

Corrections

Federal Register

Vol. 56, No. 56

Friday, March 22, 1991

FAR Am. 1-37, 23-42

23-42B

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

[CFDA No. 84.215A]

The Fund for Innovation in Education (FIE); Innovation in Education Program

Correction

In notice document 91-6411 beginning on page 11549 in the issue of Tuesday, March 19, 1991, make the following corrections:

On page 11549:

1. In the third column, under *Applicable Regulations*, in the fourth line, "78" should read "79".

2. In the same column, under *Invitational Priorities*, in the second line from the bottom of the paragraph, insert "not" after "are".

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Parts 612, 614, 615, and 618

RIN 3052-AB17

Miscellaneous Technical Changes

Correction

In rule document 91-1649 beginning on page 2671 in the issue of Thursday, January 24, 1991, make the following corrections:

§ 612.2130 [Corrected]

1. On page 2674, in the first column, in § 612.2130, in fourth line of paragraph (l) and the third line of paragraph (p), "§" should read "section".

2. On the same page, in the second column, in § 612.2130, in paragraph (t), in the fifth line, "Agriculture" should read "Agricultural".

PART 614--[CORRECTED]

3. On the same page, in the third column, in part 614, in the heading for subpart G, "Changes" should read "Charges".

PART 615--[CORRECTED]

4. In the same column, in part 615, in the authority citation, in the fourth line, "3132" should read "2132".

§ 615.5151 [Corrected]

5. On page 2675, in the first column, in § 615.5151, in the third line, "any" should read "and".

§ 615.5180 [Corrected]

6. In the same column, in amendatory instruction 38, in the first line, "Section 615.5189" should read "Section 615.5180".

§ 618.8360 [Corrected]

7. On the same page, in the third column, in § 618.8360(a)(5), in the first line, "seel" should read "see".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 87-389; FCC 90-404]

Revision of Rules Regarding the Operation of Radio Frequency Devices Without an Individual License; LPB et al., Joint Petition for Partial Reconsideration

Correction

In rule document 91-67 beginning on page 372 in the issue of Friday, January 4, 1991, make the following correction:

§ 15.221 [Corrected]

On page 373, in the second column, in § 15.221(a), in the eighth line, "47,715" should read "47,715/".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-01-4214-10; GP1-108; OR-19802(WASH)]

Order Providing for Opening of Lands Subject to Section 24 of the Federal Power Act; Washington

Correction

In notice document 91-3653 appearing on page 6411 in the issue of Friday, February 15, 1991, make the following correction:

In the first column, in the land description, in Sec. 34, in the first line "N½NW¼" should read "N½SW¼".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1 and 23

[Docket No. 25811; Amdt. Nos. 1-37 and 23-42]

1RIN 2120-AC15

Small Airplane Airworthiness Review Program Amendment No. 2

Correction

In the issue of Monday, February 11, 1991, on page 5455, beginning in the second column, in the correction to rule document 91-23, the docket number was inaccurately printed and should have appeared as shown above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AGL-18]

Alteration to Transition Area; Staples, MN

Correction

In rule document 91-1032 beginning on page 1571 in the issue of Wednesday, January 16, 1991, in the *EFFECTIVE DATE*, "u.t.m." should read "u.t.c."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Petition for Rulemaking; Denial

Correction

In notice document 91-2103 beginning on page 3518 in the issue of Wednesday, January 30, 1991, make the following correction:

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, and 135

[Docket No. 25780; Amdts. 121-222, 125-15, 135-39]

RIN 2120-AC86

Minimum Equipment List (MEL) Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides for the development and use of Minimum Equipment Lists (MEL) for certain single-engine air carrier aircraft. In addition, this amendment revises the requirements for the use of an MEL to make them consistent throughout the regulations. This action is needed to provide for the implementation of MEL authorizations through the issuance of operations specifications. The changes streamline administrative procedures and provide greater consistency in the MEL authorization process.

EFFECTIVE DATE: June 20, 1991.

FOR FURTHER INFORMATION CONTACT: Marlene G. Livack, Technical Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 479-0285.

SUPPLEMENTARY INFORMATION:

Background

Statement of Problem

The airworthiness certification of an aircraft is based upon the requirement that the aircraft conform to its type certificate and be in a condition for safe operation. The concept of the Minimum Equipment List (MEL) was developed when it was recognized that a flight or series of flights might be continued with certain inoperable instruments and equipment under appropriate circumstances. This followed a Federal Aviation Administration (FAA) determination that strict compliance with the Type Certification (TC) equipment requirements was not necessary to maintain the TC level of safety. The MEL is intended to permit operation for a minimum period of time until repairs can be accomplished.

