

Title 14—Aeronautics and Space
CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 16257; Amdt. No. 121-134]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Additional Weather Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires that domestic and flag air carriers adopt an approved system for obtaining forecasts and reports of adverse weather conditions that may affect safety of a flight while en route and at each airport to be used. Prior to a flight, the aircraft dispatcher would be required to provide the pilot in command with all available weather reports and forecasts of weather conditions for each route to be flown and each airport to be used. During a flight, the aircraft dispatcher would be required to provide the pilot in command with any additional available information of meteorological conditions that may affect safety of the flight. The intended effect of this amendment is to reduce the number of accidents resulting from adverse weather. These changes are needed because a review of recent aircraft accidents indicates that hazardous weather conditions remain a serious threat to air safety.

DATES: Amendment is effective June 30, 1977, but a compliance date of December 31, 1977, is established.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

HISTORY

This amendment is based on a notice of proposed rule making (Notice No. 76-23) published in the *FEDERAL REGISTER* on November 15, 1976 (41 FR 50275). That notice invited comments by all persons interested in the making of the proposed rule. All interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. Seventy-eight commentators responded to Notice 76-23. Except for minor editorial revisions, and as specifically discussed hereinafter, this

amendment and the reasons therefor are the same as those in Notice 76-23.

DISCUSSION OF COMMENTS

One commentator disagreed with the proposal. Several commentators, while agreeing with the intent of the proposal, recommended that certain changes be accomplished. The majority of the comments supported the proposal without qualification.

It was noted that the proposal for an approved system for obtaining forecasts and reports of adverse weather phenomena did not include any guidelines regarding the details of a system which will be acceptable to the Administrator. Guidelines were intentionally omitted from the proposed regulation in order to provide flexibility to a certificate holder in developing a system for its particular operation. However, the FAA is developing an advisory circular that will be of assistance to certificate holders in developing their systems.

One commentator expressed concern that proposed § 121.601(c) is not limited to information of meteorological conditions which may affect safety of flight. Therefore, according to the commentator, the pilot in command would be deluged with unnecessary weather information and, consequently, safety of flight could be adversely affected. It was not intended that the pilot in command be furnished unnecessary information and proposed § 121.601(c) has been revised to make it clear that only that information which may affect safety of flight must be furnished to the pilot in command.

One commentator contended that there is no need for a regulatory change to require a system for reporting adverse weather because each domestic and flag air carrier presently has such a system. In conjunction with this comment it was argued that there is no need for FAA approval of the system. Current regulations do not explicitly require the certificate holders to use a system having the capability proposed in Notice 76-23. In the FAA's opinion, that system and the changes proposed in § 121.601 are necessary to ensure that the pilot in command will be furnished information concerning adverse weather that may affect safety of flight. FAA approval of the system is necessary in order to ensure that the system is satisfactory before it is used under operational conditions.

It was suggested that operations within the State of Hawaii be excluded from the requirement for the system in § 121.101(d) because of the generally favorable weather conditions which exist in the Hawaiian Islands and the unique nature of the operations there. The FAA does not agree with this suggestion because experience establishes that adverse

(As published in the Federal Register 42 F.R. 27572 on May 31, 1977)

weather phenomena, including clear air turbulence, thunderstorms, and low altitude wind shear can occur in the State of Hawaii. Any special characteristics of operations in Hawaii will be considered by the Administrator in reviewing for approval systems developed by certificate holders.

One comment urged that the tower and approach control facilities, not the certificate holder, should have the responsibility of providing weather reports to aircraft in terminal areas. The FAA does not agree with this comment. The FAA believes that the certificate holder, not the tower and approach control facilities, should have the primary responsibility for providing weather reports to aircraft in terminal areas. Consequently, it would not be appropriate for persons not under the control of the certificate holder to have the responsibility of relaying weather information to the certificate holder's flights.

It was pointed out that at the present time the National Weather Service does not provide routine forecasts of low-level wind shear and, consequently, some dispatch departments do not provide such forecasts to flight crews. Even if the National Weather Service does not implement procedures to provide routine forecasts of low-level wind shear, the FAA believes that, with minimal costs, certificate holders can develop other acceptable sources for that information. In this respect, it should be noted that at least one certificate holder has developed a workable system for gathering and disseminating such information.

