MS-126

Affects Parts: 40, 41, 42
Distribution: General

Regulation No. SR-432

master file
Pt 40

UNITED STATES OF AMERICA
FEDERAL AVIATION AGENCY
WASHINGTON, D. C.

Effective: May 30, 1959
Issued: May 26, 1959

SPECIAL CIVIL AIR REGULATION

CARRIAGE OF PERSONS OTHER THAN "CREW MEMBERS" AND "PASSENGERS" ABOARD ALL-CARGO AIRCRAFT

Recently there has been a great increase in the demand for the transportation by air of classified or special cargo, as well as the shipment of deceased members of the Armed Forces. This transportation frequently requires the presence of persons other than crew members such as guards, escorts, couriers, or attendants aboard the airplane to serve as security or honor guards for shipments made by the U.S. Government.

For a number of years it has been the general practice in cargo operations to carry animal attendants, or other attendants necessary for the safety of the airplane, as crew members while in the performance of such duties. However, guards or escorts of classified or special cargo, including those of the U.S. Government, are considered as passengers when their presence is not necessary for the safe operation of the airplane being used for the carriage of the particular cargo. Similarly, when cargo attendants are carried aboard the cargo airplane to or from their specific duty assignments, they may be considered in the category of passengers. As a consequence, the cargo airplane becomes subject to the passenger operation rules which differ from the cargo operation rules primarily with respect to fire prevention requirements, allowable weights, and performance limitations. Compliance with these requirements by an air carrier when such persons are assigned specific duties in connection with cargo in an all-cargo airplane places an unreasonable burden upon air carriers engaging in such operations, since such individuals should not and were not intended to fall within the normally accepted category of air carrier passengers.

In view of the foregoing it appeared desirable to exclude from the passenger category certain persons authorized to perform a specific duty in connection with cargo being carried aboard a cargo airplane while in the performance of such duty, or while traveling to or from such duty assignment aboard such cargo airplane. Associated with the objective of authorizing carriage of these special cargo attendants aboard cargo airplanes without compliance with the passenger-carrying requirements was the problem of suitable seats and seat belts for these persons. Since it was apparent that in many cargo airplanes there would not be suitable seats in the cargo compartment, it appeared desirable to permit such persons to be seated on the flight deck.

To accomplish this it was proposed in Civil Air Regulations Draft Release No. 58-16, dated August 29, 1958 (23 F.R. 6836) to define passenger- and cargo-carrying airplanes, the effect of which was to permit cargo-carrying airplanes to carry certain cargo attendants without complying with the passenger-carrying airplane requirements, and to amend the admission to flight deck requirements to permit the admission and seating of these persons on the flight deck when seats were not otherwise available in the airplane.

Although the draft release proposed to accomplish this by amendments to Parts 40, 41, and 42 it has been determined that in view of the fact that Parts 40 and 41 are primarily used for passenger operations it would be more appropriate to cover these special conditions of operations under a Special Civil Air Regulation than to amend the individual parts concerned.

Comments received on the draft release were favorable to the proposal although certain recommendations were made to give the pilot in command complete discretion with respect to admitting cargo attendants to the flight deck and to require that seats be made available at a point separate from the flight deck.

On the question of a suitable seat and safety belt for special cargo attendants separate from the flight deck, it is to be noted that many cargo compartments, due to their design and intended functions, either do not have seats for occupants or are not suitable for extended occupancy. Consequently, to achieve the objective of this regulation it has been determined that such cargo attendants must be authorized to enter and be seated elsewhere on the airplane when they otherwise qualify to be aboard a cargo airplane and a seat is not available or suitable in the cargo compartment. Therefore, this Special Civil Air Regulation permits such cargo attendants to be seated on the flight deck as well as in the cargo compartment, if such seat is located so as to preclude interference with the flight crew members in the performance of their duties. In any event authority must be obtained from the pilot in command for such cargo attendants to be admitted to the flight deck.

Interested persons have been afforded an opportunity to participate in the making of this rule, and due consideration has been given to all relevant matter presented. Since this special regulation relaxes a present restriction, it may be made effective on less than 30 days notice.

In consideration of the foregoing, the following Special Civil Air Regulation is hereby promulgated to become effective May 30, 1959.

1. Contrary provisions of Part 40, 41, or 42 of the Civil Air Regulations notwithstanding, the following persons, when duly authorized by the air carrier, may be carried aboard an airplane engaged in the carriage of cargo only without compliance with the passenger-carrying or passenger-service airplane requirements of those parts:

(a) A person performing a specific duty assignment aboard an airplane in connection with the safety of the flight, or the safe carriage of animals, or radioactive materials within the meaning of and subject to the requirements of § 49.2 of Part 49 of this subchapter; or while traveling to or from such duty assignment where the air carrier finds that other means of transportation are not practicable; and

(b) A person performing duty as a security or honor guard aboard an airplane for shipments made by or under the authority of the Federal Government.

2. An approved seat with safety belt shall be available for the use of the persons described in paragraph 1. The location of the seat shall be such that the occupant will not be in a position to interfere with the flight crew members in the performance of their duties.

3. Persons described in paragraph 1 may be admitted to the flight deck of the airplane when authorized by the pilot in command.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354(a). Interpret or apply secs. 601, 604, 72 Stat. 775, 778; 49 U.S.C. 1421, 1424)

Issued in Washington, D.C., on May 26, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-4521; Filed, May 29, 1959; 8:45 a.m.]