Although the MEL concept was adopted for part 121 operations in 1953 and applied to part 135 multiengine aircraft operations in 1978, it has never been applied to part 135 single-engine aircraft operations. This has been due to

the relative lack of single-engine aircraft systems complexity and redundancy, the diversity of the single-engine aircraft population, and the lack of manpower to create single-engine aircraft Master Minimum Equipment Lists (MMEL).

(Note: An MMEL for a particular aircraft type is developed by the FAA in cooperation with holder of the type certificate for that aircraft. The MMEL is the basis for the individual operator's MEL for its particular operation and aircraft.)

In June 1985, the FAA responded to a request from Beech Aircraft Corporation by issuing an interpretation of FAR §§ 23.1301 and 25.1301 which stated, in summary, that all installed instruments and items of equipment in an aircraft must function as designed for all operations unless otherwise provided for in an FAA-approved MEL. Since § 135.179, which authorizes MEL use for multiengine aircraft, precludes single-engine aircraft from using an MEL, the result has been that all installed instruments and items of equipment on such aircraft must be operative. This has required part 135 operators of single-engine aircraft who install optional instruments and equipment to keep them in operating condition when the aircraft is operating. This requirement may have convinced some single-engine operators under part 135 to defer purchase of optional equipment which would have enhanced safety or operational efficiency.

At present, there is a need to standardize the manner in which the MEL requirements are applied to the aviation industry and individual operators. The results of the National Air Transportation Inspection (NATI) study of the MEL program revealed considerable misunderstanding of the MEL concept. In the past, some air carriers have mistakenly developed procedures for operating with an MEL that were not consistent with the operating regulations. Since the rules governing the use of MEL's in part 121 differ from the part 125 and 135 requirements, operational standardization and consistent interpretation of the rules have presented difficulties for operators and the FAA.

On January 23, 1989, the FAA published notice of proposed rulemaking (NPRM) 89-2 (54 FR 3320) that proposed to amend part 121, 125, and 135 requirements for the use of a MEL. (Clarification of the notice and an extension of the comment period was published in the Federal Register on March 27, 1989 (54 FR 12553).) The NPRM invited public participation in addressing MEL requirements. The

NPRM proposed to standardize and to make consistent parts 121, 125, and 135 requirements for the use of an MEL. Finally, it proposed to authorize the development of MEL's for part 135 operators using single-engine aircraft.

Discussion of Comments

Approximately fourteen comments were received on the NPRM. The comments were submitted by air carriers, airline pilot associations, manufacturers, and individuals. Most comments were in favor of standardizing the regulations, and all comments regarding expansion of the applicability of MELs to include single-engine aircraft were favorable. However, several comments opposed certain proposed requirements. All specific issues and categories of comments are discussed below.

Access to Information Contained in the MEL

New and revised §§ 121.628(a)(2), 125.201(a)(2), and 135.179(a)(2) each require that the MEL be aboard the aircraft or that the flightcrew have "direct" access at all times prior to flight to all information contained in the approved MEL. As discussed in the NPRM, it is not the FAA's intention that a physical copy of the MEL be carried aboard the aircraft although this would be an acceptable means of compliance. The FAA will accept any method as long as the information contained therein is "directly" accessible to the flightcrew at all times prior to flight through printed or other means approved by the Administrator. The rule provides that this approval will be contained in the certificate holder's operations specifications. The FAA does not consider "direct" access to include information gained from conversations with maintenance personnel by telephone or over the aircraft radio prior to dispatch.

Specifically, the commenters on this issue reflected their concerns as follows:

The Air Transportation Association (ATA) objects to the requirement that the crew have direct access to the MEL before and during flight. ATA states that there is no need for the MEL, a dispatch document, to be onboard the aircraft. According to ATA, the MEL is designed to be used during the preparation for flight, not the execution of flight. ATA submits that pilots are not trained in the use of MELs and the flightcrew always has access to MEL information through radio contact with dispatch/maintenance.

