

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Reg. Docket No. 1891; Amdt. 61-8]

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS [NEW]

Private Pilot; General Privileges and Limitations

The purpose of this amendment is to clarify certain provisions relating to the privileges and limitations of private pilots. This action was published as a notice of proposed rule making and circulated as Federal Aviation Agency Notice No. 63-30 (28 F.R. 8157), issued August 2, 1963.

Under the existing rule, § 61.101, the words "a private pilot may not act as pilot in command of an aircraft for compensation or hire" are not clear. The question arose whether the words mean that the private pilot may not act as pilot in command of an aircraft when the operator of the aircraft (who may not be the private pilot) is compensated for carrying passengers or property, or only when the private pilot himself receives compensation. The amendment makes it clear that the private pilot ordinarily may not act as pilot in command in either of these circumstances. The exceptions to the rule are listed in the amended section.

As stated in Notice No. 63-30, when Part 43 of the Civil Air Regulations was adopted in 1945, § 43.60 provided, "A private pilot shall not pilot aircraft for hire." A note appended to the rule stated, "This rule permits sharing expenses of a flight or piloting in furtherance of a business when the flight is made solely for the personal transportation of the pilot."

The section was amended by Amendment 43-3, issued August 7, 1950, and effective September 11, 1950, to read: "A private pilot shall not pilot aircraft for compensation or hire; except that he may pilot aircraft in connection with any business or employment, if the flight is merely incidental thereto and does not involve the carriage of persons or property for compensation or hire, and an aircraft salesman holding a private pilot rating may demonstrate aircraft in flight to a prospective purchaser if he has at least 200 hours of flight time credited in accordance with the provisions of Part 43." The preamble stated that the previous rule "has been difficult to interpret, and in many instances

it has unduly restricted the operations of private pilots." The preamble also stated interpretations illustrative of the application of the amendment. These were set forth in Notice No. 63-30.

The section was amended again August 1, 1961, by Amendment 43-14, to authorize private pilots to take part in charity airlifts. In the meantime a new Part 43 had been printed, and the interpretative material given in the preamble to Amendment 43-3 was not included.

When the Civil Aeronautics Board amended § 43.60 by Amendment 43-3, it removed previous restrictions that applied to the sharing of expenses with passengers or flying in the furtherance of a business, in that permission to do so had been granted previously only when the flight was made solely for the personal transportation of the pilot. The Board paid heed to public comment pleading for privileges similar to those granted private operations of automobiles, so as to obtain full usefulness of aircraft in private operations. When the section was recodified and incorporated in Part 61 [New] as § 61.101, the interpretations again were omitted, including the one on permission to "share expenses." In this connection, sharing of expenses might appear to be prohibited as involving "for compensation or hire." However, since the fact that one or more passengers contribute to the actual operating expenses of a flight is not considered the carriage of persons for compensation or hire, this interpretation now will appear as an exception in paragraph (a)(2) in order to assure the preservation of this traditional right.

The language of the general rule of paragraph (a) itself, as it appeared in Notice No. 63-30, has been rearranged to set forth even more clearly the circumstances in which a private pilot may not act as pilot in command. In addition to the exception for shared expenses, other circumstances where it was not intended that the general rule apply are those of the aircraft salesman who demonstrates an aircraft in flight to a prospective buyer, and the private pilot who engages in a charitable organization airlift. The amendment retains these exceptions to the general rule in paragraphs (a)(3) and (4). The definition of "charitable organization," in subdivision (vi) of paragraph (a)(4) is amended by the addition of the language "from time to time by published supplemental lists," to further clarify the meaning of the term "as amended" used with reference to listings in Publication No. 78 of the Department of the Treasury and thereby assure that monthly changes in that list

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are applicable here.

