

DÉPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 139**

[Docket No. 24812; Amdt. No. 139-19]

Airport Certification; Extension of Certain Compliance Dates**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; request for comments.

SUMMARY: This rule extends the compliance date by which airports certificated under 14 CFR part 139 must comply with certain sign requirements of the Federal Aviation Regulations (FAR). This extension will provide the time necessary for industry to manufacture and airport operators to install the required signs.

DATES: This final rule is effective April 24, 1992. Comments must be received on or before July 23, 1992.

ADDRESSES: Comments on this final rule should be sent, in triplicate, to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-010), Docket No. 24812, 800 Independence Avenue, SW., room 915G, Washington, DC 20591. Comments may be inspected in room 915G between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William DeLoach, Safety and Compliance Division (AAS-300), Office of Airport Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8723.

SUPPLEMENTARY INFORMATION:**Comments Invited**

This final rule is being issued without prior notice and prior public comment. However, in accordance with the regulatory policies and procedures of the Department of Transportation, an opportunity for public comment on the final rule is provided. Interested persons are invited to submit comments in triplicate to the address listed under the caption "ADDRESSES" above. All comments will be available for examination by interested persons in the rules docket. This amendment may be changed in response to comments received.

Commenters who want the FAA to acknowledge receipt of comments submitted on this final rule must submit a preaddressed, stamped postcard with their comments on which the following statement is made: "Comments to

Docket No. 24812." The postcard will be date-stamped by the FAA and returned to the commenter.

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling the Office of Public Affairs at (202) 267-3484. Communications must identify the docket number (Docket No. 24812) of this amendment. Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On November 18, 1987, the FAA published a final rule (52 FR 44276) revising and reorganizing 14 CFR part 139 effective January 1, 1988. The revision included requirements, as contained in § 139.311(a) (3), (4), and (5), pertaining to markings and signs. The FAA subsequently discovered through annual airport certification inspections that many airports were not in compliance with the sign requirements. Moreover, it became evident that there were several interpretations of the sign requirements. The preamble of the notice of proposed rulemaking (NPRM) preceding the final rule stated that the "FAA would work with airports whose lighting and marking systems do not comply with current standards to bring them into compliance over a 4- to 5-year period" (50 FR 43097, October 23, 1985). On October 18, 1988, 14 CFR 139.311 was amended (53 FR 40842) to extend the compliance date for part of § 139.311 to January 1, 1991.

After the October 18, 1988 amendment, owners and operators of certificated airports were informed that the FAA was revising the advisory circulars related to airport markings and signs, and that revised advisory circulars would be published within several months. However, during numerous meetings on the revision of the advisory circular (AC) for sign standards, major differences surfaced between the FAA and the aviation industry. Controversies arose regarding the types and design of airfield signs, applications, colors, compatibility internationally, and other matters. As a result of these differences, the revised AC was not issued within the anticipated timeframe.

In 1990, the FAA met with the International Civil Aviation

Organization (ICAO) to develop standardization and consistency of signs. In an effort to develop international uniformity, ICAO brought together a visual aids panel of representatives from the international aviation community to make recommendations for new sign systems. The FAA, as a part of the ICAO working group, decided to delay issuing its revised AC until after the ICAO working group made recommendations for revised standards. This approach was to insure that the revised AC finally adopted by the FAA would minimize the differences with ICAO, and thereby avoid undue expense and inconvenience to airport owners and operators. The ICAO working group did not make its recommendations until May of 1991, long after the January 1, 1991 compliance date set out in § 139.311(f). Prior to the deadline, however, the FAA began issuing exemptions to those airport operators requesting them, and advised airport operators against installing signs solely for the purposes of complying with § 139.311(a)(3), until the FAA issued the revised AC.

A major effort was made to resolve the differences between the FAA and industry and to develop an AC that minimizes differences with those being considered by ICAO. This resulted in the adoption of FAA Advisory Circular 150/5340-18C entitled "Standards for Airport Sign Systems," on July 31, 1991. The AC was coordinated with industry, the airport community, and the international community (ICAO). Because of the lead time required to produce and install the new sign systems, the FAA estimates that it will take approximately two years for certificated airports to complete the task.

At many airports, taxiway systems will have to be renamed. This will require development of sign system plans and will necessitate advertising for bids, awarding contracts, and then installing the new signs. Furthermore, the length of construction seasons varies from region to region, this adds to the total process time.

Airport operators had been encouraged to wait for publication of the AC before attempting to comply with the requirements of § 139.311(a)(3). This was to preclude installation of signs identifying taxiing routes on the movement area where significant changes were being considered.

Most certificated airport operators have completed installation of runway hold position markings and signs, as well as Instrument Landing System critical area markings and signs which

were required by § 139.311(a)(4) and (a)(5). Installation of the hold position signs was designated a very high priority to help reduce incursions at certificated airports.

An extension of the compliance date will provide the time necessary for airports to obtain and install sign systems required by § 139.311(a)(3) that are consistent with the revised AC. The time extension for compliance with the sign installation will enhance nationwide uniformity of airport signs on an expedited basis. The extension will obviate the need for numerous individual exemptions and additional amendments to extend current exemptions.

