Civil Aeronautics Manual 45

Commercial Operator Certification and Operation Rules

FEDERAL AVIATION AGENCY

September 1959

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Introductory Note

This manual contains Civil Air Regulations Part 45, as revised, effective April 1, 1954, and Amendment 45-1, effective January 27, 1958. Amendment 45-2, the effective date of which was postponed to December 31, 1959, by Amendment 45-3, has not been incorporated in the text: however, both of these amendments are attached as Appendix B.

As amendments and other pertinent materials pertaining to Part 45 are issued, they will be included in this manual.

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Commercial Operator Certification and Operation Rules

45.1 Applicability of part. The provisions of this part shall be applicable to citizens of the United States engaging in the carriage in air commerce of goods or passengers for compensation or hire, unless such carriage is conducted under the provisions of an air carrier operating certificate issued by the Administrator. For the purpose of this part, student instruction, banner towing, crop dusting, seeding, and similar operations shall not be considered as the carriage of goods or persons for compensation or hire.[1]

[1] Under circumstances where it is doubtful whether the operations are for "compensation or hire," the test to be applied is whether the air carriage is merely incidental to the operator's other business or is, in and of itself, a major enterprise for profit.

45.2 *Certificate required. No* person subject to the provisions of this part shall engage in air commerce using aircraft of more than 12,500 pounds maximum certificated take-off weight until he has obtained from the Administrator a commercial operator certificate: *Provided,* That no person holding an air carrier operating certificate authorizing him to operate such aircraft shall be required to obtain or be eligible for any commercial operator certificate unless he holds only an air carrier operating certificate issued pursuant to Part 42 of this subchapter and carries or intends to carry passengers for compensation or hire as a common carrier between any two points within a State with the frequency set forth in section 45.3 (a).

45.3 *Certification requirements.* A commercial operator certificate shall be issued to an applicant who demonstrates to the Administrator that he is capable of conducting his operations in accordance with the provisions of Part 42 of this subchapter, as heretofore or hereafter amended, or at an equivalent level of safety: *Provided,* That an applicant who carries or intends to carry passengers for compensation or hire as a common carrier between two points [2] entirely within any State with the frequency set forth in paragraph (a) of this section shall demonstrate that he is capable of conducting these operations in accordance with the requirements of Part 40 of this subchapter, *as* heretofore or hereafter amended, except sections 40.1, 40.10, and 40.12 through 40.17, or with such other certification requirements as the Administrator finds will provide an appropriate level of safety for the operation."

[2] The term "point" as used in this section shall have the same meaning as that established by section 291.1(b) of this chapter. Section 291.1(b) defines point to include "any airport or place where aircraft may be landed or taken off, including the area within a 25-mile radius of such airport or place."

[3] Note that an air carrier holding an air carrier operating certificate issued under the provisions of Part 42 of this subchapter may not conduct intrastate operations with the frequency specified in paragraph (a) of this section without first obtaining a commercial operator certificate.

(a) Two Bights, or one round trip, a week on the same day or days of the week for any eight or more weeks in any 90 consecutive days: or a total of 36 or more flights, or 18 or more round trips, in any 90 consecutive days.

45.4 *Operating rules.*

(a) Except as provided in paragraph (b) of this section, all persons subject to the provisions of this part shall, in the conduct of operations subject hereto, comply with the operating requirements of Part 42 of this subchapter, as heretofore or hereafter amended. Operating requirements shall be deemed to include requirements relating to aircraft and equipment, maintenance, flight crew, flight time limitations, Right operation, aircraft operating limitations, and related record-keeping and reporting requirements.

(b) Persons subject to the provisions of this part who conduct common carrier operations subject hereto in aircraft of more than 12,300 pounds maximum certificated take-off weight carrying passengers between points entirely within a State with the frequency described in section 45.3(a) shall, in the conduct of all passenger operations between such points, comply with the requirements of Part 40 of this subchapter, as heretofore or hereafter amended, except sections -10.1, 40.10, and 40.12 through 40.17, or with such other operating requirements as the Administrator finds will provide an appropriate level of safety for the operation.

45.5 Certificate rules. The certificate rules prescribed in sections 42.5 through 42.9 of this subchapter shall be applicable to commercial operator certificates, except that for those persons complying with the certification requirements of Part 40 of this subchapter, sections 40.11, and 40.18 shall apply in lieu of section 42.5.

Note: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Appendix A

Special Civil Air Regulations

Which Affect Part 45

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SPECIAL CIVIL AIR REGULATION NO. SR-389B

Effective: January 30, 1959
Adopted: December 24, 1958

Emergency Exits for Airplanes Carrying Passengers for Hire

Special Civil Air Regulation No. SR-389A, effective September 13, 1957, superseded Special Civil Air Regulation No. SR-389. AR of the provisions of SR-389 were retained in SR-389A. However, the latter special regulation as amended on October 17, 1957, contained an addition to the occupant/exit table which permitted the Viscount 700 series airplanes to carry 53 occupants when 7 exits were provided.

