

CHAPTER 2. BRINGING OPERATIONS INTO COMPLIANCE.

3. BASIC TYPES OF CIVIL AIRCRAFT OPERATIONS. The government operator should contact the nearest FAA Flight Standards district office (FSDO) for assistance and guidance in bringing its operations into compliance with the FAR. For operations requiring certification, the FSDO manager will assign an FAA aviation safety inspector to assist the government operator during the certification process. Initial inquiries about certification or requests for applications should be in writing or by personal visit to the FSDO.

a. FAR Part 91.

(1) FAR Part 91 prescribes the general flight rules for all aircraft operations within the United States, including the waters within 3 nautical miles of the U.S. coast. U.S.-registered civil aircraft are required to comply with FAR Part 91. When over the high seas, they must comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation.

(2) FAR Part 91 prohibits a pilot from operating a civil aircraft unless it is in an airworthy condition. The pilot in command (PIC) is responsible for determining whether the aircraft is in condition for safe flight. The PIC is required to terminate the flight when unairworthy mechanical, electrical, or structural conditions occur. In addition, the PIC may not operate the aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual, markings, and placards, or as otherwise prescribed by the certificating authority of the country of registry.

(3) Under FAR Part 91, the PIC of an aircraft is directly responsible for, and is the final authority as to the operation of that aircraft. In case of an inflight emergency, the PIC is authorized to deviate from any rule in FAR Part 91 to the extent necessary to meet the emergency. However, any PIC who deviates from a rule in FAR Part 91 is required, upon the request of the Administrator, to send a written report of that deviation to the Administrator.

b. FAR Part 125. If an operator uses an airplane with a seating configuration for 20 or more passenger seats or a maximum payload capacity of 6,000 pounds or more, and is not engaged in "common carriage," then FAR Part 125 applies. A person is considered to be engaged in "common carriage" when "holding out" to the general public or to a segment of the public as willing to furnish transportation within the limits of its facilities to any

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person who wants it. Examples of holding out are as follows: advertising through telephone yellow pages, billboards, television, radio, and individual ticketing. FAR Section 125.11(b) prohibits FAR Part 125 certificate holders from conducting any operation which results directly or indirectly from holding out to the general public. Further information regarding common carriage vs. private carriage can be found in AC 120-12. If the operator is engaged in "common carriage," then FAR Part 121 or 135 applies rather than FAR Part 125.

c. FAR Part 121 or 135. When a government-owned aircraft is operated "for commercial purposes" (see paragraph 2(a) above), the requirements contained in either FAR Part 121 or 135, depending on the type of operation, must be met. Generally, FAR Part 121 applies to domestic, flag, and supplemental air carriers and commercial operators of large aircraft, while FAR Part 135 applies to air taxi operators and commercial operators. An operator should consult Special Federal Aviation Regulation (SFAR) No. 38-2 as well as the applicability provisions of each part (FAR Sections 121.1 and 135.1) to determine whether it is FAR Part 121 or 135 that applies to a particular operation. The FSDO will provide an applicant for a FAR Part 121 or 135 certificate with a videotape on certification and a copy of AC 120-49, Certification of Air Carriers. Once the videotape and the AC have been reviewed, the applicant will complete FAA Form 8400-6, Preapplication Statement of Intent, and the FSDO manager will assign a Certification Team to assist the applicant through each phase of the certification process.

d. FAR Part 133. FAR Part 133, Rotorcraft External-Load Operations, prescribes the airworthiness certification requirements for rotorcraft, and the operating and certification rules governing the operation of rotorcraft conducting external-load operations in the United States by any person. The certification rules do not apply to a Federal, state, or local government conducting operations with a government-owned aircraft unless it is operating as a civil aircraft due to receipt of compensation. Federal, state, or local governments must; however, comply with all of the other rules contained in FAR Part 133, even when operating a public aircraft.

(1) FAR Part 133 requires that a person must obtain a Rotorcraft External-Load Operator Certificate issued by the FAA before any rotorcraft external-load operations in the United States are begun. This certificate is valid for 24-calendar months unless it is surrendered, suspended, or revoked prior to the expiration date shown on the certificate.

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(2) Rotorcraft used in external-load operations must have been type certificated and must continue to meet the requirements of FAR Part 27 or 29 or of FAR Section 21.25. Rotorcraft must also comply with the airworthiness requirements contained in Subpart D of FAR Part 133 and must have a valid standard or restricted category airworthiness certificate. At the present time, only rotorcraft of U.S. registry are eligible for external-load operations.

(3) Pilots conducting rotorcraft external-load operations must have at least a current commercial pilot certificate with a rating appropriate to the rotorcraft being used, and a Second Class Medical Certificate.

e. FAR Part 137. FAR Part 137, Agricultural Aircraft Operations, prescribes the rules which govern the certification and operation of agricultural aircraft operated in the United States, and the issuance of either a private or commercial agricultural aircraft operator certificate for those operations. In a public emergency, a person who conducts agricultural aircraft operations may, where necessary, deviate from any operating rule contained in FAR Part 137 for relief and welfare activities approved by an agency of the United States or of a state or local government. However, each person who deviates from a rule shall complete a report of the aircraft operation involved within 10 days, including a description of the operation and the reasons for it, to the nearest FAA FSDO.

(1) As defined in FAR Part 137, an agricultural aircraft operation means the operation of an aircraft for the purpose of:

- (i) dispensing any economic poison;
- (ii) dispensing any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control; or
- (iii) engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation. It does not include the dispensing of live insects. Forest firefighting is considered to be an agricultural aircraft operation.

