

the time of the response, no private operator was available and capable of responding to the threat in a timely manner.

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 certifying 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 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.

(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 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