

[Docket No. 14194; Amdt. No. 1-24 and 139-9]

**PART 1—DEFINITIONS AND ABBREVIATIONS**

**PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CAB-CERTIFICATED AIR CARRIERS**

**Definition of "Airport"**

The purpose of this amendment to Parts 1 and 139 of the Federal Aviation Regulations is to include in Part 139 the definition of the word "airport" which now appears in section 101(9) of the Federal Aviation Act of 1958 (49 U.S.C. 1301), and further, to define the term "regularly" which appears in that definition of "airport." In addition, since the definition of "airport" which will now be applicable to Part 139 differs somewhat from the definition set out in Part 1 (Definitions and Abbreviations) of the Federal Aviation Regulations and currently applicable to subchapters A through K of the Federal Aviation Regulations (Parts 1 through 189), an editorial amendment is made to § 1.1 of Part 1 to accommodate special definitions.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking issued as Notice No. 74-37, published in the FEDERAL REGISTER on December 12, 1974 (39 FR 43315), and due consideration has been given to all comments received in response to that notice.

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 11974; 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" airport operating certificate under § 139.12a.

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 by the public as "airports," but are included in the definition of "airport" in Part 1. Small aircraft operations into cleared areas for delivery of supplies to Forest Service fire towers, helicopter operations to fishing camps, farms or race-tracks, 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 landing areas and sites is both unnecessary and impracticable, at this time.

Accordingly, the FAA proposed in Notice 74-37 for the purposes of Part 139, to apply the definition of "airport" now contained in the Act, and to define "regularly" 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. Notice 74-37 also proposed that Part 1 of the Federal Aviation Regulations be amended to distinguish or reconcile the two definitions of "airport."

Safety of air carrier operations at those landing areas which would not be certificated is provided for in § 121.590 of Part 121 and § 127.218 of Part 127. Those sections, which are applicable to air carriers, prohibit operations, unless otherwise authorized by the Administrator, into an "airport" unless that airport is certificated under Part 139. Part 1 of the Federal Aviation Regulations defines "airport" as meaning " \* \* \* an area of land or water that is used or intended to be used for the landing and takeoff of aircraft, and includes its buildings and facilities, if any." The definition of "airport" contained in Part 1 of the Federal Aviation Regulations is applicable to §§ 121.590 and 127.218. Operators to whom those sections are applicable are required to obtain the authorization of the Administrator for operations into those landing areas or sites which are outside the definition of "airport" as applicable to Part 139, but come within the definition of "airport" as applicable to §§ 121.590 and 127.218.

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 which were provisionally certificated, § 139.12 was amended

(Amendment No. 139-8; December 12, 1974, 39 FR 43297) to extend, until March 15, 1975, the effective date of those provisional airport operating certificates 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, were deleted as no longer applicable.

Comments received in response to Notice 74-37 generally supported the proposal. A number of those comments renewed objections to broadening the applicability of Part 139, which was accomplished by Amendment 139-1. The FAA believes that matter was adequately addressed in Amendment 139-1 and is not further treated here.

Several comments raised a question regarding the method that would be appropriate for determining the operations average or frequency of operation under § 139.1(b)(5)(ii). The FAA recognizes that in some cases that determination might be made difficult by reason of the fact that the airport or landing area is unattended, or that accurate or long-term records are unavailable. In order that provision be made for resolution of the question in those cases, § 139.1(b)(5)(ii) provides that the method used in determining the operations average be acceptable to the Administrator. It is anticipated, however, that airport records, tower logs, air carrier records, and FAA Flight Service Station and General Aviation District Office records, and the like, will usually provide adequate data.

Since this amendment relieves an existing restriction and imposes no additional burden on any person, I find that good cause exists for making this amendment effective on less than 30 days' notice.

(Sec. 313(a), 609, 610(a), 612, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), 1432); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, Parts 1 and 139 of the Federal Aviation Regulations are amended, effective March 15, 1975, as follows:

1. By amending the introductory statement in § 1.1 of Part 1 to read as follows:

§ 1.1 General definitions.

As used in subchapters A through K of this chapter, unless the context requires otherwise:

\* \* \* \* \*

2. By amending § 139.1 of Part 139 by adding new paragraphs (b) (4) and (b) (5) to read as follows:

§ 139.1 Applicability.

\* \* \* \* \*  
(b) As used in this Part—  
\* \* \* \* \*

(4) "Airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(5) "Regularly" as used in the definition of "airport" in this section means used, during the 12 calendar months preceding an aircraft operation (landing or takeoff), for either—

(i) any air carrier service conducted pursuant to a published schedule; or

(ii) an average of one or more aircraft operations (landing or takeoff) per day during any three consecutive calendar months, as determined by a method acceptable to the Administrator.

Issued in Washington, D.C., on March 6, 1975.

JAMES E. Dow,  
*Acting Administrator.*

[FR Doc.75-6489 Filed 3-12-75;8:45 am]