

[4910-13]

**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Docket No. 17543; Amdt. No. 121-139]

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

**Certification and Operating Rules for All-Cargo Air Carriers**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes safety certification and operating rules for all-cargo air carriers issued certificates by the Civil Aeronautics Board under section 418 of the Federal Aviation Act of 1958. This amendment is necessary to implement section 418 of the Act.

**EFFECTIVE DATE:** January 9, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

**SUPPLEMENTARY INFORMATION:** Pub. L. 95-163 amended the Federal Aviation Act of 1958 to establish a new class of air carriers called "all-cargo air carriers." The law requires the Civil Aeronautics Board to issue certificates under new section 418 of the Act to several of the "grandfather" applicants no later than January 9, 1978. Accordingly, the Board promulgated a new Part 291 applicable to all-cargo air carriers issued certificates under section 418 of the Act. Part 291 of the Board's regulations becomes effective January 9, 1978.

These events also require the FAA to adopt appropriate amendments to the Federal Aviation Regulations to provide for the certification and regulations of "section 418 carriers" in the interest of safety. It should be noted that those eligible for "grandfather" certificates currently hold FAA operating certificates issued under Part 121, 127, or 135. Regardless of which certificate they hold they conduct their all-cargo operations with large airplanes in accordance with the rules of Part 121 applicable to supplemental air carriers and their all-cargo operations with small airplanes in accordance with the rules of Part 135. The FAA "all-cargo air carrier certificate" will be issued under Part 121.

Accordingly, this amendment makes Part 121 of the Federal Aviation Regulations applicable to carriers holding an "all-cargo air service certificate" or "section 418 certificate" issued by the CAB under section 418 of the Federal Aviation Act and requires operations

under that certificate to be conducted in accordance with the safety certification and operating rules in Part 121 that govern supplemental air carriers. It is the intent of this amendment to require compliance with only those regulations governing supplemental air carriers, rather than those prescribed in Part 121 for domestic and flag air carriers, unless the Administrator otherwise allows or requires in operations specifications issued to the air carrier. Of course, by virtue of § 121.9, small airplane operations under a section 418 certificate must be conducted in accordance with the operating rules of Part 135.

Holders of domestic, flag, and supplemental air carrier operating certificates, including the holder of a certificate issued under Part 127, who apply for operating authority under this amendment will not be issued an additional certificate, but will be issued appropriate operations specifications.

The holder of a Part 135 ATCO certificate limited to small aircraft may continue to conduct its all cargo operations under its Part 135 ATCO certificate. However, if it elects to operate under the authority of a section 418 certificate issued by the Board, it will be required to qualify and obtain an appropriate Part 121 certificate, in addition to operations specifications.

**DRAFTING INFORMATION**

The principal author of this document is R. G. Leary, Office of the Chief Counsel.

Since, as required by law, certain applicants must be issued certificate authority to provide all-cargo air service no later than January 9, 1978, there is a requirement for the early adoption of this amendment to provide applicable certification and operating rules in the interest of safety in air transportation. Therefore, I find that notice and public procedure hereon are contrary to the public interest and that good cause exists for making this amendment effective in less than thirty days.

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended, effective January 9, 1978, as follows:

1. By adding a new paragraph (a)(6) to § 121.1 to read as follows:

**§ 121.1 Applicability.**

(a) \* \* \*

(6) Each air carrier when it engages in all-cargo air service under a certificate issued by the CAB under section 418 of the Federal Aviation Act of 1958.

2. By adding a new paragraph (h) to § 121.3 to read as follows:

**§ 121.3 Certification requirements: general.**

(h) No person may engage in air transportation under the authority of an all-cargo air service certificate issued by the CAB under section 418 of the Federal Aviation Act of 1958, unless that person complies with the certification and operating rules of this part applicable to supplemental air carriers, except § 121.590. However, the Administrator may issue operations specifications for those operations and allow or require a certificate holder to comply with operating rules prescribed for domestic or flag air carriers, in lieu of the supplemental air carrier operating rules, if he determines that safety in air commerce requires or allows their issuance. The holder of a domestic, flag or supplemental air carrier certificate issued under this part or an air carrier certificate issued under Part 127 of this chapter need not obtain, and is not eligible for, an all-cargo air carrier certificate issued under this part. Those certificate holders are issued appropriate operations specifications.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 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 January 9, 1978.

LANGHORNE BOND,  
Administrator.

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