PROPOSED PART 42

NON-SCHEDULED AIR CARRIER CERTIFICATION

42.1 Certificates. A non-scheduled air carrier operating certificate (hereinafter referred to as "certificate") will be issued to any non-scheduled air carrier (hereinafter referred to as "carrier") meeting the requirements set forth herein.

NOTE: A non-scheduled air carrier means any person who undertakes, whether directly or indirectly or by lease or any other arrangement to engage in the carriage by aircraft of persons or property as a common carrier for compensation or hire, or the carriage of mail by aircraft, in commerce between, respectively -

(a) a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the air space over any place outside thereof; or between places in the same Territory or possession (except the Philippine Islands) of the United States, or the District of Columbia;

(b) a place in any State of the United States, or the District of Columbia, and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States, and a place in any other Territory or possession of the United States; and

(c) a place in the United States and any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

42.10 Service ratings. Service ratings authorizing the holder of any certificate to conduct a particular type of service will be as follows:

(a) Cargo only;

(b) Passengers only;

(c) Cargo and passengers.

42.11 Operation ratings. Operation ratings authorizing the holder of any certificate to conduct a particular type of operation will be as follows:

(a) Visual contact day - land;

(b) Visual contact day - water;

(c) Visual contact night - land;

(d) Visual contact night - water;

(e) Instrument day - land;

(f) Instrument day - water;

(g) Instrument night - land;

(h) Instrument night - water.

GENERAL REQUIREMENTS

42.2 General. To obtain a certificate and ratings authorizing the conduct of a particular type of service and operation, a carrier shall meet and maintain throughout operation under its certificate, the following requirements:

42.20 Area. The area over which the carrier operates shall be of such general character and equipped with such aids to air navigation as the Administrator may deem necessary to assure safe operation of the type* conducted by the carrier. In approving and prescribing the area over which the carrier is authorized to operate in air transportation, the Administrator shall consider the following factors:

(a) General character of the terrain;

(b) The type of aircraft used by the carrier;

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* NOTE: The type of operation conducted by any carrier will be determined by the nature of the service and operation ratings (§§ 42.10 and 42.11) for which application is made.

(c) The adequacy of the airports, including emergency landing fields;

(d) The type of operation conducted by the carrier;

(e) The type and number of aids to air navigation;

(f) Prevailing weather conditions in the area; and

(g) Such other factors related to safe operation as the Administrator may deem necessary.

42.21 Aircraft. The aircraft of the carrier shall be certificated for the type of operation conducted by the carrier in accordance with the applicable provisions of Part 04, and Part 43, except that Sections 04.51 and 04.52 instead of 04.53 shall be applicable to aircraft engaged in operations confined to an area within a radius of 500 miles of the carrier's base and such aircraft shall be of a model and quantity deemed necessary by the Administrator for safe operation. In approving and prescribing the aircraft with which the carrier is authorized to operate in air transportation, the Administrator shall consider the following factors:

(a) The type of operation conducted by the carrier;

(b) The area over which the carrier conducts its operation;

(c) The type and number of aids to air navigation; and

(d) Such other conditions as the Administrator may deem necessary to assure safe operation.

42.22 Airmen. The carrier shall have such pilots with at least commercial pilot certificates and such ratings and other experience as the Administrator may deem necessary for safe operation and have available properly certificated and rated mechanics and such other necessary airmen and technical employees of a kind, grade, experience and number as the Administrator may deem necessary for safe operation. In approving and prescribing the airmen and technical employees with

which the carrier is authorized to operate in air transportation, the Administrator shall consider the following factors:

(a) The type of operation conducted by the carrier;

(b) The maintenance, techniques and procedures employed by the carrier;

(c) The quantity, model and type of aircraft operated by the carrier;

(d) The area over which the carrier conducts its operations; and

(e) Such other factors as the Administrator may deem necessary to assure safe operation.

42.23 Airports. No airport shall be used by the carrier in air transportation unless it has been approved by the Administrator as adequate for the safe conduct of the type of operation conducted by the carrier. In approving and prescribing such airports, the Administrator shall consider the following factors:

(a) Size, location, equipment, maintenance and condition of the airport;

(b) The type of operation conducted by the carrier;

(c) The type of aircraft used by the carrier in its operations;

(d) The area over which the carrier conducts its operations; and

(e) Such other factors as the Administrator may deem necessary for safe operation.