Special Civil Air Regulation No. SR-389, effective October 27, 1952, superseded Special Civil Air Regulation No. SR-387. Except for correcting some minor errors with respect to the number of exits authorized by the Civil Aeronautics Administration, there was no difference between the two special regulations.

Special Civil Air Regulation No. SR-387, effective October 27, 1952, was adopted in order to make applicable to the then operating transport airplanes more stringent rules regarding the number of occupants permitted per exit. SR-387 required, among other things, that all large airplanes (more than 12,500 pounds maximum certificated takeoff weight) comply with either section 4b.362 (a), (b), and (c) of Part 4b of the Civil Air Regulations as amended by Amendment 4b-4 effective December 20, 19.51, or with the specific requirements set up in SR-387. Subsequently, the provisions of section 4b.362 (a), (b), and (c) of Part 4b were revised by Amendment 4b-5, effective April 9, 1957.

Special Civil Air Regulation No. SR-389A permits the airplanes listed in the occupant/exit table to carry additional occupants if additional exits are provided, except that in no case shall more than 8 additional occupants be carried for any one additional exit. The preamble to Civil Air Regulations Draft Release No. 58-11 stated that the intent of this provision was that no more than 8 additional occupants could be authorized if the most effective exit for emergency evacuation were provided, which, by reference to the rule proposed in the draft release, is seen to be one comparable to a Type I exit as prescribed in section 4b.362. As herein set forth, it is intended that as many as 8 additional occupants may be authorized with the addition of an exit of reasonably high effectiveness and that a lesser number of occupants would be authorized with the addition of a less effective exit. For the purpose of this regulation, it has been established that the addition of an exit, approximating a Type II or IV exit as prescribed in section 4b.362, would possibly permit the addition of 8 occupants. This relaxation over the rule proposed in Draft Release 58-11 was prompted by comments received to the draft release and the fact that a number of airplanes had already received approval to carry 8 additional occupants with the addition of an exit corn-

parable to a Type IV based on the Administrator's interpretation of SR-389A. Justification for the relaxation is based upon the current requirements of section 4b.362(c) wherein it may be seen that for the addition of a Type IV exit on each side, an increase of 30 passengers is permitted. While such a ratio is not advocated for airplanes covered by this special regulation because of other factors considered in establishing these values for section 4b.362, permitting 8 occupants to be added for a Type IV exit represents a more reasonable and realistic view than that proposed in Draft Release 58-11. Therefore, it is expressly provided herein that since the effectiveness of the exit varies with the type, size, and location, 8 additional occupants shall be authorized only when an exit comparable to a Type II or a Type IV exit as prescribed in section lb.362 is provided.

Special Civil Air Regulation No. SR-389A does not contain provisions regarding the required reduction in occupancy when the number of exits is reduced. In order to cover such cases, it is provided herein that upon removal of any exit the maximum number of occupants shall be reduced by at least 8.

The occupant/exit table has been modified by listing the "L-1049 Series" in lieu of the "L-1049," and the "CV-340 and CV-440" in lieu of the "CV-340."

Interested persons have been afforded an opportunity to participate in the making of this regulation (23 F.R. 3275). and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective January 30, 1959.

1. Contrary provisions of the Civil Air Regulations notwithstanding, no large airplane (more than 12,500 pounds maximum certificated take-off weight) while carrying passengers for hire shall be operated with occupants in excess of the number permitted by applying the provisions of section lb.362 (a), (b), and (c) of Part 4b of the Civil Air Regulations as amended by Amendment 4b-5, effective April 9, 1957, except that airplane types listed in the following table may be operated with the listed maximum number of occupants (including all crew members) and the listed corresponding number of exits (including emergency exits and doors) heretofore approved by the Administrator for emergency egress of passengers.

2. Additional occupants above the values listed in the table may be' carried if additional exits are provided, except that in no case shall more than 8 additional occupants be carried for any one additional exit. For the addition of exits comparable to at least a Type II or Type IV exit as prescribed in section 4b.362, a maximum of 8 additional occupants may be authorized and for exits not comparable to at least a Type II or Type IV exit. the Administrator after consideration. among other factors, of the type, size. and location of the exit, may authorize a lesser number of additional occupants.

3. For airplanes which have a ratio (as computed from the table in this special regulation) of maximum number of occupants to number of exits greater than 14:1 and for airplanes which do not have installed at least one full-size door-type exit in the side of the fuselage in the

rearward portion of the cabin, the first additional exit approved by the Administrator for increased occupancy shall he a floor-level exit not less than 24 inches wide by 48 inches high located in the side of the fuselage in the rearward portion of the cabin. In no case shall an occupancy greater than 115 be allowed unless there is such an exit on each side of the fuselage.

