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Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10748; Amdt. No. 135-30]

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Passenger Occupancy of Pilot Seat

The purpose of this amendment to § 135.53 of the Federal Aviation Regulations is to permit a passenger to occupy a pilot seat in an aircraft type certificated prior to the effective date of the amendment with a passenger seating configuration greater than eight.

This amendment is based on a notice of proposed rule making (Notice 70-51) published in the FEDERAL REGISTER on December 20, 1970 (35 F.R. 19796). Twenty-six comments were received in response to the notice.

It is the position of the FAA that with respect to aircraft currently used in Part 135 operations a prohibition against passengers occupying a pilot seat is unduly restrictive inasmuch as the rationale therefor, namely, that a passenger could intentionally or inadvertently interfere with the pilot, does not appear to be supported by actual operating experience. The comments indicated that the position taken by the FAA in this regard is correct. However, based on the comments received and further FAA study, we believe that the prohibition against passenger occupancy of a pilot seat in the subject aircraft should be retained with respect to aircraft type certificated after the effective date of the amendment. In the absence of operating experience to indicate otherwise, we believe that occupancy of a pilot seat by a passenger may be unsafe with respect to newer and more sophisticated aircraft.

In light of the above, the amendment adopted herein differs from the pro-

posals in the notice to the extent that the prohibition against passenger occupancy of a pilot seat in an aircraft with a passenger seating configuration greater than eight is continued in force with respect to aircraft type certificated after the effective date of the amendment, but is made inapplicable to those type certificated before that date.

It should be noted that § 135.53 applies only to an 11-seat configuration (including the pilot seats); aircraft with fewer seats have always been permitted to carry passengers in the pilot seat and have done so safely. For aircraft with a greater number of seats, § 135.52 requires them to be operated with two pilots thus making the pilot seat unavailable to passengers.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented. Since this amendment is relaxatory, I find that good cause exists for making it effective on less than 30 days' notice.

In consideration of the foregoing, § 135.53 of the Federal Aviation Regulations is amended, effective October 15, 1971, to read as follows:

§ 135.53 Passenger occupancy of pilot seat.

No certificate holder may operate an aircraft type certificated after October 15, 1971, that has a passenger seating configuration, excluding any pilot seat, for more than eight passengers if any person other than the pilot in command, a second in command pilot, a company check airman, or an authorized representative of the Administrator, the National Transportation Safety Board, or the Post Office Department occupies a pilot seat.

(Secs. 313(a), 601, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 5, 1971.

J. H. SHAFFER,
Administrator.

(As published in the Federal Register/36 F.R. 20036/ on October 15, 1971)