42.24 Maintenance. The carrier shall have and use maintenance facilities and maintenance methods, procedures and techniques which are of a kind and quantity deemed necessary by the Administrator to assure safe operation. In approving the maintenance facilities, methods, procedures and techniques with which the carrier is authorized to operate in air transportation, the Administrator shall consider the

following factors:

(a) The quantity, model, type and character of aircraft used by the carrier;

(b) The type of operation conducted by the carrier;

(c) The area over which the carrier operates;

(d) The amount of service required of each aircraft; and

(e) Such other factors as the Administrator may consider necessary to assure safe operation.

42.25 Radio facilities. The aircraft of the carrier shall be equipped with such radio facilities (two-way radio-telephone, radio compasses, radio direction finders, etc.) and the carrier shall possess such radio facilities on the ground as the Administrator may deem necessary for safe operation. In approving and prescribing the radio facilities with which the carrier is authorized to operate in air transportation, the Administrator shall consider the following factors:

(a) The type of operation conducted by the carrier;

(b) The area over which the carrier conducts its operations;

(c) Aids to air navigation installed in the area over which the carrier conducts its operations; and

(d) Such other factors as the Administrator may deem necessary to assure safe operation.

42.26 Weather reporting. The weather reporting facilities available to the carrier shall be from such stations reporting with such frequency as the Administrator may deem necessary to assure safe operation: Provided, That no weather reporting facilities shall be required for any carrier engaged only in local sightseeing flights which do not extend beyond a distance of 25 miles from the base of the

carrier. In approving and prescribing the weather reporting facilities with which the carrier operates in air transportation, the Administrator shall consider the following factors:

(a) The type of operation conducted by the carrier;

(b) The area over which the carrier conducts its operations;

(c) The prevailing weather conditions in the area over which the carrier operates;

(d) The type and quantity of radio equipment in the aircraft operated by the carrier; and

(e) Such other facilities as the Administrator may deem necessary to assure safe operation.

OPERATION RULES

42.3 General. In conducting all operations in air transportation carriers shall be governed by:

(a) Operation Specifications issued by the Administrator prescribing the area over which the carrier is authorized to operate, the minimum facilities, equipment, material, and personnel approved by the Administrator under § 42.2, and establishing such other conditions as he may deem necessary to assure safe operation; and

(b) The following special rules in addition to those found elsewhere in the Civil Air Regulations:

42.31 Single engine aircraft. The following limitations shall govern carriers in the use of single engine aircraft in air transportation:

(a) Single engine aircraft with an engine having less than 100 horsepower shall not be used in any flight in air transportation involving the carriage of passengers which will extend to a

point more than 500 miles from the base of the carrier.

(b) Single engine aircraft, carrying passengers, shall not be operated at night beyond 25 miles from the base of the carrier unless each occupant of the aircraft is equipped with a parachute of an approved type and design maintained in accordance with the provisions of the Civil Air Regulations, unless

(1) Such operation is confined to a lighted airway, or

(2) The flight path of the aircraft is such that the aircraft will be at all times within 25 miles of a suitably lighted airport.

(c) Single engine aircraft shall not be operated with passengers under instrument conditions unless each occupant of the aircraft is equipped with a parachute of an approved type and design, maintained in accordance with the provisions of the Civil Air Regulations and such operation is conducted over such routes and with such radio equipment as may be necessary to provide adequate means for accurate navigation.

(d) Single engine land aircraft shall not be operated over water in air transportation involving the carriage of passengers unless the flight path of the aircraft is such that it can at all times reach land deemed suitable by the Administrator for safe landing in the event of complete power failure.

(e) Single engine water aircraft shall not be operated over land in air transportation involving the carriage of passengers unless the flight path of the aircraft is such that it can at all times reach open water deemed suitable by the Administrator for safe landing in the event of complete power failure.

(f) Single engine water aircraft shall not be operated with passengers at night beyond gliding distance from shore.

(g) Single engine aircraft shall not be operated with passengers over water beyond gliding distance from shore under instrument conditions.

42.32 Multi-engine aircraft. The following limitations shall govern carriers in the use of multi-engine aircraft in air transportation:

(a) No carrier shall operate multi-engine aircraft in air transportation involving the carriage of passengers unless:

(1) Such aircraft is capable with any one engine inoperative of maintaining level flight at least 1000 feet above the highest obstruction to flight on the routes flown in the area over which the carrier operates; or

(2) Such aircraft is operated in accordance with operating procedures which, in the opinion of the Administrator, will permit the aircraft, in the event of failure of any one engine at any point on the route flown or in the area over which the aircraft is operated to reach a safe landing at an airport or other suitable area.

(b) Multi-engine land aircraft shall not be operated over water beyond gliding distance from shore without the aid of power, unless such aircraft has one or more suitable emergency exits located in the upper half of the airframe.

