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

Civil Air Regulations Amendment 41-5
Effective: September 1,1963
Issued: August 13,1963

[Reg. Docket No. 1917; Amdt. 41-5]

PART 41—CERTIFICATION AND OPERATION RULES FOR CERTIFICATED ROUTE AIR CARRIERS ENGAGING IN OVERSEAS AND FOREIGN AIR TRANSPORTATION AND AIR TRANSPORTATION WITHIN HAWAII AND ALASKA

Miscellaneous Amendments

This amendment contains miscellaneous items affecting §§ 41.21, 41.172, 41.303, 41.304, 41.396, and 41.406 of Part 41 (27 F.R. 1977), effective March 1, 1963.

Section 41.21 of revised Part 41 prescribes the procedures which apply to the amendment of an air carrier's operations specifications. In view of previous comment on § 41.21, the Agency has determined that air carriers should be given an opportunity to present their views within a reasonable period of time whenever it has been determined by an authorized representative of the Administrator that safety in air transportation and the public interest require an amendment of an air carrier's operations specifications. The section is being amended to provide that the supervising inspector of the FAA Air Carrier District Office shall give notice in writing to the air carrier fixing a period of not less than 7 days within which the air carrier may submit written data, views, and arguments concerning the proposed amendments. After consideration of all relevant matter presented, the supervising inspector shall notify the air carrier of any amendment adopted or the rescission of his notice to amend the air carrier's operations specifications. No substantive changes are being made to the rule which affects the effective date of such an amendment or the air carrier's right of appeal to the Administrator.

Section 41.172(d) which concerns engine instruments required for all operations is being clarified with the addition of the phrase "not equipped with an automatic altitude mixture control." This phrase was inadvertently omitted during the formulation of revised Part 41.

Sections 41.303 and 41.304 prescribe the procedures for pilot route and airport qualification requirements and those required for maintenance and reestablishment of such qualifications. CAR Amendment 41-3, effective March 1, 1963, extended until August 31, 1963, the provisions of §§ 41.50 and 41.51 of Part 41 which were in effect on February 28, 1963, in order to provide the Agency an opportunity to give further study to industry comments and recommendations on the subject of airport qualification requirements.

CAR Amendment 41-3 stated that appropriate rulemaking action would be taken prior to September 1, 1963, if the study revealed the need for different rules than those prescribed in §§ 41.303 and 41.304.

The study has now been completed and the Agency has decided not to make those rules effective which it had originally adopted, but rather to adopt as a part of the revised Part 41 those sections of the "old" Part 41, i.e., §§ 41.50 and 41.51, which were temporarily extended by CAR Amendment 41-3. After careful consideration of all factors involved, we now believe that the older method of airport and route qualification as originally adopted in Parts 40 and 41 is safe, satisfactory, and less burdensome from an administrative standpoint than that proposed in the revised Part 41, effective March 1, 1963. Accordingly, in view of the industry's strong opinions in this matter and the Agency's belief that safety is not compromised, §§ 41.303 and 41.304 are being amended to adopt the applicable provisions of §§ 41.50 and 41.51 of Part 41 which were in effect on February 28, 1963.

Section 41.396 *Fuel supply for all operations*, is being amended to avoid any misinterpretation in regard to the turbine-powered airplane fuel requirements for the airport of destination under VFR conditions or under IFR conditions when alternate airports are not required. Section 41.396(b)(2) specifies the fuel requirements for flights conducted over routes approved without an available alternate airport as authorized by § 41.389(a)(2). However, § 41.396(b)(1) does not expressly specify the minimum fuel requirements for flights dispatched without an alternate airport under VFR rules, or under IFR where an alternate is not required by § 41.389(a)(1). When an alternate airport is designated, § 41.396(b)(1)(iv) requires that no airplane shall be dispatched unless it carries sufficient fuel to fly for a period of 30 minutes at holding speed at 1,500 feet above the alternate airport at standard temperature conditions. When SR-427 was originally promulgated in 1958 to provide for the fuel requirements of turbine-powered airplanes, there was no provision in Part 41 for operations without an alternate airport. In the revision of Part 41 which became effective on March 1, 1963, provisions were made for IFR operations under certain weather conditions without a requirement that an alternate airport be designated. SR-427 was incorporated unchanged into Revised Part 41 and no provisions were made to apply an equivalent fuel supply for destination airports when no alternate airport was designated, as was required in § 41.396(b)(1)(iv); i.e., 30 minutes at holding speed at 1,500 feet above the alternate airport elevation. Accordingly, § 41.396(b)(1)(iv) is being amended to make it applicable to destination or alternate airports.