Regulatory Evaluation Summary

This summary prepared by the FAA provides estimates of the economic consequences of this rule. This summary quantifies, to the extent practicable, estimated costs and benefits of the rule to the private sector, consumers, and Federal, State, and local governments.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a regulatory impact analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this rule is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives, has not been prepared. Instead, the agency has prepared a summary that presents an analysis of this rule without identifying alternatives. In addition to this summary, the preamble to the rule also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (Pub. L. 96-354), and an international trade impact assessment.

On November 18, 1987, the FAA published a final rule (52 FR 44276) revising and reorganizing 14 CFR part 139, effective January 1, 1988. Airport compliance with this amendment is complete except for the requirement of 14 CFR 139.311(a)(3). On October 18, 1988, 14 CFR 139.311 was amended (53 FR 40842) to extend the compliance date

for § 139.311 to January 1, 1991. This rule extends the compliance date for § 139.311(a)(3) to January 1, 1993. This will relieve the airport operators from the burden of having to apply for exemptions to this rule, and the FAA from processing the exemptions.

The FAA has granted exemptions from § 139.311(a)(3) pending action to amend the rule. Any reduction in safety benefits of extending the compliance date is negligible, because the exemptions relate to less critical guidance signs required by § 139.311(a)(3). Other safety related signs have already been installed at the certificated airports.

The FAA estimates the cost savings from this amendment would be about \$355,000. These cost savings represent the sum of the total industry costs of applying for exemptions and the total FAA costs of processing those exemptions. Applying for an exemption costs each airport operator approximately \$64 (based on an industry wage rate of approximately \$32 per hour, including benefits, for an airport operator for two hours). Processing the exemption costs the FAA about \$528. This cost is based on the estimated wage rate including benefits of a GS-13, Step 5 employee (\$33) for two days time. The FAA expects there will be approximately 600 applications for exemptions from § 139.311(a)(3) between now and January 1, 1994 if the compliance date is not extended. It is the FAA's position that this proposal will result in a savings by avoiding the need to process exemptions from the sign standards under § 139.311(a)(3). A regulatory evaluation was not prepared for placement into the docket.

International Trade Impact Analysis

This rule will affect airport operators, primarily. The rule will have no impact on trade for U.S. firms doing business overseas or for foreign firms doing business in the United States. There are no expected additional annual costs associated with this rule and, therefore, it should not create an economic disadvantage to either domestic or foreign air carriers operating in the United States.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The FAA's criterion for a "substantial

number" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. The size threshold annualized cost level in December 1983 dollars is \$5,400 for airports. Using the GNP Price Deflator and adjusting to 1990 values, this value is \$6,900 for airports.

This rule will affect airport operators. Because the benefits are minimal (\$64) for each small airport and below the \$6,900 threshold criterion for significant economic impact, the FAA finds this rule will not have a significant impact on a substantial number of small entities.

Reason for Immediate Adoption

This rule is being adopted immediately and without prior public notice and comment. This rule requires immediate adoption to extend an unnecessary and undesirable regulatory compliance date, which has been an unintended burden on airport owners and operators since January 1, 1991. By immediately adopting this amendment, the FAA alleviates the burden and cost of having to process and issue hundreds of exemptions over the next two years. This action also relieves airport owners and operators from having to request exemptions, and provides a reasonable date by which the sign requirements must be met. As explained earlier, the FAA had expected to develop a revised AC on airport sign systems long before January 1, 1991, and, in fact, discouraged airport owners and operators from replacing signs solely to comply with § 139.311(a)(3) until issuance of the revised AC. Notice and comment would not serve any meaningful purpose since the compliance deadline has long passed. Thus, comments for or against extending the compliance date would have had little significant impact or meaning. For all of these reasons, prior public notice and comment are impracticable, unnecessary and contrary to the public interest.

As stated above, an extension of the compliance date is necessary to adequately provide time for industry to manufacture and applicable airports to install sign systems consistent with the revised AC. Although this action is in the form of a final rule, interested persons are invited to comment by submitting such written data, views, or arguments as they may desire. Comments are specifically invited on the overall regulatory, economic and environmental aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is especially helpful in determining

whether modification of the rule is necessary. Comments received on or before the closing date for comments will be considered and this rule may be amended based on the comments received. Comments should be submitted pursuant to the procedure outlined in the "Comments Invited" section above.

Subsequent to receipt and review of all comments, a disposition of comments will be published in the Federal Register. This rule may be changed to either shorten or lengthen the compliance extension in response to comments received.

Federalism Implications

The amendment adopted herein does 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 amendment does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), there are no requirements for information collection associated with this rule.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this final rule is not major under Executive Order 12291; nor is it significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is certified that under the criteria of the Regulatory Flexibility Act this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities. Because of the negligible costs resulting from this rule, the FAA has determined that the expected impact of these regulations is so minimal that they do not warrant a full regulatory evaluation.

List of Subjects in 14 CFR Part 139

Air carriers, Airports, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 139 of the Federal Aviation Regulations (14 CFR part 139) as follows:

1. The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a) and 1432; 49 U.S.C. 106(g) (Revised, Public Law 97-449, January 12, 1983).

2. Part 139 is amended by revising § 139.311(f) to read as follows:

§ 139.311 Marking and lighting.

(f) Notwithstanding paragraph (a) of this section, a certificate holder is not required to provide the identified signs in paragraph (a)(3) of this section until January 1, 1994. Each certificate holder shall maintain each marking system that meets paragraph (a)(3) of this section. Issued in Washington, DC, on April 16, 1992.

Barry Lambert Harris,
Acting Administrator.

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