(c) Multi-engine aircraft shall not be operated with passengers over water out of sight of land unless equipped with approved flotation gear or life preservers for each occupant and a Verys pistol and cartridges or equivalent signal equipment deemed adequate by the Administrator.

(d) Multi-engine aircraft shall not be operated with passengers under instrument conditions off an airway, unless such aircraft is equipped with fully functioning dual controls operated by two properly certificated pilots.

42.33 Radio facilities.

42.330 Two-way radio. A carrier shall not operate aircraft in air transportation beyond 500 miles from the base of the carrier, or over water more than 25 miles from the shore line, unless such aircraft is equipped with two-way radio-telephone of a design, distance and frequency range satisfactory to the Administrator.

42.331 Radio navigational and orientation aids. A carrier shall not operate aircraft with passengers in air transportation in the following types of flights, unless such aircraft is equipped with such navigational and orientation aids (radio direction finders, radio compasses, etc.) as the Administrator may deem necessary for safe operation:

(a) Any flight over water during hours of daylight which extends beyond 100 miles from shore;

(b) Any flight over water during hours of darkness which extends beyond 50 miles from shore; and

(c) Any flight under instrument conditions over water as in (a) and (b) above or off a civil airway.

42.34 Pilots. No carrier shall employ a pilot to be in command of aircraft carrying passengers in air transportation during a flight to a point further than 500 miles from the base of the carrier, unless such pilot has a total of not less than 500 hours of solo flight time, which total shall include at least the following minimums of specialized types of solo flight time prescribed for the particular

type of operation involved:

(a) Day. If the flight is conducted entirely under contact conditions during the hours of daylight, such pilot must have 100 hours of solo cross-country flight time and 50 hours of solo flight time in aircraft of the same type, class and horsepower range as the aircraft used in such flight.

(b) Night. If the flight is conducted in whole or in part under contact conditions during the hours of darkness, such pilot must meet the requirements of subsection (a) and, in addition, must have 50 hours of solo cross-country flight time during the hours of darkness.

(c) Instrument. If the flight is conducted in whole or in part under instrument conditions, such pilot must meet the requirements of subsections (a) or (b), depending upon the type of operation involved, and the following requirements:

(1) Such pilot must be thoroughly competent to use all navigation and orientation aids installed in the aircraft used on such flight; and

(2) Such pilot must have 50 hours of cross-country solo flight time obtained in flights conducted by reference to instruments and radio alone.

(d) Operation over water. If the flight is conducted in whole or in part over water out of sight of land, such pilot must meet the requirements of subsections (a), (b), or (c), depending upon the type of operation involved, and must have 50 hours of solo flight time obtained in solo cross-country flying over water out of sight of land.

(e) A pilot shall not operate any aircraft carrying passengers when such aircraft is of a make or model which the pilot has not flown within the preceding 30 days, unless such pilot first makes three take-offs and landings in such aircraft, each of which landings must be to a full stop.

(f) A pilot shall not fly more than 8 hours out of any 12 consecutive hours without a rest period of at least 1 hour during such 12 hour period.

(g) A pilot shall not fly more than 12 hours during any 24 consecutive hours and if during any such 24 consecutive hour period a pilot has been permitted to fly in excess of 8 hours he shall be given, in addition to the rest period in (f) above, a rest period equal to at least twice the number of hours flown. During such rest period the pilot shall be relieved of all duty with the carrier.

(h) A pilot shall not pilot aircraft in excess of 36 hours during any 7 consecutive days and during such 7 consecutive days, each pilot shall be given at least 24 consecutive hours of relief from all duty.

(i) A first or second pilot shall not fly more than 85 hours in air transportation in any one calendar month, nor more than 100 hours a month total flying time.

(j) A pilot shall not fly more than 1000 hours in air transportation nor more than 1200 hours total flying time during any calendar year.

(k) A pilot shall not operate aircraft carrying passengers on a flight which is to a point farther than 500 miles from the base of the carrier unless such pilot has satisfactorily

passed within the 6 months immediately preceding any such flight, a physical examination of the type prescribed for airline transport pilots given by a medical examiner designated by the Administrator.

(l) A second pilot shall be on duty in any flight with passengers when:

(1) The aircraft used is of a design incorporating multi-engine features, combined with retractable landing gear or wing flaps; or

(2) The first pilot is required to fly more than 8 hours during any one consecutive 24 hour period; or

(3) In the opinion of the Administrator the usual and customary duties of one pilot in navigation and conduct of the flight would be unduly interfered with through the necessity of performing other duties.

42.35 Operations.

42.350 Airworthiness. A pilot of a carrier shall not take-off in any flight in air transportation if, in his opinion, the aircraft used in such flight is not airworthy or the engine of such aircraft is not functioning properly.