4. The maximum number of occupants authorized (listed in the table) shall be reduced where the number of approved exits is less than that shown in the table. The reduction in the maximum number of occupants for each exit eliminated shall be determined by the Administrator taking due account of the effectiveness of the remaining exits for emergency evacuation, except that the maximum number of occupants shall he reduced by at least 8 for each eliminated exit. In no case, when exits are deleted, shall the resulting ratio of occupants to exits be greater than 14:1, and there shall be at least one exit on each side of the fuselage irrespective of the number of occupants.

Airplane type	Maximum number of occupants including all crew members	Corresponding number of exits authorized for passenger use
B–307	61	4
B–377	96	9
C–46	67	4
CV–240	53	6
CV–340 and CV–440	53	6
DC–3	35	4
DC–3 (Super)	39	5
DC–4	86	5
DC–6	87	7
DC–6B*	112	11
L–18	17	3
L–049, L–649, L–749	87	7
L–1049 series	96	9
M–202	53	6
M–404	53	7
Viscount 700 series	53	7

*The DC-GA, if converted to a passenger transport configuration, will be governed by the maximum number applicable to the DC–6B.

This regulation supersedes Special Civil Air Regulation No. SR–389A as amended by Amendment No. 1 and shall remain effective until superseded or rescinded by the Board or the Administrator of the Federal Aviation Agency, as appropriate.

AMENDMENT I TO SPECIAL CIVIL AIR REGULATION NO. SR-389B

Effective: September 11, 1959
Adopted: September 11, 1959

Emergency Exits for Airplanes Carrying Passengers for Hire

Special Civil Air Regulation No. SR-389B, adopted by the Civil Aeronautics Board on December 24, 1958, and effective January 30, 1959, specified in part that no large airplane while carrying passengers for hire shall be operated with occupants in excess of the number permitted by applying the provisions of section 4b.362 (a), (b), and (c) of Part 4b of the Civil Air Regulations as amended by Amendment 4b-5 effective April 9, 1957, except for those airplanes listed in the table in SR-389B. Special Civil Air Regulations SR-389A, which preceded SR-389B, contained a similar provision but referred to Amendment 4b-4 effective December 20, 1951. The effect of SR-389B was to apply the current Part 4b exit requirements referenced in SR-389A.

A review of the history of the development of SR-389B indicates that such retroactive application of current Part 4b requirements was included inadvertently and that it would impose an unnecessary burden on the operators of certain airplanes. SR-389B is therefore being amended to eliminate this retroactive provision.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the amendment is made effective immediately.

In consideration of the foregoing, Paragraph 1 of Special Civil Air Regulation No. SR-389B is hereby amended to read as follows, effective September 11, 1959.

1. Contrary provisions of the Civil Air Regulations notwithstanding, no large airplane (more than 12,500 pounds maximum certificated take-off weight) type certificated under Civil Air Regulations effective prior to April 9, 1957, while carrying passengers for hire, shall be operated with occupants in excess of the number permitted by applying the provisions of section 4b.362 (a), (b), and (c) of Part 4b of Civil Air Regulations as amended by Amendment 4b-4 effective December 20, 1951, except that airplane types listed in the following table may be operated with the listed maximum number of occupants (including all crew members) and the listed corresponding number of exits (including emergency exits and doors) heretofore approved by the Administrator for the emergency egress of passengers.

SPECIAL CIVIL AIR REGULATION NO. SR-399B

Effective: May 28, 1959*
Issued: May 21, 1959

Provisional Maximum Certificated Weights for Certain Airplanes Operated by Alaskan Air Carriers, Alaskan Air Taxi Operators, and the Department of the Interior

Special Civil Air Regulations Nos. SR-399 and SR-399A, (18 F.R. 6799 and 20 F.R. 8091) authorized the Administrator to establish increased maximum authorized weights for certain airplanes of 12,500 pounds or less operated entirely within Alaska by Alaskan air carriers as designated by Part 292 of the Board's Economic Regulations or by the United States Department of the Interior. Effective February 3, 1959, the Civil Aeronautics Board amended Part 292 to eliminate Alaskan pilot-owners from the provisions of that Part (24 F.R. 437) and concurrently adopted new Part 293 (24 F.R. 127) redesignating such air carriers as Alaskan air taxi operators. Accordingly, in order to permit this new class of air carriers to continue operating airplanes under the increased maximum weights authorized by SR-399A, such regulations are revised to specifically include Alaskan air *taxi* operators. However, Alaskan air taxi operators will remain subject to the 7,900 pound weight limitation imposed by Part 293.

