

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 6395; Amdts. Nos. 91-23; 129-2]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

Airborne Distance Measuring Equipment; Foreign Aircraft

The purpose of this amendment is to require foreign civil aircraft when operating within the 48 contiguous States and the District of Columbia to be equipped with distance measuring equipment (DME).

This amendment is based on a notice of proposed rule making (Notice 64-53) issued on December 18, 1964, and published in the FEDERAL REGISTER on December 23, 1964 (29 F.R. 18232). The comment period for the original notice expired on February 22, 1965. However, subsequent to that date, it came to the Agency's attention that some foreign air carriers, who did not receive a copy of the notice, desired to make comments on the proposal. The Agency extended the comment period until May 31, 1965, by a notice published in the FEDERAL REGISTER on May 12, 1965 (30 F.R. 6541).

Most of the comments received either approved of, or offered no objection to, the Agency's proposal to require foreign civil aircraft to be equipped with DME when operating within the 48 contiguous States and the District of Columbia. One comment, while offering no objection to the proposal to require DME for operations above 24,000 feet MSL, did object to requiring installation of DME in all turbopropeller powered aircraft after June 30, 1966, regardless of the altitude flown. The Federal Aviation Regulations (§ 121.349(c)) now require all United States air carrier and commercial operator turbopropeller powered airplanes to be equipped with DME regardless of the altitude flown. The VORTAC system of air navigation is premised on the fact that, for maximum safety and efficiency, distance information from a DME is as

important as the bearing information from the VOR. Furthermore, the VORTAC RHO Theta System of short range navigation has been adopted not only by the United States, but also by all members of ICAO as the international standard until 1975. In view of the above, the Agency does not agree that an exception should be made for turbopropeller powered airplanes operated by foreign air carriers below 24,000 MSL.

Several commentators stated that while they did not object to the requirement for the installation of DME equipment, the proposed mandatory installation date of December 31, 1965, did impose a substantial hardship in view of the short period remaining to arrange for the installation of the equipment. The Agency believes, after reviewing these comments, that the foreign air carriers concerned have made a bona fide effort to arrange for installation of the DME equipment as soon as possible assuming this amendment is adopted, and that any inability to meet the proposed December 31, 1965, date would be due to difficulty beyond their control. Accordingly, the Agency has decided to delay the initial date for compliance with the requirement for installing DME for operations above 24,000 feet MSL and for all turbine engine powered airplanes until December 31, 1966.

Section 91.161 is being amended by adding thereto the word "civil" before the word "aircraft" to correct a typographical omission that occurred when that section was recently amended in amendment 91-19. This amendment to § 91.161 is being made effective September 21, 1965, to coincide with the effective date of amendment 91-19.

Interested persons have been afforded an opportunity to participate in the making of this amendment (29 F.R. 18232, Notice 64-53), and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, §§ 91.43 and 129.17 of the Federal Aviation Regulations are amended effective September 18, 1965, and § 91.161, thereof is amended effective September 21, 1965, as follows:

1. By amending § 91.43 by adding a new paragraph (e) to read:

§ 91.43 Special rules for foreign civil aircraft.

(e) Flight at and above 24,000 feet MSL.

After December 31, 1966, if VOR navigational equipment is required under paragraph (c) (1) (ii) of this section, no person may operate a foreign civil aircraft in the 48 contiguous States or in the District of Columbia, at and above 24,000 feet MSL, unless the aircraft is equipped with distance measuring equipment (DME) capable of receiving and indicating distance information from the VORTAC facilities to be used. When DME required by this paragraph fails at and above 24,000 feet MSL, the pilot in command of the aircraft shall notify ATC immediately, and may then continue operations at and above 24,000 feet MSL to the next airport of intended landing at which repairs or replacement of the equipment can be made.

2. Section 91.161 (a) is amended by inserting the word "civil" before the word "aircraft".

3. By amending § 129.17 by designating the present text of the section as paragraph (a), and adding a paragraph (b) to read as follows:

§ 129.17 Radio equipment.

(b) Whenever VOR navigational equipment is required by paragraph (a) of this section, at least one distance measuring by equipment (DME), capable of receiving and indicating distance information from the VORTAC facilities to be used, must be installed on each airplane when operated after December 31, 1966, within the 48 contiguous States and the District of Columbia at and above 24,000 feet MSL and must be installed on each of the following airplanes, regardless of the altitude flown, when operating within the 48 contiguous States and the District of Columbia after the indicated dates.

(1) Turbine engine powered airplanes and pressurized reciprocating engine powered airplanes—December 31, 1966.

(2) Other airplanes having a maximum certificated takeoff weight of more than 12,500 pounds—December 31, 1967. (Secs. 313(a), 307, and 601 of the Federal Aviation Act of 1958; 49 U.S.C. 1354, 1348, and 1421)

Issued in Washington, D.C., on August 11, 1965.

D. D. THOMAS,
Deputy Administrator.

(As published in the Federal Register /30 F.R. 10288/ on August 19, 1965)