The Regional Airline Association (RAA) agrees that information

See
121-
222AAmdts. 121-222
125-15
135-39

contained in the MEL should be directly accessible to the flight crew prior to flight, but submits that directly accessible during flight is unduly restrictive. RAA submits that the MEL is a dispatch document and that it is not intended to replace abnormal/emergency procedure when an item becomes inoperative during flight. RAA believes that indirect access may, at times, contribute to safety when one pilot in a two pilot crew is not forced to read an MEL during flight.

The Aerospace Industries Association (AIA) states that the FAA has not provided a justification for requiring pilot access to the written MEL at all times, and at the same time denying pilot access to it through the radio. AIA submits that the MEL is a dispatch document not intended for application while enroute and its verbiage is completely unsuitable for inflight application. AIA states that the MEL is not "cockpit friendly" and will substantially increase crew workload. According to AIA, there will be considerable costs because the MEL will have to be rewritten for use in the cockpit and crews will have to be trained in its use.

The International Federation of Airline Dispatchers' Association (IFIDA) comments that dispatchers should be provided with the same information as the flightcrews and should have direct access to the information contained in the MEL or have a copy of the MEL provided to them.

The Air Line Pilots Association (ALPA) supports the requirement that the crew have direct access to the MEL but states that it is not good enough for pilots to get information on MEL items and remarks or exceptions by telephone or radio access. ALPA, therefore, suggests that the word "direct" be inserted before the word "access."

One comment from an airline pilot states that the crews should have access to the printed MEL at all times.

In response to these specific comments, the FAA agrees that the MEL is a dispatch document and, thus, has determined that the proposed requirement that it be available during flight would not be in keeping with the intent of the MEL concept. The FAA, however, does not agree that requiring the flightcrew to have "direct" access to the MEL prior to flight is restrictive. The flightcrew is responsible for the safe operation of the aircraft and, therefore, must have a "direct" means of determining whether or not the aircraft is safe for flight.

Several commenters state that pilots are not trained in the use of MELs. However, § 121.415 requires that pilots

and dispatchers be trained in the duties and responsibilities of their respective positions. FAR §§ 121.597 and 121.663 provide that one of the responsibilities of the pilot in command (PIC) is to determine that the flight can be made safely. For a PIC to make this determination, the FAA believes that training in the use of an MEL is necessary.

The FAA agrees with ALPA that, in order to make a dispatch decision, the flightcrew must be able to ensure that they have all available information. The FAA also agrees that calling on the radio or telephone would not necessarily ensure that the pilot has all the essential information. While the FAA agrees with the term "direct" access, this does not mean that the flightcrew must have a printed copy of the MEL and, therefore, the rule as adopted provides that the Administrator may approve other means of direct access. "Direct" access could be through the ARINC Communications Addressing and Reporting System (ACARS) or other electronic means or could be accomplished through an information retrieval system or any other means approved by the Administrator. Therefore, the word "direct" is being inserted before the word "access" in §§ 121.628(a)(2), 125.201(a)(2), and 135.179(a)(2) and the proposal that the MEL be available during flight is being deleted.

The FAA agrees that dispatchers should be provided with the same information since they are jointly responsible, with the PIC, for the dispatch of the flight. The FAA has determined that the authority provided in FAR § 121.605 covers this point and does not see a need to further clarify the requirement.

Finally, the MEL will not have to be written for cockpit use because in its present format it is appropriate for a dispatch document. Since training in the use of an MEL is already required no additional training costs will be imposed.

MEL Revision Procedures

The language of FAR part 121 is revised to clarify that an MEL, as authorized by the operations specifications, constitutes an approved change to the type design. This is similar to the concept behind FAR §§ 91.213 (former § 91.30), 125.201, and 135.179. The following commenters specifically address this concept as it relates to the MEL.

ATA comments that the FAA should clarify that MEL revisions do not require recertification. ATA states that FAA should specify in the preamble that an

amendment to the MEL will not require recertification of the airplane since the MEL authorization constitutes an approved change in the type design.

AIA believes making a change to an approved and authorized MEL constitutes a change in the type design. AIA contends, however, that this statement will be misconstrued and require full recertification for each MEL entry. AIA states that to do a full type certification for each MEL item would be prohibitively expensive and not improve safety. AIA suggests the following wording: "An approved MEL, as authorized by the operations specs, constitutes an approved deviation to the type design without requiring recertification through the certification branch."

