

December 30, 1964

[Docket No. 6403; Amdt. Nos. 91-11; 127-1;
129-1; 133-2; 141-1; 171-1]

[Special Civil Air Regulations 330, 389B,
395B, 397, 399D, 407, 411B, 426, 430, 431, 433,
446B, 448A, 450A, 454A, 456]

[Special Federal Aviation Regulations 12,
13, 14, and 15]

**PART 91—GENERAL OPERATING
AND FLIGHT RULES**

**PART 127—CERTIFICATION AND OP-
ERATION OF SCHEDULED AIR CAR-
RIERS WITH HELICOPTERS**

**PART 129—OPERATIONS OF
FOREIGN AIR CARRIERS**

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

PART 141—PILOT SCHOOLS

**PART 171—NON-FEDERAL
NAVIGATION FACILITIES**

Miscellaneous Amendments

The purpose of these amendments is to complete the remainder of the Agency's recodification program. The program was first announced in Draft Release 61-25, published in the FEDERAL REGISTER on November 15, 1961 (26 F.R. 10698).

All Civil Air Regulations in Chapter I of Title 14 of the Code of Federal Regulations will have been replaced with the issue of Part 121 of the Federal Aviation Regulations. That part is being issued separately and will become effective at the same time as these amendments.¹

The recodification of the regulations in Chapter III (Regulations of the Administrator) of Title 14 and the Special Civil Air Regulations is completed with the issue of the following miscellaneous amendments to Chapter I of Title 14. No regulations of the FAA will remain in Chapter III. Henceforth, all Federal Aviation Regulations and Special Federal Aviation Regulations will be contained in Chapter I of Title 14 of the Code of Federal Regulations.

Section 406.17(a) of the Regulations of the Administrator provided authority for the operation of a "true light" as an aid to air navigation. Under the Federal Aviation Regulations, such a pro-

¹To be published in the FEDERAL REGISTER of Thursday, December 31, 1964.

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vision belongs in Part 171—"Non-Federal Navigation Facilities". Therefore, a new Subpart D is being added to Part 171, recodifying § 406.17(a) of the Regulations of the Administrator.

This addition to Part 171 completes the recodification of Part 406 and enables the Agency to delete the Regulations of the Administrator in Chapter III of Title 14 of the Code of Federal Regulations. All other parts in this chapter have been previously recodified. Those sections of Part 406 neither heretofore recodified nor being recodified in Part 121 have been determined to be surplusage. Their substance either duplicates other provisions in the Federal Aviation Regulations or is advisory only.

In an attempt to limit the use of "special" regulations to those occasions of temporary or peculiar regulatory need, this amendment deletes certain Special Civil Air Regulations (SRs) of indefinite duration and incorporates them into the Federal Aviation Regulations:

1. SR 330 is being recodified by including its substance in a new § 141.31, "Special Flight Instruction for Military Personnel of a Foreign Government".

2. SR 389B is being recodified by including its substance in a new § 91.47, "Emergency exits for airplanes carrying passengers for hire".

3. SR 411B, as applicable to foreign air carriers, is being recodified by including its substance in a new § 129.23, "Transport category cargo service airplanes: increased zero fuel and landing weights".

4. SR 448A, except for paragraph (2), is being recodified by including its substance in a new § 91.8, "Prohibition Against Interference with Crewmembers".

5. SR 456 is being recodified by including its substance in a new § 91.103, "Operation of Civil Aircraft of Cuban Registry".

Part 121 of the Federal Aviation Regulations will contain the substance of SR 411B as it applies to air carriers other than foreign air carriers.

Because the applicability of neither SR 389B nor SR 448A(1) was restricted to operation within the United States but in effect, extended throughout air commerce, § 91.1 is being amended to except new §§ 91.47 and 91.8 from applicability only within the United States. Also included within this exception are two other sections already in Part 91. These sections, §§ 91.19 and 91.45 as originally recodified, were limited in applicability by § 91.1, to within the United States. The applicability provisions of those Civil Air Regulations from which these sections were recodified were not so limited. The effect of the new exception in § 91.1(c), is to relieve the four specified sections from the geographic limitation of § 91.1(a). It should also be noted that this exception is limited to aircraft of U.S. registry. Clarifying provisions are being added to new § 91.1(c) to assure that, for the purposes of the excepted sections, there can be no regulatory conflict for U.S. registered aircraft operating in foreign countries or over the high seas. In addition, the word order in § 91.1(a) is being revised to show more clearly that the exception

refers only to the limitation of the part's applicability to operations within the United States.

