group is estimated in size to number 345 airports. Unscheduled and small aircraft operations at many of these airports is irregular, occasional, infrequent, seasonal or temporary. Included in such operations are charter flights, supplemental air carrier flights, and flights of similar character to construction sites or recreation areas and the like.

The FAA considers that uniform application of the requirements of Part 139

[Docket No. 13592; Amdt. No. 139-5]

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CAB-CERTIFICATED AIR CARRIERS

Airports and Heliports Serving Air Carriers Conducting Only Unscheduled Operations or Operations With Small Aircraft: Extension of Reporting and Termination Dates

The purpose of this amendment to § 139.12 of Part 139 of the Federal Aviation Regulations is to extend from April 2, 1974, to August 15, 1974, the time within which persons who on May 20, 1973 were operating an airport or heliport serving a CAB-certificated air carrier conducting only unscheduled operations or operations with small aircraft may apply for an extension of their airport operating certificate, to extend the time for submitting a schedule of compliance showing how compliance with the requirements of Part 139 will be achieved, and to extend the termination date for provisional operating certificates.

Part 139 of the Federal Aviation regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139

is not feasible or practicable in many such cases and that provision should be made for certification of these airports on an individual basis, based on an investigation of operating circumstances and a subsequent finding made by the Administrator that the particular airport is properly and adequately equipped to conduct safe operations for the kind of air carrier operation to be conducted, and that compliance with certain other requirements of Part 139 would be contrary to the public interest.

In the conduct of that preliminary investigation and in making that finding, the Administrator would review and evaluate airport characteristics, facilities, and equipment, including: landing area dimensions, strength, and condition; clearances; marking and lighting; firefighting and rescue capability; wind direction indicators; and airport safety surveillance capability.

Accordingly, the FAA is issuing a notice of proposed rulemaking (Notice No. 74-15; issued and published concurrently with this Amendment) to provide for certification of that group of airports to which § 139.12 is now applicable.

In view of the foregoing and in order to allow time for receipt of views and comments in response to Notice 74-15, and time for consideration of those views and comments, prior to possible rule making, the FAA has determined that there is a need to extend from April 2, 1974, to August 15, 1974, the time within which the operators of airports provisionally certificated under § 139.12(a) may apply for an extension of that certificate to December 15, 1974, and to extend from April 2, 1974, to October 15, 1974, the time within which a certificate holder under § 139.12 would be required to submit a schedule showing how compliance with each requirement of Part 139 will be achieved and any requests for exemptions from any of those requirements. The requirement for submission of a status report under § 139.12(e)(3) is extended from July 1, 1974, to November 15, 1974. Section 139.12 has also been revised for purposes of clarity and to make it clear that at least the level of safety at the airport on May 21, 1973, must be maintained during the extension periods provided for by this Amendment.

Since this amendment is an extension of the effective dates of new requirements and imposes no additional burden on any person, I find that notice and public procedures thereon is unnecessary and that good cause exists for making this amendment effective on less than 30 days' notice.

This amendment is made under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), and 1432), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, § 139.12 of Part 139 of the Federal Avia-

tion Regulations is amended, effective April 1, 1974, to read as follows:

§ 139.12 Issue of certificates for airports serving only unscheduled operations, or operations with small aircraft.

(a) Notwithstanding any other provision of this Part, a person who on May 20, 1973, operated an airport or heliport which serves CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft may continue to serve such air carriers and is certificated under this Part until August 15, 1974, provided at least the level of safety at the airport on May 21, 1973, is maintained.

(b) An airport operator may obtain an extension of the certificate to December 15, 1974, subject to such terms, conditions, or limitations as the Administrator may find necessary, if together with a request for such extension it submits to the appropriate Regional Director:

(1) The name and address of the airport, the airport owner, and the airport operator; and

(2) Its assurances that at least the level of safety current at the airport on May 21, 1973, will be maintained during the extension period.

(c) An airport operating certificate issued for the extension period set forth in paragraph (b) of this section shall:

(1) Contain a provision that at least the level of safety at the airport on May 21, 1973, will be maintained and such other terms, conditions or limitations as the Administrator may find necessary; and

(2) Be effective until December 15, 1974, unless sooner surrendered, suspended, revoked, or otherwise terminated for violation of the terms of the certificate.

(d) If a request for an extension of an airport operating certificate as provided for in paragraph (b) of this section is not made before August 15, 1974, the certificate terminates on that date.

(e) The holder of a certificate issued under paragraph (c) of this section shall:

(1) Maintain at least the level of safety at the airport on May 21, 1973;

(2) Submit to the appropriate Regional Director before October 15, 1974, a schedule for compliance showing how compliance with each requirement of this Part will be achieved, and any requests for exemptions from any of those requirements in accordance with Part 11 or § 139.19 of this Part; and

(3) Submit a status report to the appropriate Regional Director before November 15, 1974, showing to what extent compliance has been achieved.

Issued in Washington, D.C., on March 27, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

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