

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 119, 121 and 135

[Docket No. FAA-2003-15571; Amendment Nos. 119-8, 121-286 and 135-83]

RIN 2120-AI00

DOD Commercial Air Carrier Evaluators

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Disposition of comments on final rule

SUMMARY: This document discusses comments FAA received on the final rule, published on July 10, 2003 (68 FR 41214), which became effective on July 11, 2003, and which clarified existing regulations as they apply to Department of Defense (DOD) commercial air carrier evaluators. These amendments clarified DOD's congressionally mandated cockpit evaluation mission and authority for the aviation security community. Also, DOD's Air Mobility Command (AMC) issued a new credential to allow DOD commercial air carrier evaluators uninterrupted access to the cockpit for evaluations.

ADDRESSESS: The complete docket for the final rule "DOD Commercial Air Carrier Evaluators" may be examined in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. Also, you may review the public docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Gregory Clawson, Department of Defense Air Mobility Command Liaison Officer to FAA Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202)267-7088.

SUPPLEMENTARY INFORMATION

Background

The DOD contracts for passenger and air cargo movements from air carriers certificated by the FAA. The DOD is congressionally mandated to conduct capability evaluations of contracted carriers. These evaluations ensure each carrier is able to satisfy the unique requirements of military contracts and to adhere to the DOD Commercial Air Carrier Quality and Safety Requirements. These evaluations apply only to carriers under contract with the DOD or carriers wanting to enter into contracts with the DOD.

DOD commercial air carrier evaluators require uninterrupted access to the flight deck to perform their reviews. For many years, DOD commercial air carrier evaluators relied on the FAA, the air carrier, and the pilot in command authorizing their access to conduct the air carrier evaluation mission. Language contained in 14 CFR parts 121 and 135 did not include DOD commercial air carrier evaluators among those individuals authorized access to the flight deck. The absence of direct authority in the regulation listing and the lack of a well-known DOD evaluator credential significantly hindered the congressionally mandated DOD air carrier evaluations.

The amendments in the final rule make clear the authority of DOD commercial air carrier evaluators to conduct cockpit evaluations by including them in the regulation text. These

changes, with the creation of the S&A Form 110B evaluator credential, have alleviated the problems DOD commercial air carrier evaluators have faced in the field.

Discussion of Comments

The FAA received comments from a private citizen and a commercial air carrier. The content of the two letters was identical. These comments are addressed below.

The commenters stated that allowing cockpit access to the DOD evaluators was not “prudent or necessary” and the potential existed for DOD evaluators to abuse the process by wanting “free rides.”

FAA response: The FAA does not agree with the commenters. The DOD is required by law to conduct carrier evaluations including cockpit observations. The DOD coordinates these observations in advance with the air carrier. Flight crews are made aware of the presence of the DOD evaluator before the flight. Surprise evaluations are not part of this program and DOD evaluators must show proper documentation, including their S&A Form 110B credential and military orders, to gain access to the aircraft. Additionally, these evaluations only occur on air carriers participating, or applying to participate, in the DOD program. The process currently in place safeguards the security of the aircraft and does not allow for “free ride” abuse by the evaluators.

The FAA received comments regarding the possible falsification of the new credential being issued to DOD evaluators and the potential for increased costs to the air carrier by having to verify the evaluator’s documentation.

FAA response: The FAA does not agree that the credential is easily falsified. The new credential issued to DOD air carrier evaluators has the same security features as the credentials carried by FAA inspectors and are difficult to falsify. In addition, DOD evaluators must present

military orders with their S&A Form 110B credential. Verifying the credential and military order should not take any more time than in the past, and we expect the costs to be minimal. Again, these evaluations only occur on air carriers participating, or applying to participate, in the DOD program.

Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. The final rule, “DOD Commercial Air Carrier Evaluators” remains in effect as adopted.

Issued in Washington, DC on

Marion C. Blakey
Administrator