

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 135

[Docket No. 26192, Amendment No. 135-56]

RIN 2120-AD28

### Improved Flammability Standards for Materials Used in the Interiors of Airplane Cabins

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment removes an unintended requirement in recently-issued amendment 135-55 to part 135 of the Federal Aviation Regulations (FAR) which clarified standards adopted in 1986 concerning the flammability of components used in the cabins of certain transport category airplanes. This action is necessary to ensure that commuter category airplanes operated under part 135 are not grounded for failing to comply with certain unintended requirements that become effective on March 6, 1995.

**DATES:** Effective March 6, 1995.

Comments must be received on or before April 10, 1995.

**ADDRESSES:** Comments may be mailed in triplicate to: Federal Aviation Administration (FAA), Office of the Chief Counsel, Attention: Rules Docket (AGC-200), Docket No. 26192, 800 Independence Avenue SW., Washington, DC 20591, or delivered in triplicate to: Room 915G, 800 Independence Avenue SW., Washington, DC. Comments delivered must be marked Docket No. 26192. Comments may be inspected in Room 915G weekdays, except Federal holidays, between 8:30 a.m., and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Transport Airplane Directorate (ANM-100), FAA, 1601 Lind Avenue SW, Renton, WA 98055-4056. Comments in the information docket may be inspected weekdays, except Federal holidays, between 7:30 a.m., and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Gary L. Killion, Manager, Regulations Branch, ANM-114, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue Southwest, Renton, Washington 98055-4056; telephone (206) 227-2194.

## SUPPLEMENTARY INFORMATION:

#### Comments Invited

This action removes an unintended requirement in recently-issued Amendment 135-55 (60 FR 6616, February 2, 1995). By doing so, this rule ensures that commenter category airplanes operated under part 135 are not grounded for failing to comply with the unintended requirements that become effective on March 6, 1995. Although this action is in the form of a final rule that was not preceded by notice and an opportunity for public comment, comments are invited on this action. Interested persons are invited to submit such written data, views, or arguments as they may desire. Commenters should identify the regulatory docket number and submit comments in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator and this final rule may be amended in light of comments received. All comments will be available in the Rules Docket, before and after the closing date for comments for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the Docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26192." The postcard will be date stamped and returned to the commenter.

#### Background

The FAA has become aware that recently promulgated Amendment 135-55 (60 FR 6616, February 2, 1995) contains a new requirement that was not intended. Specifically, new § 135.170(b) states that no person may operate a large airplane unless it meets the flammability requirements contained § 135.170(b) (1) and (2). Section 135.170(b)(2) states that seat cushions, except for flight crewmember seat cushions, must comply with the fire-blocking standards of § 25.853(c) that became effective on November 26, 1984.

Large airplanes are identified in part 1 of the Federal Aviation Regulations (FAR) as those of "more than 12,500 pounds maximum certificated takeoff weight." Commuter category airplanes type certificated under part 23 of the FAR may have a maximum certificated takeoff weight as great as 19,000 pounds, and each model type certificated in the commuter category to

date does in fact have a maximum certificated takeoff weight greater than 12,500 pounds. Under the definition in part 1, these commuter category airplanes are "large" airplanes. Under the Amendment 135-55 wording of § 135.170(b), operators of these commuter category airplanes would have to comply with the seat cushion fire-blocking standards. Prior to Amendment 135-55, these operators were not required to comply with the fire-blocking standards. Although the seats of these commuter category airplanes were not previously required to meet the seat cushion fire-blocking standards of part 135, they have been required to meet the applicable flammability standards of part 23 of the FAR.

