

finally adopted should provide that if the medical defect is static the applicant should be entitled to an opportunity to take a special medical flight test. If adopted, this not only would make mandatory resort to a special procedure in one type of situation, but it also would prescribe the particular special procedure to be used. As stated in the preamble of Notice 65-10, situations arise in which the Federal Air Surgeon may determine that the applicant could not satisfactorily show, by any of the available special procedures, ability to perform the duties of an airman certificate without endangering safety in air commerce. In such a case, the resort to any of these procedures would not be purposeful, and the Federal Air Surgeon should have authority under § 67.19 to refuse their use. Also as stated in that preamble where the Federal Air Surgeon does prescribe special medical flight or practical testing or special medical evaluation under § 67.19, the selection of the particular procedure to be used, of those named, essentially is an element of his medical determination whether the applicant can properly perform his duties as an airman despite his physical deficiency. This selection should repose in the Federal Air Surgeon because of his special qualifications and facilities available to him to obtain and assess medical information about an applicant's total medical status. Accordingly, it would defeat the objective of § 67.19 to provide for automatic entitlement to a designated procedure in any particular type of situation.

One of the favorable comments would make mandatory the consideration by the Federal Air Surgeon of an applicant's operational experience under § 67.19. Conversely, another comment expressed the belief that the applicant's operational experience is not germane to the evaluation of an airman's physical qualifications to hold a medical certificate. The medical requirements of the former Part 29 of the CARs were amended, many years ago, to permit an evaluation of the applicant's aeronautical experience regardless of the type of airman certificate or rating sought or held by the applicant. The Agency has pursued this policy as applied by the Federal Air Surgeon, and the last sentence of § 67.19(a) (1) of the proposal expressed the intent of the Agency to continue this policy. To limit the discretionary authority of the Federal Air Surgeon in those cases by prohibiting any consideration by him of the applicant's operational experience, or making such consideration mandatory in all cases, regardless of the type of deficiency involved, would, like the adoption of the suggestion on static defects, also defeat the objective of § 67.19.

Interested persons have been afforded an opportunity to participate in the making of these amendments to § 67.19,

and due consideration has been given to all matter presented.

These amendments also substitute the term "Federal Air Surgeon" for the term "Civil Air Surgeon" throughout Part 67, to state the correct current title of this official of the Agency. They also change the numbering of § 67.15(e) to conform with the parallel provisions of §§ 67.13(e) and 67.17(e), in order to preclude the continuation of some current confusion and technical mistakes in referring to these provisions. Since these latter two changes are purely editorial in nature, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 67 of the Federal Aviation Regulations is amended, effective October 21, 1965, as follows:

1. The term "Civil Air Surgeon" is stricken out wherever it appears in Part 67, and the term "Federal Air Surgeon" is substituted therefor.

2. Paragraph (e) of § 67.15 is amended to read as follows:

§ 67.15 *Second-class medical certificate.*

(e) Cardiovascular:  
(1) No established medical history or clinical diagnosis of—

(i) Myocardial infarction; or  
(ii) Angina pectoris or other evidence of coronary heart disease that the Federal Air Surgeon finds may reasonably be expected to lead to myocardial infarction.

3. Paragraph (a) of § 67.19 is amended to read as follows:

§ 67.19 *Special issue: operational limitations.*

(a) A medical certificate of the appropriate class may be issued to an applicant who does not meet the medical standards of this Part, under the following procedures:

(1) The Federal Air Surgeon may in his discretion find that a special medical flight or practical test, or special medical evaluation, should be conducted to determine whether the applicant can perform his duties under the airman certificate he holds, or for which he is applying, in a manner that will not endanger safety in air commerce during the period the certificate would be in force. Upon such a finding, the Federal Air Surgeon authorizes the conduct of that test or evaluation. The Federal Air Surgeon may also consider the applicant's operational experience for this purpose.

(2) If the Federal Air Surgeon authorizes a procedure under subparagraph (1) of this paragraph, the applicant must show to the satisfaction of the Federal Air Surgeon, by the prescribed procedure, that he can perform those duties in the manner referred to in subparagraph (1). Upon such a showing, the Federal Air Surgeon issues to the appli-

#### SUBCHAPTER D—AIRMEN

[Docket No. 6614; Amdt. 67-2]

### PART 67—MEDICAL STANDARDS AND CERTIFICATION

#### Special Medical Flight or Practical Test or Medical Evaluation for Special Issue of Medical Certificate

The purpose of these amendments is to make clear that the Federal Air Surgeon has authority (1) to decide whether a special medical flight or practical test, or special medical evaluation, should be conducted or the applicant's operational experience considered under § 67.19 of Part 67 of the Federal Aviation Regulations, and, if so, (2) to prescribe which of these procedures should be used, in the determination of whether a medical certificate should be issued to an applicant who does not meet the applicable medical standards of that part. This action was proposed in Notice 65-10 (30 F.R. 6188) issued April 23, 1965.

Ten comments were received on Notice 65-10. Six were favorable and three unfavorable to the proposed amendments, and one was nonresponsive. Two of the unfavorable comments expressed concern that the amended rule would vest too much increased authority in the Federal Air Surgeon. The language contained in the proposal merely clarified the provisions of the existing rules and did not vest any increased authority in the Federal Air Surgeon. In this connection, one of these comments also asserted there would be nothing to ensure equal treatment of all applicants with the same defect. It should be noted that the objective of § 67.19 is to provide for the issue of a medical certificate to an applicant who does not meet the medical standards as prescribed in Part 67. In order to achieve that objective in the consideration of the various types of medical deficiencies involved, the Federal Air Surgeon must be given the discretion to conduct the type of test or other procedure that he believes appropriate to determine whether the applicant can properly perform his duties as an airman.

One of these two comments on the proposal further suggested that any rule

AM

cant a medical certificate of the appropriate class.

\* \* \* \* \*  
(Sec. 313 (a), 314, 601, and 602 of the Federal Aviation Act of 1958; 49 U.S.C. 1354, 1355, 1421, 1422)

Issued in Washington, D.C., on September 14, 1965.

WILLIAM F. MCKEE,  
*Administrator.*

[F.R. Doc. 65-9983; Filed, Sept. 20, 1965;  
8:45 a.m.]

---