Section 41.406 prescribes the conditions under which instrument approach procedures may be initiated. CAR Amendment 41-3, in extending until August 31, 1963, the provisions of § 41.119 of Part 41 which were in effect on February 28, 1963, stated that additional consideration and study would be given to this matter and that, if the study revealed the need for different rules than those prescribed in § 41.406, appropriate rulemaking would be taken prior to September 1, 1963.

The study has now been completed and the Agency has determined not to adopt those rules which it has proposed to become effective March 1, 1963, but rather to extend indefinitely as a permanent part of revised Part 41 that section of the amended Part 41; i.e., § 41.119, which was temporarily extended by CAR Amendment 41-3. The study revealed that no unsafe practices or any misuse of this authorization occurred in the past. Nor has it been shown that the rule as originally adopted by the CAB was not operationally safe or sound. Accordingly, in view of the strong arguments and opinions advanced by the industry for continuing in effect the current rule in this instance and our belief that safety is in no way compromised, § 41.406 of Part 41 is amended so it includes the applicable requirements of § 41.119 of Part 41 which were in effect on February 28, 1963.

As a situation exists which demands immediate action in the interests of safety in air commerce and after coordination with the air carrier industry in the matter as far as possible in view of the time limitations, I find that notice and public procedure in regard to the amendment to § 41.396 are impracticable and that good cause exists for making this amendment effective on less than 30 days' notice. Since the other amendments are clarifying or grant relief and impose no additional burden on any person, I find that notice and public procedure thereon are unnecessary, and that they may be made effective on less than 30 days' notice.

In consideration of the foregoing, Part 41 of the Civil Air Regulations (14 CFR Part 41, revised) is hereby amended as follows, effective September 1, 1963.

1. By amending § 41.21 to read as follows:

§ 41.21 Amendment of operations specifications.

The following procedures apply to the amendment of operations specifications (except those which are a part of the air carrier operating certificate issued under

§ 41.13) issued to an air carrier under the provisions of this part:

(a) Upon application by the air carrier, an authorized representative of the Administrator may amend an operations specification if he determines that safety in air transportation and the public interest permit such an amendment.

(b) Applications for amendments of operations specifications shall be submitted to the local FAA Air Carrier District Office charged with the overall inspection of the air carrier's operations at least 15 days prior to the proposed effective dates of such amendments, unless an authorized representative of such office approves a shorter filing period.

(c) Within 30 days after a notice of refusal to approve an air carrier's application for amendment, the air carrier may petition the Administrator to reconsider the refusal to amend.

(d) An authorized representative of the Administrator may amend an operations specification if he determines that safety in air transportation and the public interest require such an amendment. In such instances, the supervising inspector of the FAA Air Carrier District Office shall give notice in writing to the air carrier of the proposed amendment to the operations specifications, fixing a reasonable period, not less than 7 days, within which the air carrier may submit written data, views, and arguments concerning the proposed amendment. After consideration of all relevant matter presented, the supervising inspector shall notify the air carrier of any amendment adopted or a rescission of the notice. The amendment shall become effective not less than 30 days after receipt by the air carrier of the notice of the amendment, unless the air carrier petitions the Administrator for reconsideration of the amendment, in which case the effective date of the amendment shall be stayed pending a decision by the Administrator. If the supervising inspector finds that an emergency exists requiring immediate action with respect to safety in air transportation, which makes the provisions prescribed by this paragraph impracticable or contrary to the public interest, he may notify the air carrier of an amendment to the operations specifications without giving prior notice, and such amendment shall become effective without stay upon receipt by the air carrier of notice thereof. In such instances, he will incorporate the finding and a brief statement of the reasons therefor in the notice of the amended operations specifications to be adopted.

§ 41.172 [Amendment]

2. By amending § 41.172(d) by adding after the word "engine", the words, "not equipped with an automatic altitude mixture control;".

3. By amending § 41.303 (a), (b), (c), and (d) to read as follows:

§ 41.303 Pilot route and airport qualification requirements.

(a) An air carrier shall not utilize a pilot as a pilot in command until he has been qualified for the route on which he is to serve in accordance with the provisions of this section and the appropriate instructor or check pilot has so certified.