42.351 Radio. A carrier shall not use an aircraft on any flight in air transportation during which radio will, or may be, used unless prior to take-off a check has been made to determine that all required radio equipment is functioning properly and, if the aircraft is equipped with trailing antenna, an additional check shall be made as soon as possible after take-off to determine if such trailing antenna has been lost.

42.352 Tests. A carrier shall not permit an aircraft to take-off on a night flight in air transportation unless:

(a) All flight controls have been tested by the pilot while on the ground to determine that they are functioning properly;

(b) Before the take-off run the aircraft engine or engines have been individually tested by the pilot at full throttle (supercharged engines shall be tested at run-up RPM at the manifold pressure specified by the carrier for the particular conditions involved); and

(c) All engine instruments indicate normal conditions and each magneto has been individually tested.

42.353 Take-off. The take-off of aircraft on a flight in air transportation shall be begun from a point which makes available the greatest length of runway considering wind direction and, insofar as practicable, after such take-off the aircraft shall not be banked until at least an altitude of 500 feet has been obtained.

42.354 Dual controls. In flights in air transportation by a carrier requiring two pilots at dual controls, neither pilot shall leave the controls of the aircraft during the take-off and ascent immediately following take-off, or during any approach, let-down-through procedure, or landing.

42.355 Oxygen apparatus.

(a) Aircraft not having pressurized cabins and operated at an altitude exceeding 10,000 feet above sea level continuously for more than 30 minutes or at an altitude exceeding 12,000 feet above sea level for any length of time shall be equipped with effective oxygen apparatus and an adequate supply of oxygen available for the use of the operating crew. Such aircraft shall also be equipped with an adequate separate supply of oxygen available for the use of

passengers when operated at an altitude exceeding 12,000 feet above sea level.

(b) Unless oxygen is supplied in accordance with paragraph (a), aircraft having pressurized cabins shall not be operated with a pressure within the cabin less than that corresponding to a pressure altitude of 10,000 feet. Aircraft having pressurized cabins and operated at altitudes in excess of 18,000 feet above sea level shall be equipped with an adequate emergency supply of oxygen available for the use of the flight crew.

42.356 Instrument Procedures. A carrier shall not operate aircraft engaged in air transportation under instrument conditions except in accordance with the take-off, approach, and let-down-through procedures specified by the Administrator for the airports involved unless other procedures are specifically authorized by an airway traffic control center or a certificated Air Traffic Control Operator on duty at the airport.

42.357 Emergency Authority. The pilot in command of any aircraft operated by a carrier in air transportation is authorized, in emergency situations which require immediate decision and action, to resolve upon any course of action which is required by the factors and information available to him. He may, in such situations, deviate from prescribed methods, procedures, or minimums, to the extent required by considerations of safety. When such an emergency authority is exercised, the pilot shall, if possible, keep the proper control station fully informed with regard to his actions. In any case he shall submit immediately upon the completion of the flight a written report of such deviation to the Operations Manager of the carrier or such other person as the carrier may designate to receive such reports. Such person shall furnish a copy of such report, with his comments, to the Administrator within

seven days of the flight.

42.358 Reports. Each carrier shall furnish the Administrator with such reports as the Administrator may require.

42.36 Clearance. The following regulations shall govern clearance of flights in air transportation by a carrier.

42.360 Flight Plan. No carrier shall begin a flight in air transportation under instrument conditions unless the flight plan prescribed by § 60.5 of the Civil Air Regulations has been filed, which flight plan shall designate two alternate airports. If any portion of such flight is on a civil airway such flight plan shall be filed in the manner prescribed by §60.5. If no portion of such flight is on a civil airway such flight plan shall be written out by the pilot in command and mailed to the office of the local inspector of the Administrator prior to the departure of such flight.

42.361 Fuel and Oil.

(a) Under visual contact conditions, no aircraft shall take off without sufficient fuel and oil, considering the wind and other weather conditions to be encountered during the course of the flight, to complete the flight to the first point of intended landing and thereafter to fly for a period of 45 minutes at normal cruising consumption.

(b) Under instrument conditions, no aircraft shall take off without sufficient fuel and oil, considering the wind and other weather conditions to be encountered during the course of the flight, to complete flight to the first point of intended landing and thereafter to fly to and land at the alternate airport specified for such flight which is most distant from the first point of intended landing and thereafter to fly for a period of 45 minutes at normal cruising

consumption.

42.362 Equipment. No aircraft shall be operated in air transportation unless all the instruments and equipment required by the Civil Air Regulations or specified in the Operation Specifications for the particular type of operation involved are installed in such aircraft and are properly functioning at the time of take-off.

