

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14621; Amdt. No. 137-8]

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

Special VFR Night Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment allows agricultural aircraft operators to conduct special VFR night operations without complying with certain instrument flight requirements. The FAA considers the current instrument flight requirements for special VFR night operations to be unnecessary and impractical for agricultural flights and believes it would be in the public interest if these requirements were eliminated.

DATE: Effective date: July 28, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: In Notice No. 77-28 (42 FR 62400, December 12, 1977), the FAA proposed to eliminate the instrument flight requirements of § 91.107(e) of the Federal Aviation Regulations (FARs) for agricultural aircraft operators conducting special VFR night operations in control zones.

Section 91.107(e) specifies that no person may operate an aircraft (other than a helicopter) in a control zone under appropriate special VFR weather minimums, between sunset and sunrise, unless that person meets the applicable requirements for instrument flight under part 61 of the FARs and the aircraft is equipped as required by § 91.33(d).

Notice No. 77-28 was proposed in response to a petition for rulemaking by the California Agricultural Aircraft Association, Inc., and because the agency believed that compliance with the requirements of § 91.107(e) was not necessary for the safety of special VFR night operations conducted by part 137 certificate holders.

In addition, certificates of waiver from the provisions of § 91.107(e) have been granted in the past to many agricultural aircraft operators who requested them. While the waiver process served to relieve certain operators from the requirements of § 91.107(e), this procedure requires individual determinations and involves considerable FAA and industry resources. Accordingly, this amendment will provide relief from the provisions of § 91.107(e) without the necessity of granting individual certificates of waiver in appropriate circumstances.

Ten comments were received in response to notice No. 77-28 and all favored adoption of the proposal. In general, the commenters praised the FAA for proposing to eliminate an unnecessary regulatory requirement which did not affect the safety of agricultural aircraft operations. One commenter stated that adoption of the proposal would hold down the cost of providing night agricultural services to farmers. Another commenter supported the proposal because it encouraged night operations. This, in turn, would protect bees (who return to the hive at night) and thereby benefit a large segment of the agricultural industry which relies on bees for pollination.

For the reasons set forth herein and in notice No. 77-28, and in light of the unanimous support for the proposal expressed by the commenters, the agency believes that agricultural aircraft operators should not be required to comply with the instrument flight requirements of § 91.107(e) when conducting special VFR night operations in control zones.

DRAFTING INFORMATION

The principal authors of this document are E. A. Ritter, Flight Standards Service and Marshall S. Filler, Office of the Chief Counsel.

THE AMENDMENT

In consideration of the foregoing, part 137 of the Federal Aviation Regulations (14 CFR Part 137) is hereby amended, effective July 28, 1978, by adding a new paragraph (c) to § 137.43 to read as follows:

§ 137.43 Airport traffic areas and control zones.

* * * * *

(c) Notwithstanding § 91.107(e) of this chapter, an aircraft may be operated in a control zone under special VFR weather minimums without meeting the requirements prescribed therein.

(Secs. 307(c), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), and 1421) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 19, 1978.

QUENTIN S. TAYLOR,
Acting Administrator.

(As published in the Federal Register (43 F.R. 28177) on June 29, 1978)

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