Paragraph (b) of § 61.101 has provided that "a private pilot may act as a pilot in command of an aircraft in connection with any business or employment if the flight is only incidental to it and does not carry persons or property for compensation or hire." This provision is brought forward as subparagraph (a) (1) and amended to make clear that although a private pilot may not carry passengers or property for compensation or hire, he may otherwise act as pilot in command of an aircraft for compensation or hire in connection with any business or employment if the flight is only incidental to it.

Paragraph (d) *Category; class; type*, of § 61.101, now is combined with paragraph (e) since the latter properly is an exception to paragraph (d) and has nothing to do with the other provisions of § 61.101. These now will appear as paragraph (b) in the amended section. The words "or remuneration" are deleted as unnecessary because obviously the general prohibition of paragraph (a) would make retention of those words redundant.

No substantive change is made in the previous provisions of paragraph (f) of § 61.101. The first sentence and the portion of the second sentence concerning the giving of instruction in a free balloon are retained as a new paragraph (c). The balance of the second sentence is retained now as subparagraph (5) of the exceptions to the general rule of paragraph (a), and not as an exception stated at the beginning of that paragraph, as in Notice No. 63-30.

Paragraph headings were retained for only paragraph (b) in Notice No. 63-30. These have been restored to all three paragraphs in the amendment.

Interested persons have been afforded an opportunity to participate in the making of this amendment (28 F.R. 8157) and due consideration has been given to all relevant matters presented. No comments were received that were unfavorable to the particular proposal for clarification.

In consideration of the foregoing, § 61.101 of Part 61 [New] of the Federal Aviation Regulations is amended, effective May 4, 1964, to read as follows:

§ 61.101 General privileges and limitations.

(a) *Compensation or hire.* Except as provided in subparagraphs (1) through (5) of this paragraph, a private pilot may not act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may he, for compensation or hire, act as pilot in command of an aircraft.

(1) A private pilot may, for compensation or hire, act as pilot in command of an aircraft in connection with any business or employment if the flight is only incidental to that business or employment and the aircraft does not carry passengers or property for compensation or hire.

(2) A private pilot may share the operating expenses of a flight with his passengers.

(3) A private pilot who is an aircraft salesman and who has at least 200 hours of logged flight time may demonstrate an aircraft in flight to a prospective buyer.

(4) A private pilot may act as pilot in command of an aircraft used in a passenger-carrying airlift sponsored by a charitable organization, and for which the passengers make a donation to the organization, if—

(i) The sponsor of the airlift notifies the FAA General Aviation District Office having jurisdiction over the area concerned, at least 7 days before the flight, and furnishes any essential information that the office requests;

(ii) The flight is conducted from a public airport adequate for the aircraft used, or from another airport that has been approved for the operation by an FAA inspector;

(iii) He has logged at least 200 hours of flight time;

(iv) No acrobatic or formation flights are conducted;

(v) Each aircraft used is certificated in the standard category and complies with the 100-hour inspection requirement of § 91.169 of this chapter; and

(vi) The flight is made under VFR during the day.

For the purpose of this subparagraph (4), a "charitable organization" means an organization listed in Publication No. 78 of the Department of the Treasury called the "Cumulative List, Organizations Described in section 170(c) of the Internal Revenue Code of 1954," as amended from time to time by published supplemental lists.

(5) A private pilot (lighter-than-air) may act as pilot in command of a free balloon that is carrying passengers or property for compensation or hire and he may, for compensation or hire, act as pilot in command of a free balloon.

(b) *Category; class; type.* A private pilot may not act as pilot in command of an aircraft carrying passengers, other than in an aircraft of the category and class for which he is rated, and in the case of large aircraft, of the type for which he is rated. Unless prohibited by a limitation on his certificate, a private pilot may serve as pilot in command of an aircraft for which he is not rated when it is operated without passengers.

(c) *Lighter-than-air.* A private pilot (lighter-than-air) may give flight instruction in a free balloon but he may not give flight or instrument instruction in an airship.

(Secs. 313(a), 601, 602 of the Federal Aviation Act of 1958; 49 U.S.C. 1354, 1421, 1422)

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N. E. HALABY,
Administrator.

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