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Civil Aeronautics Manual 45

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Commercial Operator Certification and Operation Rules

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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 flights, 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, Bight 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 12,500 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 40.1, 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. All 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, 1951, 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 com-

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 4b.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, 1939.

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 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 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 be 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 be reduced by at least 8 for each eliminated exit. In no case, when exits are deleted, shall the resulting ratio of occupants to exits he 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 4h 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 4h 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-446A

Effective: May 25. 1962
Adopted: May 22, 1962
Published: Mav 25. 1962
(27 'F.R.' 4906)

Use of Portable Frequency Modulation (FM)
Type Radio Receivers on Aircraft During Flight

In 1961, during tests conducted by the Federal Aviation Agency's Aviation Research and Development Service, it was found that radio receivers having local oscillators operating within or near the VHF omni-range (VOR) frequency band (108 to 118 me.) cause interference which adversely affects the operation of an aircraft's VOR navigational system. Various types of portable radio receivers (i.e., radio receivers capable of being carried aboard an aircraft by a passenger) were used in these tests to determine which would produce interference to the VOR equipment. It was determined that the portable frequency modulation (FM) radio receiver is the only type radio receiver, which is commonly used by the general public, that would create this unwanted interference. Therefore, it was found that immediate regulatory action was necessary in order to provide adequately for safety in air commerce.

Accordingly, on May 4, 1961, the Federal Aviation Agency issued Special Civil Air Regulation No. SR-446 (26 F.R. 4011) to become effective May 25, 1961. This regulation, which will expire May 24, 1962, prohibits the operation of portable FM radio receivers during Bight on all civil aircraft of the United States operated by an air carrier or a commercial operator. It also prohibits the operation of portable FM radio receivers on all other VOR-equipped civil aircraft of the United States while such VOR equipment is being used for navigational purposes. The added restriction in the case of aircraft operated by an air carrier or a commercial operator was necessary since most of these aircraft are equipped with VOR navigational equipment and it would be difficult, if not impossible, for a passenger to know when the pilot in command was depending upon this equipment for navigational purposes. In addition, although not all portable FM radio receivers utilize local oscillators which will create interference, it was necessary to make the rule applicable to all portable FM radio receivers since it would not be feasible to expect the general public, airline personnel, or air crewmembers to distinguish which will cause this interference.

The tests which disclosed the interference problems caused by FM radio receivers were not completed at the time SR-446 was issued in 1961. Therefore, to simplify revision of the rule if additional interference

problems mere found by the tests, SR-446 was issued as a temporary rule, effective for a one-year period. When SR–446 was issued, the Agency had intended, prior to its expiration, to incorporate the provisions of the rule into the applicable operating parts, i.e., Parts 40, 41, 42, 43, 45, and 46. However, since the final evaluation of these tests by all interested industry parties has not been completed this action has not been taken. Accordingly, since the conditions under which SR–446 was issued still exist, it is necessary, in order to provide adequately for safety in air commerce, to extend the provisions of that rule for a period of one year.

Since this regulation extends the provisions of a currently effective regulation which expires on May 24, 1962, and a lapse in the effectiveness of the regulation would endanger safety in air commerce, I find that notice and public procedure hereon would be contrary to the public interest, and that good cause exists for making it effective on less than 30 days' notice.

In consideration of the foregoing, Special Civil Air Regulation No. SR–446 is superseded by the following Special Civil Air Regulation which is hereby adopted to become effective on May 25, 1962:

No person shall operate, nor shall any operator or pilot in command of an aircraft permit the operation of, a portable frequency modulation (FM) radio receiver on the following civil aircraft of the United States while such aircraft are engaged in flight in air commerce: (a) Aircraft operated by an air carrier or commercial operator; and (b) any other aircraft equipped with VHF omnirange (VOR) navigational equipment while such VOR equipment is being used for navigational purposes.

This special regulation supersedes Special Civil Air Regulation No. SR-446 and shall remain in effect for one year unless sooner superseded or rescinded by the Federal Aviation Agency.

(Rev. 7/1/62)

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Appendix B

Civil Air Regulations Amendments 45-2 and 45-3

Appendix B

Civil Air Regulations
Amendments 45-2, 45-3 [45-4, and 45–5]

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 45-2 (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.

CIVIL AIR REGULATIONS AMENDMENT 45-4

Effective: December 17, 1959
Issued: December 11, 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 operations in small aircraft.

Civil Air Regulations Amendment **45–2** (24 F.R. SO), adopted by the Civil Aeronautics Board concurrently with Part 47, made these operators subject to the applicable provisions of a new Part 47 which was to have become effective on July 1, 1959; later changed to December 31, 1959, by Civil Air Regulations Amendment **47–1.** Additionally, it was necessary to change the effective date of Civil Air Regulations Amendment 45-2 to December 31, 1959.

A general revision of new Part 47 is being processed but it will not be completed in time to be made effective by December 31, 1959; therefore, the effective date of the part will be postponed to July 1, 1960. Accordingly, the effective date of Civil Air Regulations Amendment 45-2 likewise must be postponed to July 1, 1960. This action will continue the operations of small aircraft in air commerce under the presently effective rules and regulations.

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. SO) as amended by CAR Amdt. **45–3** (24 F.R. 5289) is hereby postponed from December 31, 1959, to July 1, 1960.

CIVIL AIR REGULATIONS AMENDMENT 45-5

Effective: July 1, 1960
Issued: June 30, 1960

Commercial Operator Certification and Operation Rules

Postponement of Effective Date of Civil Air Regulations Amendment 45-2, As Amended

Part 45 of the Civil Air Regulations presently contains provisions which are applicable to commercial operators conducting operations with small aircraft. Civil Air Regulations Amendment 45-2 (24 F.R. 90), adopted by the Civil *Aeronautics* Board *concurrently with a new* Part *47,* made such operators subject to the provisions of the new part. Subsequently, by Amendments 45-3 and 45-4, the effective date of Amendment 45-2 was postponed by the Federal Aviation Agency until July 1, 1960. This action was taken by the Agency to permit the revision of Part 47.

The Federal Aviation Agency has now completed a proposed revision of Part 47 to be published as a notice of rule making on or about July 1, 1960. Since the time required for completion of the rule making for the revised Part 47 cannot be estimated precisely, the effective date of the present part is being postponed indefinitely. Accordingly, the effective date of Civil Air Regulations Amendment 45-2, as amended, must also be postponed indefinitely. This action will continue the operation of small aircraft by commercial operators under the presently effective small aircraft rules of Part 42 of the Civil Air Regulations.

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), as amended, is hereby further amended and postponed indefinitely.