Paragraph (2) of SR 448A dealt with the prohibition against carrying a dangerous weapon while on board air carrier aircraft. Since its applicability extended only to air carrier aircraft, SR 448A(2) is being recodified by adding §§ 121.585 (to be issued separately) and a new 135.64. Section 127.227(c) already reflects SR 448A(2). Since SR 448A(1), which was the basis for paragraphs (a) and (b) of § 127.227, is hereby being recodified as § 91.8, § 127.227 is being amended to delete those paragraphs. In addition, § 127.139 is being clarified by adding to it a definition, taken from CAM 40.241-1, of "directly in charge". This definition reflects the sense in which the term is used in this section and in § 121.378, where it will also be added.

The following Special Civil Air Regulations are being deleted, because each has accomplished its intended purpose and is no longer necessary: 395B 430; 431; and 433. Because the geographic applicability of § 91.19 is being extended by amendment of § 91.1, SR 446B may now be deleted. SR 450A has not been recodified since it will lapse of its own force on February 1, 1965. In addition, SR 397, which in effect was an exemption from the Civil Air Regulations, rather than a regulation, is being deleted. In its place the Agency is issuing separately, a grant of exemption from the Federal Aviation Regulations for aircraft and airmen engaged in operations conducted for the United States Forest Service.

Certain Special Civil Air Regulations are being redesignated as Special Federal Aviation Regulations (SFARs). These are former SRs 399D, 407, 426, and 454A.

Of these, the first deals with the maximum certificated weight for airplanes operated in Alaska by Alaskan air carriers, air taxi operators, and the Department of the Interior. This regulation becomes SFAR 12 and its expiration date remains October 25, 1965.

SR 407 provides for approval of modified Douglas DC-3 and Lockheed L-18 type airplanes, and SR 426 provides for performance credit for transport category airplanes equipped with standby power. The present expiration date of each is indefinite. They are being redesignated as SFAR 13 and 14, respectively. One reason for not recodifying them into the basic FARs is that the need for each regulation has diminished over the years and is now quite limited. In addition, neither SR belonged in any one part of the Federal Aviation Regulations. In light of these peculiarities and since a special regulation does not differ in legal effect from any other regulation, the Agency determined to redesignate SR 407 as SFAR 13 and SR 426 as SFAR 14.

SR 454A provides for operation over certain areas of Florida and adjacent waters. In view of the significant tie of this regulation with National Defense interests and the international political atmosphere, either of which could change on very short notice, the Agency finds that National Defense and safety

in air commerce are best served by redesignating SR 454A as SFAR 15.

In addition, it is no longer necessary to use the word "[New]" when referring to a part of the Federal Aviation Regulations. This is possible because all Civil Air Regulations in Chapter I of Title 14, with the issue of Part 121, have now been replaced by Federal Aviation Regulations.

None of these amendments impose an additional burden on any person. Some are clarifying in nature, while most simply restate the substance of the specified regulations. Because of this I find that notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Title 14 is amended by striking out the Regulations of the Administrator in Chapter III and by amending Chapter I as follows, effective April 1, 1965.

1. By striking out Special Civil Air Regulations 330, 389B, 395B, 397, 411B, 430, 431, 433, 446B, 448A, 450A, and 456.

2. By amending Part 91 "General Operating and Flight Rules" as follows:

A. By amending § 91.1 to read as follows:

§ 91.1 Applicability.

(a) This part prescribes rules governing the operation of aircraft (other than moored balloons, kites, unmanned rockets, and unmanned free balloons) within (except as provided in paragraphs (b) and (c) of this section) the United States.

(b) Each person operating an aircraft of U.S. registry in air commerce over the high seas shall comply with Annex 2 (Rules of the Air) to the convention on International Civil Aviation.

(c) Sections 91.8, 91.19, 91.45, and 91.47 also govern the operation of aircraft of U.S. registry outside of the United States so far as these sections are not inconsistent with applicable regulations of any foreign country or Annex 2 to the convention on International Civil Aviation.

B. By adding a new § 91.8 to read as follows:

§ 91.8 Prohibition against interference with crewmembers.

(a) No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of his duties aboard an aircraft being operated in air commerce.

(b) No person may attempt to cause or cause the flight crew of an aircraft being operated in air commerce to divert its flight from its intended course or destination.

C. By adding a new § 91.47 to read as follows:

§ 91.47 Emergency exits for airplanes carrying passengers for hire.