The desired fire-blocking requirements in part 135 were previously contained in § 135.169(a), which referenced § 121.312, which in turn referenced § 25.853(c) and appendix F to part 25 for the specific requirements. Section 135.169(a), however, specifically excluded commuter category airplanes from having to comply with the requirements of § 121.312. This exclusion was inadvertently dropped from Notice of Proposed Rulemaking (NPRM) 90-12, which ultimately resulted in Amendment 135-55. The lack of intent on the part of the FAA to require part 135 operators of commuter category airplanes to meet these additional seat cushion flammability standards can be seen in the preamble to the NPRM. In that regard, the title of Amendment 135-55 refers specifically to transport category airplane cabins and does not refer to those of commuter category airplanes. Under NPRM's Regulatory Evaluation, the FAA stated "the proposed amendment to part 135 is merely a non-substantive editorial change which would cause no additional burden to any person." Requiring operators to provide fire-blocked seat cushions would have been more than a non-substantive editorial change.

In response to the NPRM, several commenters submitted comments related to the omission of the exception for commuter category airplanes. One commenter expressed concern that the proposed § 135.170(b) would apply to all large airplanes and would appear to add substantial requirements to airplanes certificated under Special Federal Aviation Regulation (SFAR) 41. The FAA responded that an airplane type certificated under SFAR 41 would not be required by new § 135.170(b) to comply because it is defined within the SFAR as a "small airplane for purposes

of parts 21, 23, 36, 121, 135 and 139." Nonetheless, for clarity purposes, the adopted language refers to SFAR 41 aircraft in the exclusion.

Another commenter proposed that the lead-in sentence for § 135.170(b) start with the phrase "Except for commuter category airplanes." The commenter's proposed addition was considered unnecessary due to the erroneous belief that commuter category airplanes, like those type certificated under SFAR 41, were not "large" airplanes. Because the FAA did not change the proposed rule language in the final rule to clarify this result, the rule language must now be amended.

This further amendment to the final rule is being handled in the most expeditious manner available, and is being made effective immediately, since the final rule is effective March 6, 1995. In the absence of this further amendment, SFAR 41 and commuter category airplanes without fire-blocked seat cushions and operated under part 135 would not be considered to be in compliance with the regulation. Explicitly excluding commuter category from having to comply with the requirements of § 135.170(b)(1) is not necessary because that section impacts only airplanes with a passenger seating capacity of 20 or more which does not apply to the commuter category. Nonetheless, because of frequent confusion among operators on that point, the FAA has decided to insert the commuter airplane category exclusion

in § 135.170(b) rather than in § 135.170(b)(2) to make the applicability of these requirements clear.

Because this action imposes no additional burden on any person and since it relieves industry of the unintended burden that would be imposed if the new wording of § 135.170(b) was unchanged, it has no adverse economic impact and imposes no additional burden on any person. Accordingly, good cause exists to make this action effective immediately, but public comments are invited.

It should be noted that this action does not preclude the FAA from proposing that commuter category airplanes should comply with the seat cushion flammability standards of § 135.170(b)(2) in future rulemaking if such compliance is deemed necessary in the interest of safety. The FAA anticipates issuing by the end of this month a proposal that would contain such a requirement applicable to current part 135 operators.

The FAA has determined that this regulation must be issued immediately to preclude grounding a large portion of the U.S. commuter air carrier fleet and placing an unintended economic burden on operators of commuter category airplanes. The FAA has also determined that this action is not a "significant regulatory action" under Executive Order 12866.

#### List of Subjects in 14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

#### Adoption of the Amendment

Accordingly, 14 CFR part 135 of the Federal Aviation Regulations (FAR) is amended as follows:

#### PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

1. 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); 49 CFR 1.47(a).

2. By amending § 135.170 by revising the introductory text of paragraph (b) to read as follows:

#### § 135.170 Materials for compartment interiors.

\* \* \* \* \*

(b) Except for commuter category airplanes and airplanes certificated under Special Federal Aviation Regulation No. 41, no person may operate a large airplane unless it meets the following additional airworthiness requirements:

\* \* \* \* \*

Issued in Washington, DC, on March 6, 1995.

**David R. Hinson,**  
Administrator.

[FR Doc. 95-5834 Filed 3-6-95; 4:23 pm]

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