The FAA response to ATA and AIA is that the part 121 MEL provisions are being amended to clarify that an approved MEL will constitute a change to the type design of the aircraft. However, the FAA does not intend this to mean that an amendment to the MEL requires recertification of an aircraft. Because the MEL allows an aircraft to be operated in a temporary condition with inoperative equipment while still maintaining the safety requirements for certification, the aircraft is in a legitimate design configuration and recertification of the type design is not necessary. This temporary condition continues to meet certification safety requirements. The FAA agrees with ATA and AIA that it is necessary to clarify that an amendment to the MEL will not require recertification. However, this should be accomplished in the rule and not in the preamble as suggested by ATA. Therefore, §§ 121.628(a)(2), 125.201(a)(2), and 135.179(a)(2) are amended accordingly.

In addition to ATA and AIA, Conner Air Lines, Inc., states that if the rule is implemented, the FAA would gain authority to amend an approved aircraft type certificate as well as the air carrier operating certificate by amending the operations specifications. Conner Air Lines, Inc., argues that this action would allow the FAA to alter, change, or amend, at its sole discretion, the MEL by changing the operator's specifications.

In response to Conner Air Lines, Inc., the FAA emphasizes that the MEL is a separately approved document and, therefore, will not be affected by any changes in the operations specifications. The operations specifications are the method through which operations with an MEL are authorized. The approval procedure for an operator's MEL has not been changed.

Airworthiness Directives

The NPRM proposed that instruments and equipment required by an airworthiness directive (AD) not be included in the MEL. The following comments were received from AIA and ATA on this issue.

AIA objects to this proposal and states that the prohibition against including instruments and equipment required by an AD is in conflict with the basic principles on which the MEL concept is based. AIA states that the compliance required in an AD is not necessarily the only way of fixing a defect or unsafe condition and that these solutions normally reflect permanent changes to hardware selected in consideration of operating costs and installation expediency, as well as safe operation. AIA comments that the safety requirements of an AD can often be accomplished by other means on the short term basis reflected by MEL relief.

AIA states that AD's normally contain the general statement that alternate means of compliance which provide an acceptable level of safety may be used when approved by the Administrator and the MEL does not deviate from this criterion. Further, many AD's contain specific dispatch relief provisions. AIA concludes that the carrier should be allowed to substitute a temporary solution in the MEL provided it affords an acceptable level of safety.

ATA states that proposed § 121.628(b)(2) should be the same as the existing § 91.30(b)(2), which allows instruments and equipment required by an AD, provided that AD provides for them, to be included in the MEL.

In response, the FAA agrees with ATA that §§ 121.628(b)(2), 125.201(b)(2) and 135.179(b)(2) should be the same as the requirements of § 91.30(b)(2) and has changed these sections accordingly. The FAA also agrees with AIA that AD's normally contain a general statement that alternate means of compliance can be used if approved by the Administrator. This does not necessarily provide relief through the MELs. Relief through an MEL can be granted only if it does not affect the requirements of the AD. Any MEL relief approved by the Flight Operations Evaluations Board and granted by the AD may be included in the MEL; however, due to the requirements of § 39.3 of the FAR, the AD requirements always takes precedence over the MEL provisions.

Inoperable Instruments and Equipment

Section 135.179(b)(3) of the proposed rule states that instruments and equipment that are either specifically or

otherwise required by the airworthiness requirements under which the airplane is type certificated and which are essential for safe operation under all operating conditions may not be included in the MEL. Two comments were received which specifically addressed this issue. Both Sternair and the RAA suggest deleting the proposed section. RAA states that if this limitation is included, the rule should clarify the intent.

The FAA response to these comments is that in order to maintain the validity of an airworthiness certificate, all installed aircraft instruments and equipment must function as designed. However, an FAA-approved MEL issued to a specific operator by the FAA District Office having Flight Standards certificate responsibility constitutes an approved change to the aircraft type design and, therefore, allows for inoperative equipment. Experience has shown that with the various levels of redundancy designed into aircraft, operation of every system or installed component may not be necessary since the remaining equipment can provide an acceptable level of safety.

Not all of an aircraft's installed instruments and equipment are necessary for every operation. For example, an operation which is not being conducted in icing conditions would not require airframe deicing or anti-icing equipment if that equipment was not essential for safe operations when icing conditions do not exist. Another example is an aircraft which was not being operated at night would not require a landing light. A specific operating condition, therefore, would be a condition such as extended overwater, high altitude, or night flight.