(a) Notwithstanding any other provision of this chapter, no person may operate a large airplane (type certificated under the Civil Air Regulations before April 9, 1957) in passenger-carrying operations for hire, with more than the number of occupants allowed under Civil Air Regulation § 4b.362 (a), (b), and (c), as in effect on December 20, 1951. However, an airplane type listed in the following table may be operated with up

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to the listed number of occupants (including crewmembers) and the corresponding number of exits (including emergency exits and doors) approved for the emergency exit of passengers:

Airplane type	Maximum number of occupants including crewmembers	Corresponding number of exits authorized for passenger use
B-307.....	61	4
B-377.....	96	9
C-46.....	67	4
CV-240.....	53	6
CV-340 and CV-440.....	53	6
DC-3.....	35	4
DC-3 (Super).....	39	5
DC-4.....	86	5
DC-6.....	87	7
DC-6B ¹	112	11
L-18.....	17	3
L-049, L-649, L-749.....	87	7
L-1049 (series).....	96	9
M-202.....	53	6
M-404.....	53	7
Viscount 700 series.....	53	7

¹ The DC-6A, if converted to a passenger transport configuration, is governed by the maximum number applicable to DC-6B.

(b) Additional occupants may be carried if there are additional exits comparable to at least a Type II or Type IV exit as prescribed in § 25.807, but not more than eight additional occupants may be carried for each additional exit. In the case of exits not comparable to at least a Type II or Type IV exit, the Administrator may authorize a lesser number of additional occupants, after considering the type, size, and location of the exit and other pertinent factors.

(c) For airplanes having a ratio (as computed from the table in paragraph (a) of this section) of maximum number of occupants to number of exits greater than 14:1, and for airplanes that do not have at least one full-size door-type exit in the side of the fuselage in the rear part of the cabin, the first additional exit must be a floor-level exit not less than 24 inches wide, by 48 inches high, and located in the side of the fuselage in the rear part of the cabin. However, no person may operate an airplane under this section carrying more than 115 occupants unless there is such an exit on each side of the fuselage.

(d) The Administrator reduces the maximum number of occupants authorized by the table whenever the number of approved exits is less than shown in the table, after taking into account the effectiveness of the remaining exits for emergency evacuation. However, the maximum number of occupants is reduced by at least eight for each eliminated exit, and in no case may the resulting ratio of occupants to exits be greater than 14:1. In addition, there must be at least one exit on each side of the fuselage, regardless of the number of occupants.

D. By adding a new § 91.103 to read as follows:

§ 91.103 Operation of civil aircraft of Cuban registry.

No person may operate a civil aircraft of Cuban registry outside of controlled airspace.

E. By adding to the distribution table:

Former section	Revised section
SR 389B.....	91.47
SR 448A (less paragraph (2)).....	91.8
SR 456.....	91.103

3. By amending Part 127 "Certification and Operations of Scheduled Air Carriers with Helicopters" as follows:

A. By amending § 127.139 to read as follows:

§ 127.139 Certificate requirements.

(a) Each person who is directly in charge of maintenance, preventive maintenance, or alteration, and each person performing required inspections must hold an appropriate airman certificate.

(b) For the purposes of this section, a person "directly in charge" is each person assigned to a position in which he is responsible for the work of a shop or station that performs maintenance, preventive maintenance, alterations, or other functions affecting aircraft airworthiness. A person who is "directly in charge" need not physically observe and direct each worker constantly but must be available for consultation and decision on matters requiring instruction or decision from higher authority than that of the persons performing the work.

B. By amending § 127.227 to read as follows:

§ 127.227 Prohibition against carriage of weapons.

No person may, while on board a helicopter being operated under this Part, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This section does not apply to—

(a) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(b) Crewmembers and other persons authorized by the air carrier to carry arms.

C. By amending the distribution table as applicable to SR 448A to read:

Former section	Revised section
SR 448A, paragraph (2).....	127.227

D. By adding to the distribution table:

Former section	Revised section
40.241-1.....	127.139

4. By amending Part 129 "Operations of Foreign Air Carriers" as follows:

A. By adding a new § 129.23 to read as follows:

§ 129.23 Transport category cargo service airplanes: increased zero fuel and landing weights.

(a) Notwithstanding the applicable structural provisions of the transport category airworthiness regulations, but subject to paragraphs (b) through (g) of this section, a foreign air carrier may operate (for cargo service only) any of the following transport category airplanes (certificated under Part 4b of the Civil Air Regulations effective before March 13, 1956) at increased zero fuel and landing weights—

(1) DC-6A, DC-6B, DC-7B, and DC-7C; and

(2) L-1049 B, C, D, E, F, G, and H, and the L-1649A when modified in accordance with supplemental type certificate SA 4-1402.