(2) FAR Part 137 requires that a person must obtain an Agricultural Aircraft Operator Certificate issued by the FAA before any agricultural aircraft operations in the United States are begun. A rotorcraft may conduct agricultural aircraft operations with external dispensing equipment in place without a rotorcraft external-load operator certificate. However, an

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operator with a rotorcraft external-load operator certificate may conduct agricultural aircraft operations if it disperses only water on forest fires by rotorcraft external-load means without an agricultural aircraft operator certificate. A Federal, state, or local government conducting agricultural aircraft operations is not required to obtain an Agricultural Aircraft Operator Certificate. They must, however, comply with all of the other rules contained in FAR Part 137.

(3) Aircraft used in agricultural aircraft operations must be certificated and airworthy, and equipped for agricultural operation. They must be equipped with a suitable and properly installed shoulder harness for use by each pilot.

(4) Operators conducting agricultural aircraft operations must have the services of one person who has at least a current U.S. commercial pilot certificate and who is properly rated for the aircraft to be used.

4. PILOT CERTIFICATION.

a. Generally. All civil aircraft are required to be operated by pilots certificated under FAR Part 61, Certification: Pilots And Flight Instructors. FAR Part 61 prescribes the requirements for issuing pilot certificates and ratings, the conditions under which those certificates and ratings are necessary, and the privileges and limitations of those certificates and ratings.

b. Domestic Aircraft. Pilots operating civil aircraft of U.S. registry are required to have in their personal possession a current pilot certificate issued to them under FAR Part 61. U.S.-registered aircraft may be operated in a foreign country with a pilot license issued by that country.

c. Foreign Aircraft. Foreign aircraft may be operated in the U.S. by pilots who have in their personal possession current pilot certificates issued under FAR Part 61 or a pilot license issued to them or validated for them by the country in which the aircraft is registered.

d. Medical Certificate. Pilots operating U.S.-registered civil aircraft are required to have in their personal possession an appropriate current medical certificate issued to them under FAR Part 67, Medical Standards and Certification. FAR Part 67 prescribes the medical standards for issuing medical certificates. A Third Class Medical Certificate is required for Private Pilot certification. A Second Class Medical Certificate

SEC. 3. APPLICABILITY OF CERTAIN REGULATIONS AND REQUIREMENTS TO THE OPERATION OF PUBLIC AIRCRAFT.

(a) **DEFINITION OF PUBLIC AIRCRAFT-** Section 40102(a)(37) of title 49, United States Code, is amended by striking subparagraph (B) and inserting the following:

(B) does not include a government-owned aircraft--

(i) transporting property for commercial purposes; or

(ii) transporting passengers other than--

(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

(II) transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.

(b) **AUTHORITY TO GRANT EXEMPTIONS-**

(1) **IN GENERAL-** The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section.

(2) **REQUIREMENTS-** The Administrator may grant an exemption under paragraph (1) only if--

(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

(c) INVESTIGATIVE AUTHORITY OF BOARD-

(1) ACCIDENTS INVOLVING PUBLIC AIRCRAFT- Section 1131(a)(1)(A) of title 49, United States Code, is amended by inserting before the semicolon at the end the following: 'or an aircraft accident involving a public aircraft as defined by section 40102 (a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States'.

(2) DUTIES AND POWERS- Section 1131 of title 49, United States Code, is amended--

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following:

'(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT- The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(b)(2) of this title.'

(d) EFFECTIVE DATE- The amendments made by subsections (a) and (c) shall take effect on the 180th day following the date of the enactment of this Act.

SEC. 4. RELEASE OF RESERVATIONS AND RESTRICTIONS ON CERTAIN PROPERTY LOCATED IN RAPIDES PARISH, LOUISIANA.

(a) RELEASE- Notwithstanding any other provision of law, and except as provided in subsections (b) and (d), the United States releases without consideration all reservations, restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain real property (together with any improvements thereon and easements appurtenant thereto) consisting of approximately 1,991.53 acres of land and located in Rapides Parish, Louisiana, the location of Esler Field, as identified in the deed of conveyance from the United States to the Parish of Rapides, Louisiana, dated January 23, 1958, to the extent such reservations, restrictions, conditions, and limitations are enforceable by the United States.

(b) EXCEPTIONS- The United States reserves the right of reentry upon or use of the property described in subsection (a) for national defense purposes in time of war or other national emergency without charge. The release provided by subsection (a) does not apply to any conditions or assurances associated with (1) the continued nonexclusive use without charge of the airport and use of space at the airport, without charge, by the Louisiana National Guard, (2) the nonexclusive use of the airport by transient military aircraft without charge, or (3) the nonexclusive use of the airport by transient military aircraft without charge during periods of maneuvers.

(c) LIMITATION ON STATUTORY CONSTRUCTION- Nothing in this section shall be

construed to affect the disposition or ownership of oil, gas, or other mineral resources either in or under the surface of the real property described in subsection (a).

(d) FEDERAL AVIATION ADMINISTRATION-

(1) NONAPPLICABILITY OF RELEASE TO GRANT AGREEMENTS- The release described in subsection (a) does not apply to any conditions and assurances associated with existing airport grant agreements between the Rapides Parish Airport Authority/Esler Field and the Federal Aviation Administration.

(2) AGREEMENT- Notwithstanding any other provisions of law, the Administrator of the Federal Aviation Administration shall enter into an agreement with the Airport Authority of Rapides Parish, Louisiana, to provide for the terms and conditions under which the real property described in subsection (a) may be used, leased, sold, or otherwise disposed. The agreement shall be concluded not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE- This section shall take effect on the 180th day following the date of the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

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