Certain equipment and instruments, however, must be operating at all times; these include such items as oil pressure and temperature gauges (unless other approved means exist to monitor these parameters) because these gauges provide an indication of the engine's condition.

Additional Comments

Several commenters question the need and reasons for the amendments to the existing FAR requirements.

For example, Ameriflight states that it supports the FAA's attempt to simplify and unify the regulations related to MELs but believes that, at the same time, a major overhaul of the current MEL policy is necessary and asks that the FAA evaluate the current problems associated with the MEL approval process such as standardization and delays. Ameriflight states that approval and development of an MEL can cost

thousands and that a revision will cost, at a minimum, \$500. Ameriflight suggests that the FAA issue a generic MMEL while leaving the specific operations and maintenance procedures to the users and district offices. These generic MMELs will be ready-to-use documents which would simply be obtained and distributed by the operators.

Conner Air Lines suggests that no changes be made to the current rules.

ATA states that the NPRM does not identify the particular issues to be clarified, but states only that § 121.627(c) "has fostered numerous questions within the air carrier industry and, therefore, needs to be clarified." ATA suggests that FAA itemize and develop exact issues or questions which generated the need for clarification. ATA also suggests that the Advisory Circular regarding deferred maintenance items, when issued, may clarify the majority of the problems. ATA states that the industry has been working with the current regulations for over 30 years and is familiar with all aspects and suggests that a change could cause confusion.

The FAA in developing its NPRM did in fact review the specific problems and issues concerning the MEL process. The vagueness of § 121.627 caused the MEL requirements to be applied differently under part 121 than under parts 125 and 135, which contain more specific requirements. For this reason the FAA stated in the NPRM that the proposed amendment was needed to standardize application of the MEL concept by bringing part 121 in line with parts 125 and 135. The FAA believes it is unnecessary to catalogue the numerous requests for interpretation concerning § 121.627. These problems cannot be dealt with in an advisory circular format. The FAA believes that the minor changes involved with this rulemaking, including revisions to air carrier operations specifications, will not be a significant burden to air carriers and the resulting simplification of the process will be beneficial.

AIA comments that parts 125 and 135 should be standardized along the lines of part 121 instead of the other way around as proposed in the NPRM. This would provide a simplified system to 125 and 135 operators and not impose an economic burden on part 121 operators to change and train for a new system. It would also eliminate the need for re-interpretation. AIA states that if the reason for the proposed replacement of § 121.627(c) is to provide a stronger legal basis for enforcement then § 121.627(c) should be expanded to set up specific requirements for an MEL.

The FAA does not agree with AIA that proposed parts 125 and 135 should be standardized along the lines of part 121. Section 121.627(c) has historically caused confusion in the aviation industry and the FAA as well. After a careful review of the MEL requirements specified in current §§ 121.627(c), 125.201, and 135.179, the FAA has determined that proposed §§ 125.201 and 135.179 offer a clearer presentation of MEL requirements and this should be extended to part 121 for standardization throughout the industry. The FAA emphasizes that the MEL in part 121, as well as in parts 125 and 135, constitutes an approved change to the aircraft type design without requiring recertification. This is clearly stated in proposed §§ 121.628, 125.201, and 135.179.

Finally, two commenters state that pilots cannot always comply with the abnormal/emergency checklist procedures because one or more of the aircraft systems or components required to accomplish the emergency procedure is inoperative. These comments suggest the rule be amended so that no system component required to accomplish an emergency or abnormal procedure be included on an MMEL. The FAA believes these commenters are referring to problems with their own MELs, and that these problems should be reviewed and resolved. With respect to comments concerning MMELs, the FAA agrees that systems and components required to accomplish emergency or abnormal procedures are considered when approving an MMEL. Therefore, these items should not appear on an MEL since the MEL cannot be more permissive than the MMEL. If commenters believe this is not the case then it would be appropriate for the specific MEL problem to be reported in detail to the FAA for review and possible revision.

One commenter suggests that advisory circular material be developed to standardize the procedures by which MEL's are prepared by the operator and approved by the FAA. The FAA agrees and has undertaken this project. The FAA anticipates that the advisory circular material will be released concurrently with this rule.

Another commenter states that § 135.179 should be applicable to single-engine turbine airplanes on floats. The FAA's response is that the rule includes all single-engine aircraft operated under part 135.

Beyond the Scope of the NPRM

Several comments submitted are beyond the scope of this proposed rulemaking.

