

[Docket No. 14195; Amdt. No. 139-8]

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CAB-CERTIFICATED AIR CARRIERS**Certain Provisional Airport Operating Certificate; Extension of Effective Date**

The purpose of this amendment to Part 139 of the Federal Aviation Regulations (FARs) is to extend for a period of ninety days the effective date of each provisional airport operating certificate, issued under § 139.12 to an operator of a landing area that (1) is used for less than a daily average of one aircraft operation (landing or takeoff) during any three consecutive calendar months, and (2) is not used for any air carrier service conducted pursuant to a published schedule.

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 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, and to provide for the issuance of provisional airport operating certificates for airports serving only unscheduled operations or operations with small aircraft. Amendment 139-6 (39 FR 29342; August 15, 1974) amended Part 139 effective August 15, 1974, to provide for the issuance of limited airport operating certificates and operations specifications for airports serving air carriers conducting only unscheduled operations or operations with small aircraft. Amendment 139-5 (39 FR 11874; April 1, 1974) provided for the expiration of all provisional airport operating certificates on December 15, 1974. Under Amendment 139-6, holders of provisional airport operating certificates issued under § 139.12 had the option of retaining that certificate until the termination date of December 15, 1974 and complying with the reporting requirements of § 139.12, or surrendering that provisional certificate and obtaining a "limited" certificate under § 139.12(a).

It has become apparent to the FAA that a number of CAB-certificated air carriers operate, on an infrequent or intermittent basis, for the purpose of receiving or discharging passengers or cargo, into landing areas which are not held out to be or generally recognized as "airports." Small aircraft operations into cleared areas for delivery of supplies to Forest Service fire towers, helicopter operations to fishing camps, farms or racetracks, and delivery of supplies, materials or personnel at remote construction sites, are examples of such operations.

Section 101(9) of the Federal Aviation Act of 1958 defines "airport" as " . . . a landing area used regularly by aircraft for receiving or discharging passengers

or cargo." The FAA believes that the landing areas described above when used on an infrequent or intermittent basis, fall outside the definition of "airport" contained in the Act, and that certification of such sites is both unnecessary and impracticable at this time.

Accordingly, the FAA is proposing (Notice of Proposed Rule Making No. 74-37, issued concurrently with this Amendment) to amend Part 139 to include the definition of "airport" contained in the Federal Aviation Act of 1958, and to define the term "regularly" which is used in the definition of "airport" as meaning used, during the 12 calendar months preceding an aircraft operation (landing or takeoff), for either any air carrier service conducted pursuant to a published schedule, or an average of one or more aircraft operations (landing or takeoff) per day during any three consecutive calendar months.

In order to allow adequate time for receipt and consideration of comment in response to Notice 74-37, and to permit continued operations at that group of landing areas to which this amendment applies, § 139.12 is being amended to extend, until March 15, 1975, the effective date of those provisional airport operating certificates now held by operators of landing areas that are not used "regularly" as defined in Notice 74-37. Those provisions of § 139.12, which required the submission of a schedule for compliance and a compliance status report by October 15, 1974 and November 15, 1974, respectively, have been deleted as no longer applicable.

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 are 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, Part 139 of the Federal Aviation Regulations is amended, effective December 15, 1974, by amending § 139.12 to read as follows:

§ 139.12 Provisional airport operating certificates.

(a) A provisional airport operating certificate issued under § 139.12 of this part in effect prior to August 15, 1974, for a landing area that has not been used during the 12 calendar months preceding an aircraft operation for more than a daily average of one aircraft operation (landing or takeoff) during any three consecutive calendar months, and is not used for any air carrier service conducted pursuant to a published schedule, shall be effective until March 15, 1975, unless sooner surrendered, suspended, revoked, or otherwise terminated for violation of the terms of the certificate.

(b) The holder of a provisional airport operating certificate shall maintain at least the level of safety at the airport on May 21, 1973.

Issued in Washington, D.C., on December 6, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

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