(b) The zero fuel weight (maximum weight of the airplane with no disposable fuel and oil) and the structural landing weight may be increased beyond the maximum approved in full compliance with applicable rules only if the Administrator finds that—

(1) The increase is not likely to reduce seriously the structural strength;

(2) The probability of sudden fatigue failure is not noticeably increased;

(3) The flutter, deformation, and vibration characteristics do not fall below those required by applicable regulations; and

(4) All other applicable weight limitations will be met.

(c) No zero fuel weight may be increased by more than five percent, and the increase in the structural landing weight may not exceed the amount, in pounds, of the increase in zero fuel weight.

(d) Each airplane must be inspected in accordance with the approved special inspection procedures, for operations at increased weights, established and issued by the manufacturer of the type of airplane.

(e) A foreign air carrier may not operate an airplane under this section unless the country of registry requires the airplane to be operated in accordance with the passenger-carrying transport category performance operating limitations in Part 121 or the equivalent.

(f) The Airplane Flight Manual for each airplane operated under this section must be appropriately revised to include the operating limitations and information needed for operation at the increased weights.

(g) Each airplane operated at an increased weight under this section must, before it is used in passenger service, be inspected under the special inspection procedures for return to passenger service established and issued by the manufacturer and approved by the Administrator.

B. By adding to the distribution table:

Former section	Revised section
SR 411B.....	129.23

5. By amending Part 135 "Air Taxi Operators and Commercial Operators of Small Aircraft" to add a new § 135.64 to read as follows:

§ 135.64 Prohibition against carriage of weapons.

No person may, while aboard an aircraft being operated by an air taxi operator, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This section does not apply to—

(a) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(b) Crewmembers and other persons authorized by the air taxi operator to carry arms.

6. By amending Part 141 "Pilot Schools" as follows:

A. By adding a new § 141.31 to read as follows:

§ 141.31 Special flight instruction for military personnel of a foreign government.

Notwithstanding any other provision of this chapter, a pilot school certificated under this part with a flying school rating may train personnel of any foreign government in maneuvers that are not within the approved airplane operating limitations if—

(a) An official request is made to the Administrator by an accredited representative of the foreign government;

(b) The Administrator finds that the training can be accomplished with a standard of safety equal to that maintained by the United States Air Force or Navy;

(c) The training is accomplished in accordance with appropriate United States Air Force or Navy Technical Orders; and

(d) No airplane is used to show compliance with an acrobatic maneuver required in a flight test for the issue of an airman certificate or rating, against which it has been placarded.

B. By adding to the distribution table:

<i>Former section</i>	<i>Revised section</i>
SR 330-----	141.31

7. By amending Part 171 "Non-Federal Navigation Facilities" as follows:

A. By redesignating Subpart D as Subpart E and § 171.61 as § 171.71.

B. By adding a new Subpart D to read as follows:

Subpart D—True Lights

§ 171.61 Authority to operate a true light.

(a) An applicant who certifies that he will, in accordance with applicable requirements of the FAA, establish, maintain, and operate a light as an aid to air navigation, is issued an air navigation certificate, authorizing him to operate that light as a "true light".

(b) An application for authority to operate a true light is made on Form FAA-114 "Certification and Lawful Authority to Operate a True Light".

C. By adding to the distribution table:

<i>Former section</i>	<i>Revised section</i>
406.17 (less (b))-----	171.61

8. By redesignating Special Civil Air Regulation 399D, "Provisional Certificated Maximum Weights for Certain Airplanes Operated by Alaskan Air Carriers, Air Taxi Operators in Alaska, and the Department of the Interior" as Special Federal Aviation Regulation (SFAR) 12, to be effective until October 25, 1965.

9. By redesignating Special Civil Air Regulation 407, "Basis for Approval of Modification of Airplane Types Douglas DC-3 and Lockheed L-18", as Special Federal Aviation Regulation (SFAR) 13, to be effective indefinitely.

10. By redesignating Special Civil Air Regulation 426, "Performance Credit for Transport Category Airplanes Equipped with Standby Power", as Special Federal Aviation Regulation (SFAR) 14, to be effective indefinitely.

11. By redesignating Special Civil Air Regulation 454A, "Special Operating Rule Within Certain Areas of the State of Florida and Over Waters Adjacent Thereto", as Special Federal Aviation Regulation (SFAR) 15, to be effective indefinitely.

(Secs. 307, 313(a), 314, 501, 601-610, 902(c), 1102, 1110, and 1202, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1354(a), 1355, 1401, 1421-1430, 1472(c), 1502, 1510, 1522)

Issued in Washington, D.C., on December 23, 1964.

N. E. HALABY,
Administrator.

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