(b) The qualifying pilot shall demonstrate adequate knowledge concerning the subjects listed below with respect to each route to be flown. Those portions of the demonstration pertaining to holding procedures and instrument approach procedures may be accomplished in a synthetic trainer which contains the radio equipment and instruments necessary to simulate the navigational and letdown procedures approved for use by the air carrier:

(1) Weather characteristics;
(2) Navigational facilities;
(3) Communication procedures;
(4) Type of en route terrain and obstruction hazards;
(5) Minimum safe flight levels;
(6) Position reporting points;
(7) Holding procedures;
(8) Pertinent traffic control procedures; and
(9) Congested areas, obstructions, physical layout, and all instrument approach procedures for each regular, provisional, and refueling airport approved for the route.

(c) The qualifying pilot shall make an entry as a member of a flight crew at each regular, provisional, and refueling airport into which he is scheduled to fly. Such entry shall include a landing and takeoff. The qualifying pilot shall occupy a seat in the pilot compartment and shall be accompanied by a pilot who is qualified at the airport.

(d) The qualifying pilot shall not be required to meet the entry requirements of paragraph (c) of this section when:

(1) The initial entry is made under VFR weather conditions at the particular airport involved; or

(2) The air carrier shows that the pilot airport qualification can be accomplished by an approved pictorial means; or

(3) The air carrier notifies the Administrator that it intends to conduct operations in close proximity to an airport into which the pilot involved is presently qualified by entry, and the Administrator finds that such pilot is adequately qualified at the new airport. The Administrator, in making such a finding, considers at least the familiarity of the pilot with the layout, surrounding terrain, location of obstacles, and instrument approach and traffic control procedures at the new airport.

* * * * *

4. By amending § 41.304 to read as follows:

§ 41.304 Maintenance and reestablishment of pilot route and airport qualifications for particular trips.

(a) To maintain pilot route and airport qualifications, each pilot being utilized as pilot in command, within the preceding 12-month period, shall have made at least one trip as pilot or other member of the flight crew between terminals into which he is scheduled to fly and shall have complied with the provisions of § 41.303(e), if applicable.

(b) In order to reestablish pilot route and airport qualifications after an absence from a route for a period in excess of 12 months, a pilot shall comply with the appropriate provisions of § 41.303.

§ 41.396 [Amendment]

5. By amending § 41.396(b)(1)(iv) by adding the words, "destination or" before the words "alternate airport".

6. By amending § 41.406 by deleting the introductory paragraph and by amending paragraphs (a), (b), (c), and (d) to read as follows:

§ 41.406 Takeoff and landing weather minimums; IFR.

(a) Irrespective of any clearance which may be obtained from air traffic control, no pilot shall take off an airplane under IFR when the weather reports show the ceiling or ground visibility is less than that specified in Part 609 of the regulations of the Administrator or the air carrier's operations specifications for the particular airport.

(b) Except as provided in paragraphs (c) and (d) of this section, no pilot shall execute an instrument approach procedure or land under IFR at an airport when the latest U.S. Weather Bureau weather report or a source approved by the Weather Bureau for that airport indicates the ceiling or visibility to be less than that prescribed by the Administrator for landing at such airport.

(c) A pilot may execute an instrument approach procedure when the U.S. Weather Bureau weather report or a source approved by the Weather Bureau indicates that the ceiling or visibility is less than the approved minimum for landing, if the airport is served by ILS and PAR in operative condition and both are used by the pilot, and thereafter the pilot may land, if weather conditions equal to or better than the prescribed minimums are found to exist by the pilot in command upon reaching the authorized landing minimum altitude.

(d) If a pilot initiates an instrument approach procedure when the current U.S. Weather Bureau report or a source approved by the Weather Bureau indicates that the prescribed ceiling and visibility minimums exist and a later weather report indicating below minimum conditions is received after the airplane (1) is on an ILS final approach and has passed the outer marker, or (2) is on a final approach using a radio range station or comparable facility and has passed the appropriate facility and has reached the authorized landing minimum altitude, or (3) is on GCA final approach and has been turned over to the final approach controller, such approach may be continued and a landing may be made in the event weather conditions equal to or better than the prescribed minimums for the airport are found to exist by the pilot in command upon reaching the authorized landing minimum altitude.

* * * * *

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

Issued in Washington, D.C., on August 13, 1963.

N. E. HALABY,
Administrator.

[F.R. Doc. 63-8919; Filed, Aug. 20, 1963; 8:45 a.m.]

(As published in the Federal Register 28 F.R. 9197 on August 21, 1963)

3446—64