For example, Fairchild Aircraft Corporation refers to a suggested rule change that it requested in 1986, Docket No. 25049, and suggests that those changes be incorporated into the proposed § 135.179. Fairchild petitioned the FAA to amend §§ 91.30 and 135.179 to require the FAA and aircraft manufacturers to establish a list of required instruments and equipment to be included in each airplane and rotorcraft flight manual. The list would be used by a pilot to determine what instruments and equipment are required to begin and/or continue a flight. The FAA will respond to this issue in a separate rulemaking project, when resources permit.

Furthermore, the following comments have been considered as informational, but not having direct impact on this particular rulemaking project.

ALPA, for example, recommends that both the preamble to the MEL and the airworthiness handbook include a reference to the "electronic log book" including guidelines to ensure that the crew is supplied with the current airworthiness status of the aircraft following failure of the MEL items.

Finally, a commenter suggests that operators in Alaska should be able to develop MEL procedures for fuel gauges and other items on single-engine aircraft. Such matters are the proper subject of the MMEL review process.

Regulatory Evaluation Summary

Benefits

The benefits of the revised rules are non-quantifiable because they primarily reorganize and standardize the MEL provisions of various operating rules in order to clarify and explain the intent of existing requirements. Promulgation of these rules will reduce misunderstandings of the requirements governing inoperable instruments and equipment by air carriers.

Further, operators of single-engine aircraft under part 135 will benefit from greater flexibility and efficiency in using aircraft under the revised rules. As a result of these rules, passengers and shippers will avoid unnecessary delays and inconvenience. Moreover, use of operations specifications in lieu of letters of authorization, in the long run, will reduce administrative burdens for both the FAA and the affected certificate holders. The FAA, however, has no precise basis on which to quantify these benefits, since it cannot predict the extent to which part 135 operators of single-engine aircraft will elect to use MELs.

Costs

Certificate holders subject to the revised rules will not incur any additional compliance costs because the rules will change only the format in which MEL authorizations are granted. The substantive provisions of the MEL's for individual certificate holders will continue to be determined by the FAA flight standards field offices having jurisdiction over the particular certificate holders. Guidance for MEL operating privileges and limitations will continue to be disseminated through such means as the advisory circular system. The FAA will incur some minor administrative costs in transferring MEL requirements from letters of authorization to operations specifications, but this will be a one time expense, which is in the nature of an ordinary cost of doing business for a regulatory agency. Moreover, the use of operations specifications, in the long run, will tend to ease administrative burdens and reduce costs for both FAA and the certificate holders.

International Trade Impact Assessment

The revised regulations will clarify and standardize existing MEL requirements for various classes of United States certificate holders, and as such, will have no effect on the sale of foreign aviation products or services in the United States, nor will they affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes threshold cost values and small entity size standards for complying with RFA review requirements in FAA rulemaking actions.

The small entities that will be affected by the revised rules are those parts 121, 125, and 135 operators that own nine or fewer aircraft. However, because these rules will not impose any additional compliance costs on affected certificate holders and will provide relief in the case of part 135 operators of single-engine aircraft, none of the threshold cost values stipulated in Order 2100.14A

are expected to be exceeded by any affected certificate holder. Therefore, the FAA has determined that these rules will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects

14 CFR Part 121

Air carriers; Airplanes; Aviation safety; Safety.

14 CFR part 125

Aircraft; Airworthiness.

14 CFR Part 135

Air carriers; Aircraft; Airplanes, Airworthiness; Aviation safety; Safety.

Adoption of the Amendment

Accordingly, parts 121, 125, and 135 of the Federal Aviation Regulations (14 CFR parts 121, 125, and 135) are amended as follows:

PART 121—CERTIFICATION AND OPERATIONS DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS, AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421, 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. By revising the introductory text of § 121.303(d) to read as follows:

§ 121.303 Airplane instruments and equipment.

* * * * *

(d) Except as provided in §§ 121.627(b) and 121.628, no person may take off any airplane unless the following instruments and equipment are in operable condition:

* * * * *

§ 121.627 [Amended]

3. By removing § 121.627(c).

4. By adding a new § 121.628 following § 121.627 to read as follows:

§ 121.628 Inoperable instruments and equipment.

(a) No person may take off an airplane with inoperable instruments or equipment installed unless the following conditions are met:

(1) An approved Minimum Equipment List exists for that airplane.

