Advance Copy

TITLE 14 - AERONAUTICS AND SPACE

HQ-600

CHAPTER I - FEDERAL AVIATION AGENCY

[Regulatory Docket No. 1347; Amendment 42-1_7]

PART 42 - AIRCRAFT CERTIFICATION AND OPERATION RULES FOR SUPPLEMENTAL AIR CARRIERS, COMMERCIAL OPERATORS USING LARGE AIRCRAFT, AND CERTIFICATED ROUTE AIR CARRIERS ENGAGING IN CHARTER FLIGHTS OR OTHER SPECIAL SERVICES

Aircraft Certification Requirements

This amendment affects § 42.61 of Revised Part 42 (28 F.R. 7124), published July 12, 1963, effective November 11, 1963.

Section 42.61(b) of Revised Part 42 requires that airplanes certificated as a basic type after June 30, 1942, be certificated as transport category airplanes and meet the transport category airplane operating limitations prescribed in § 42.70. These requirements apply to cargo as well as passenger-carrying airplanes of more than 12,500 pounds maximum certificated takeoff weight.

Section 42.15(b) of currently effective Part 42 is similar to § 42.61(b) of Revised Part 42, except that the currently effective section applies only to passenger-carrying airplanes. Thus, Revised Part 42 would impose new requirements with respect to cargo airplanes, effective November 11, 1963.

Although currently effective Part 42 does not require cargo airplanes to be certificated in the transport category, current § 42.14-1(b) does require large nontransport category cargo airplanes to be operated in accordance with the nontransport category takeoff performance requirements of current § 42.81, and to meet the one-engine-inoperative climb requirement of current § 42.82 at an altitude 1,000 feet above the airport from which the takeoff is being made.

A number of C-46 airplanes, originally manufactured during World War II, are being operated under the provisions of currently effective Part 42. Some C-46 airplanes have been modified at considerable expense and recertificated in the transport category under the provisions of Special Civil Air Regulation No. 406C to make them eligible for passenger operations. However, most of the C-46 airplanes are nontransport category airplanes and are used only in cargo operations.

Several operators of nontransport category C-46 airplanes used in cargo operations have petitioned for relief from § 42.61(b) of Revised Part 42 to permit the continued operation of such airplanes under the provisions of currently effective Part 42 applicable to nontransport category cargo airplanes.

The petitioners contend that the recertification of C-46 cargo airplanes in the transport category is not necessary for safety and that the expense of such recertification would be economically ruinous to the short-haul air cargo industry. Specifically they state that:

(1) Prior to publication of Revised Part 42 on July 12, 1963, many of the operators did not understand that it would require C-46 cargo airplanes to be certificated in the transport category.

(2) It is not possible to modify and recertificate all the airplanes by the effective date of Revised Part 42, November 11, 1963. Moreover, modification kits are not in production.

(3) Except for a few C-46 airplanes certificated in the transport category, C-46 cargo operations would cease on November 11, 1963,

thereby preventing the operators from carrying out their military and other contracts for hauling cargo.

(4) They have examined the C-46 accident record for a period of years and found that it shows no need to recertificate C-46 cargo airplanes in the transport category. Engine failure and premature removal records show that the engines on nontransport category C-46 airplanes are more reliable than the higher-powered engines on the modified C-46 airplanes. In addition, they noted that compliance with a recent Airworthiness Directive provides substantially improved powerplant fire protection on nontransport category C-46 airplanes.

(5) Even if sufficient time were allowed for the orderly scheduling of airplane modifications and recertification in the transport category, the cost would be prohibitive for economic short-haul cargo operations.

Section 42.61(b) of Revised Part 42 was made applicable to cargo as well as passenger airplanes in line with an Agency policy previously announced in the preamble of the proposed revision of the United States Flag certificated route air carrier operating rules of Part 41 (Draft Release No. 60-19, 25 F.R. 12299, December 1, 1960). This policy was adopted in § 41.61 of Revised Part 41 (27 F.R. 1977, March 1, 1962), and was subsequently proposed in a notice to amend the domestic certificated route air carrier operating rules of Part 40 (Notice No. 63-20, 28 F.R. 6083, June 14, 1963). The Agency also intended to extend this policy to supplemental air carriers and commercial operators

in the revision of Part 42. In this respect, the preamble of the notice for Revised Part 42 (Draft Release No. 62-39, 27 F.R. 8356, August 22, 1962) stated an Agency policy that the same safety standards should apply to supplemental or irregular air carriers and certificated route air carriers wherever practicable. However, the preamble did not specifically discuss the proposed changes in § 42.61 which would require the same aircraft certification and operation requirements for both passenger and cargo airplanes.

The Agency recognizes that requiring transport category certification of cargo airplanes has a much greater impact on the Part 42 supplemental air carriers and commercial operators than it does on the Part 40 or Part 41 certificated route air carriers, since the latter group now operates very few nontransport category airplanes. Therefore, upon receipt of the petitioners' request for relief, the Agency made a survey of the C-46 airplanes affected by the Revised Part 42 and the operations in which they are being used. After a preliminary evaluation of the survey and a conference with the operators concerned, the Agency has concluded that there appears to be adequate justification to postpone the effective date of § 42.61(b) of Revised Part 42, as it applies to nontransport category C-46 cargo airplanes, in order to provide the Agency an opportunity to complete its evaluation of the C-46 cargo operations and conduct any necessary rule making action resulting from this evaluation.

Accordingly, § 42.61(b) of Revised Part 42 is being amended to permit the operation of nontransport category C-46 cargo airplanes until July 12, 1964. This amendment will also permit such airplanes to be operated under the operating limitations prescribed in § 42.14-1(b) of currently effective Part 42 until that date.

During the period of the postponement, the Agency will issue a notice of proposed rule making based upon its evaluation, and conduct any rule making action with respect to nontransport category C-46 cargo airplanes.

Since this amendment is necessary to grant relief until further rule making action can be accomplished, and imposes no additional burden on any person, I find that notice and public procedure hereon are impracticable and unnecessary, and that it may be made effective on less than 30 days' notice.

This amendment is made under the authority of sections 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1423, 1424).

In consideration of the foregoing, § 42.61(b) of Revised Part 42 of the Civil Air Regulations (28 F.R. 7124) is hereby amended to read as follows, effective November 11, 1963:

42.61 Aircraft certification requirements.

* * * * *

(b) Airplanes certificated after June 30, 1942.

(1) Except as provided in subparagraph (2) of this paragraph, airplanes certificated as a basic type after June 30, 1942, shall be certificated as transport category airplanes and shall meet the requirements of § 42.70.

(2) Nontransport category C-46 airplanes may be used as cargo aircraft until the end of July 11, 1964. Such airplanes when used as cargo aircraft shall meet the provisions of § 42.14-1(b) of Part 42 in effect on November 10, 1963, in lieu of §§ 42.90 through 42.94 of this part as effective November 11, 1963. For the purposes of this section, the provisions of § 42.14-1(b) and other sections of Part 42 referenced therein, in effect on November 10, 1963, shall continue in effect until the end of July 11, 1964.

Administrator

Issued in Washington, D.C., on October 9, 1963