This special regulation does not impose any additional burden upon any person and is purely technical in nature. For these reasons, the Administrator finds that compliance with the notice, public participation and effective date provisions of section 4 of the Administrative Procedure Act is unnecessary. In consideration of the foregoing, I hereby adopt a Special Civil Air Regulation, effective immediately on the date of its publication in the Federal Register, to read as follows:

1. Notwithstanding any contrary provisions of the Civil Air Regulations, the Director, Bureau of Flight Standards and any employee of such administrative unit as he shall designate may increase the maximum certificated weight for airplanes which are:

(a) Operated entirely within the State of Alaska by an Alaskan air carrier or an Alaskan air taxi operator pursuant to Parts 292 and 293, respectively, of the Civil Aeronautics Board's Economic Regulations, or by the United States Department of the Interior in the conduct of its game and fish law enforcement activities and its management, fire detection, and fire suppression activities concerning public lands; and

*Date of publication in the Federal Register.

(b) Type certificated under the provisions of Aeronautical Bulletin No. 7 of the Aeronautics Branch of the United States Department of Commerce dated January 1, 1939, as amended, or under the normal category of Part 4a of the Civil Air Regulations.

2. The maximum certificated weight herein referred to shall not exceed any of the following:

(a) 12,500 pounds,

(b) 115 percent of the maximum weight listed in the FAA Aircraft Specification,

(c) The weight at which the airplane meets the positive maneuvering load factor requirement for the normal category specified in sec. 3.186 of the Civil Air Regulations, or

(d) The weight at which the airplane meets the climb performance requirements under which it was type certificated.

3. In determining the maximum certificated weight the structural soundness of the airplane and the terrain to be traversed in the operation will be considered.

4. The maximum certificated weight so determined will be added to the airplane's operation limitations and identified as the maximum weight authorized for operations within the State of Alaska.

This regulation supersedes Special Civil Air Regulation No. SR-399A, and shall terminate on October 25, 1960, unless sooner superseded or rescinded.

Appendix B

Civil Air Regulations Amendments 45-2 and 45-3

CIVIL AIR REGULATIONS AMENDMENT 45–2

Effective: July 1, 1959
Adopted: December 30, 1958

Commercial Operator Certification and Operation Rules

Part 45 **of the Civil Air Regulations presently contains provisions which are applicable to commercial operators who conduct their operations in small aircraft.**

Part 47, adopted concurrently herewith, on becoming effective, will be applicable to commercial operators who utilize small aircraft in the conduct of their operations and will require such operators to comply with the operation rules of that part. Since it will no longer be necessary or appropriate on and after the effective date of Part 47 to prescribe rules in Part 45 applicable to operators of small aircraft, Part 45 is being amended *to* exclude such operators *from its* applicability. *On* and after the effective date of this amendment, all citizens of the United States engaging in the carriage of goods or passengers for compensation or hire in air commerce using small aircraft (which includes helicopters) will be subject to the applicable provisions of Part 47, unless otherwise provided for in the regulations of this subchapter.

Interested persons have been afforded an opportunity to participate in the making of this amendment (22 F.R. 10466), and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 45 of the Civil Air Regulations (14 CFR Part 45, as amended) effective July 1, 1959.

By amending the first sentence of section 45.1 to read as follows: "The provisions of this part shall be applicable to *citizens* of the United States engaging in the carriage in air commerce of goods or passengers for compensation or hire using aircraft of more than 12,500 pounds maximum certificated takeoff weight, unless **such carriage is conducted under the provisions of an air carrier operating certificate issued by the Administrator."**

CIVIL AIR REGULATIONS AMENDMENT 45-3

Effective: July 1, 1959
Issued: June 24, 1959

Commercial Operator Certification and Operation Rules

Postponement of Effective Date of Amendment

Part 45 of the Civil Air Regulations presently contains provisions which are applicable to commercial operators who conduct their operations in small aircraft.

Civil Air Regulations Amendment 45-Z (24 F.R. 90), adopted by the Civil Aeronautics Board concurrently with Part 47, made them subject to the applicable provisions of Part 47, effective July 1, 1959. By Civil Air Regulations Amendment 47-1, issued concurrently herewith, the effective date of Part 47 is postponed until December 31, 1959, to permit the Federal Aviation Agency to revise the scope and contents of such part. Therefore, pending such revision, the effective date of Civil Air Regulations Amendment 45-2 is also postponed until December 31, 1959.

Since this regulatory action imposes no additional burden upon any person, notice and public procedure hereon are unnecessary, and good cause exists for making the amendment effective on less than 30 days' notice.

In consideration of the foregoing, the effective date of Civil Air Regulations Amendment 45-2 (24 F.R. 90) is hereby postponed from July 1, 1959, to December 31, 1959.