(2) The Flight Standards District Office having certification responsibility has issued the certificate holder operations specifications authorizing operations in accordance with an approved Minimum Equipment List. The flight crew shall have direct access at all times prior to flight to all of the information contained in the approved Minimum Equipment List through printed or other means approved by the Administrator in the certificate holders operations specifications. An approved Minimum Equipment List, as authorized by the operations specifications, constitutes an approved change to the type design without requiring recertification.

(3) The approved Minimum Equipment List must:

(i) Be prepared in accordance with the limitations specified in paragraph (b) of this section.

(ii) Provide for the operation of the airplane with certain instruments and equipment in an inoperable condition.

(4) Record identifying the inoperable instruments and equipment and the information required by paragraph (a)(3)(ii) of this section must be available to the pilot.

(5) The airplane is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the operations specifications authorizing use of the Minimum Equipment List.

(b) The following instruments and equipment may not be included in the Minimum Equipment List:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the airplane is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(3) Instruments and equipment required for specific operations by this part.

(c) Notwithstanding paragraphs (b)(1) and (b)(3) of this section, an airplane with inoperable instruments or equipment may be operated under a special flight permit under §§ 21.197 and 21.199 of this chapter.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 1354, 1421 through 1430 and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

6. By revising § 125.201 to read as follows:

§ 125.201 Inoperable instruments and equipment.

(a) No person may take off an airplane with inoperable instruments or equipment installed unless the following conditions are met:

(1) An approved Minimum Equipment List exists for that airplane.

(2) The Flight Standards District Office having certification responsibility has issued the certificate holder operations specifications authorizing operations in accordance with an approved Minimum Equipment List. The flight crew shall have direct access at all times prior to flight to all of the information contained in the approved Minimum Equipment List through printed or other means approved by the Administrator in the certificate holders operations specifications. An approved Minimum Equipment List, as authorized

by the operations specifications, constitutes an approved change to the type design without requiring recertification.

(3) The approved Minimum Equipment List must:

(i) Be prepared in accordance with the limitations specified in paragraph (b) of this section.

(ii) Provide for the operation of the airplane with certain instruments and equipment in an inoperable condition.

(4) Records identifying the inoperable instruments and equipment and the information required by paragraph (a)(3)(ii) of this section must be available to the pilot.

(5) The airplane is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the operations specifications authorizing use of the Minimum Equipment List.

(b) The following instruments and equipment may not be included in the Minimum Equipment List:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the airplane is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(3) Instruments and equipment required for specific operations by this part.

(c) Notwithstanding paragraphs (b)(1) and (b)(3) of this section, an airplane with inoperable instruments or equipment may be operated under a

special flight permit under §§ 21.197 and 21.199 of this chapter.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

7. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354 (a), 1355(a), 1421-1431 and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

8. By revising § 135.179 to read as follows:

§ 135.179 Inoperable instruments and equipment.

(a) No person may take off an aircraft with inoperable instruments or equipment installed unless the following conditions are met:

(1) An approved Minimum Equipment List exists for that aircraft.

(2) The Flight Standards District Office having certification responsibility has issued the certificate holder operations specifications authorizing operations in accordance with an approved Minimum Equipment List. The flight crew shall have direct access at all times prior to flight to all of the information contained in the approved Minimum Equipment List through printed or other means approved by the Administrator in the certificate holders operations specifications. An approved Minimum Equipment List, as authorized by the operations specifications, constitutes an approved change to the type design without requiring recertification.

(3) The approved Minimum Equipment List must:

(i) Be prepared in accordance with the limitations specified in paragraph (b) of this section.

(ii) Provide for the operation of the aircraft with certain instruments and equipment in an inoperable condition.

(4) Records identifying the inoperable instruments and equipment and the information required by (a)(3)(ii) of this section must be available to the pilot.

(5) The aircraft is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the operations specifications authorizing use of the Minimum Equipment List.

(b) The following instruments and equipment may not be included in the Minimum Equipment List:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the airplane is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(3) Instruments and equipment required for specific operations by this part.

(c) Notwithstanding paragraphs (b)(1) and (b)(3) of this section, an aircraft with inoperable instruments or equipment may be operated under a special flight permit under §§ 21.297 and 21.199 of this chapter.

* * * * *

Issued in Washington, DC, on March 18, 1991.

James B. Busey,
Administrator.

[FR Doc. 91-6828 Filed 3-21-91; 8:45 am]

BILLING CODE 4910-13-M