42.37 Weather minimums.

42.370 General. No carrier shall use a weather report to control flight movements of its aircraft in air transportation unless such weather report was prepared from observations made and released by the United States Weather Bureau or by a source approved by such Bureau. All weather reports so used shall be the latest reports available. In such report barometric pressures corrected to a sea level reading shall be used exclusively and all ceiling heights or other altitudes reported by pilots in flight shall be with reference to altitude above sea level.

42.371 Instrument operation. When any portion of any flight, including take-off, climb, cruise, let-down, or approach, cannot be made by visual reference to terrain within gliding distance of the aircraft, such flight shall be classed as instrument operation and all requirements, restrictions and rules governing instrument operation shall apply.

42.372 Ceiling and visibility.

42.3720 Cargo. A carrier shall not operate aircraft in air transportation for the carriage of cargo only unless the ceiling and visibility at all points of intended landing or proposed alternates are either 500 feet and 1 mile respectively or are equal to the ceiling and visibility specified at such points for operation by scheduled air carrier aircraft engaged in air transportation, whichever are lower.

42.3721 Passengers.

(a) A carrier shall not operate aircraft in air transportation for the carriage of passengers when any point of intended landing or proposed alternate is on a civil airway unless the ceiling at such point is 500 feet and the visibility 1 mile or, if any such point is used by an air carrier in scheduled air carrier service, the visibility is 1 mile and the ceiling at such point is not less than 200 feet more than that specified for use by such air carrier, whichever is higher.

(b) A carrier shall not operate aircraft in air transportation for the carriage of passengers when any point of intended landing or proposed alternate is off a civil airway unless the ceiling at such point meets the minimum weather requirements of the Civil Air Regulations governing weather minimums for contact flight.

42.3722 Reduced visibility. Notwithstanding the provisions of §§42.3720 and 42.3721, contact flight during the hours of daylight may be made by a carrier in air transportation when the visibility at any point of intended landing or proposed alternate is reduced to one-half mile by local smoke, dust, haze, blowing snow, or sand.

42.373 Icing conditions. No carrier shall operate single engine aircraft in air transportation through an area in which icing conditions are reported nor multi-engine aircraft under such conditions unless equipped with an approved de-icer installation.

42.38 Maintenance. Maintenance operations of all carriers shall be conducted in accordance with the following conditions:

(a) Each aircraft, aircraft engine, propeller, and appliance operated by a carrier in air transportation shall be maintained in a continuous condition of airworthiness, and shall be altered and repaired in accordance with the standards and practices prescribed

in Part 18 of the Civil Air Regulations and the accompanying manual, in addition to such specific conditions and limitations as may be set forth by the Administrator in Operation Specifications.

(b) All phases of maintenance work shall be adequately supervised by certificated mechanics properly rated for the particular work involved.

(c) Each carrier shall keep the following current reports with respect to all aircraft, aircraft engines, propellers and, where practicable, appliances used in air transportation:

(1) Total time and service;

(2) Time since last overhaul;

(3) Time since last inspection; and

(4) Such other data as the Administrator may deem necessary for safe operation.

42.4 Unassigned.

42.5 Unassigned.

42.6 Unassigned.

42.7 Unassigned.

42.8 Unassigned.

42.9 Issuance and expiration of certificates.

42.90 Application. Application for a certificate shall be made upon the applicable form prescribed and furnished by the Administrator.

42.91 Compliance. All operations must be conducted in accordance with the specifications of the air carrier operating certificate and the rules contained in this Part.

42.92 Display. The certificate shall be conspicuously posted in the principal office of the carrier where it may be readily seen and any such certificate, and accompanying Operation Specifications, shall be

presented for inspection upon the reasonable request of any person. A facsimile copy of such certificate shall be conspicuously posted in the carrier during operation in air transportation, where it may be easily identified by passengers.

42.93 Non-transferability. A certificate is not transferable.

42.94 Duration. A certificate shall be of 60 days' duration and unless the holder thereof is otherwise notified by the Administrator within such period, shall continue in effect indefinitely thereafter unless suspended or revoked or voluntarily cancelled.

42.95 Surrender. Upon the suspension or revocation of a certificate, the holder thereof shall, upon request, surrender such certificate to any officer or employee of the Administrator.

42.96 Inspection. The applicant for or the holder of a certificate shall offer full cooperation with respect to any inspection or examination which may be made of said applicant, its personnel, facilities, equipment, and records, upon proper request by an authorized representative of the Administrator.

42.97 Amendment. Application by the air carrier to amend the air carrier operating certificate shall be made upon the applicable form prescribed and furnished by the Administrator.