Two commentators expressed concern with the FAA's conclusion that Notice 76-23 did not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107. However, neither commentator offered any data concerning economic impact. The FAA believes that its conclusion was correct. In addition, while some certificate holders may find it necessary to incur some expenses in achieving compliance with the new rules, the FAA believes that the expenses of compliance are more than offset by the enhancement of safety which the FAA believes will result from the rules.

Various other comments and suggestions were received that proposed regulatory changes which would exceed the proposals in the notice. They included:

- (1) Extend the proposal to include supplemental air carriers, commercial operators, and commuter air carriers;
- (2) Extend the proposal to include the entire aviation community by having the National Weather Service gather and disseminate hazardous weather information to airmen at all airports;
- (3) Require aircraft instrumentation which will measure turbulence; and
- (4) Require aircraft instrumentation which will enable the flight crew to determine wind shear conditions.

While these comments and suggestions have not been specifically discussed herein because they exceed the proposals in the notice, they are appreciated.

COMPLIANCE DATE

In order to provide adequate time for certificate holders to accomplish the steps required to achieve compliance with the new requirements, a compliance date for this amendment of December 31, 1977, is established. A certificate holder may obtain an extension of the compliance date, but not beyond June 30, 1978, from the Director, Flight Standards Service if, before December 31, 1977, it shows that it cannot meet the compliance date due to circumstances beyond its control. The certificate holder also would be required to submit a schedule acceptable to that Director, indicating that it will achieve compliance at the earliest practicable date.

REGULATORY EVALUATION

In accordance with Department of Transportation Regulatory Reform Policy, an evaluation of the anticipated impacts of this amendment has been made. It has been determined that it is probable that no maintenance costs and only minor capital investment costs will be incurred as a result of this amendment. It is probable that some domestic and flag air carriers will incur minimal additional costs for the training of personnel. However, the FAA believes that the additional costs will be more than offset by the enhancement in safety which is expected to result from the rule amendment. Accordingly, it has been determined that this amendment is expected to be neither costly nor controversial and will not impose a significant burden on the private sector, on consumers, or on the Federal, state, or local governments.

PRINCIPAL AUTHORS

The principal authors of this document are Charles E. Radawick, Air Carrier Regulations Branch, Flight Standards Service, and Richard C. Beitel, Office of the Chief Counsel.

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended, effective June 30, 1977, as follows:

1. By amending § 121.101 by revising paragraphs (b) and (c) and by adding new paragraphs (d) and (e) to read as follows:

§ 121.101 Weather reporting facilities.

(b) Except as provided in paragraph (d) of this section, no domestic or flag air carrier may use any weather report to control flight unless—

(1) For operations within the 48 contiguous States and the District of Columbia, it was prepared by the U.S. National Weather Service or a source approved by the U.S. National Weather Service; or

(2) For operations conducted outside the 48 contiguous States and the District of Columbia, it was prepared by a source approved by the Administrator.

(c) Each domestic or flag air carrier that uses forecasts to control flight

movements shall use forecasts prepared from weather reports specified in paragraph (b) of this section and from any source approved under its system adopted pursuant to paragraph (d) of this section.

(d) By December 31, 1977, each domestic and flag air carrier shall adopt and put into use an approved system for obtaining forecasts and reports of adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear, that may affect safety of flight on each route to be flown and at each airport to be used.

(e) A domestic or flag air carrier may obtain an extension of the December 31, 1977, compliance date specified in paragraph (d) of this section and paragraphs (b) and (c) of § 121.601, but not beyond June 30, 1978, from the Director, Flight Standards Service if, before December 31, 1977—

(1) It shows that due to circumstances beyond its control it cannot comply by that date; and

(2) It has submitted by that date a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

2. By amending § 121.601 by revising paragraph (b) and redesignating it as paragraph (c), and by adding a new paragraph (b), to read as follows:

§ 121.601 Aircraft dispatcher information to pilot in command: Domestic and flag air carriers.

(b) By December 31, 1977, before beginning a flight, the aircraft dispatcher shall provide the pilot in command with all available weather reports and forecasts of weather phenomena, including adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear, for each route to be flown and each airport to be used.

(c) During a flight, the aircraft dispatcher shall provide the pilot in command any additional available information of meteorological conditions (including, by December 31, 1977, adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear), and irregularities of facilities and services, that may affect the safety of the flight.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1424); sec. 6(c), 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 May 19, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.