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[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, and 139

[Docket No. TSA-2002-11602; Amendment Nos. 91-¹⁴274; 121-275; 139-25]

EP
5/6/02

RIN 2110-AA03

Civil Aviation Security Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: The Federal Aviation Administration (FAA) is making minor technical changes to a final rule published in the Federal Register on February 22, 2002, effective February 17, 2002. That final rule transferred certain FAA regulations to the Transportation Security Administration (TSA) and removed parts 107, 108, 109, 191, and Special Federal Aviation Regulation (SFAR) No. 91 from title 14 of the Code of Federal Regulations. The final rule, however, did not make conforming amendments to several cross- references to parts 107 and 108 appearing elsewhere in the FAA's regulations. This technical amendment conforms the cross-references to parts 107 and 108. These changes are not substantive in nature and will not impose any additional burden or restriction on persons or organizations affected by these regulations.

EFFECTIVE DATE: ~~{Insert date of publication}~~

MAY 10 2002

Pub: 5/10/02
Part VI

FOR FURTHER INFORMATION CONTACT: Mardi Thompson, Transportation Security Administration, 400 Seventh Street SW., Washington, DC 20590; telephone 202-493-1227.

SUPPLEMENTARY INFORMATION

Background

The September 11, 2001 terrorist attacks and the potential for future attacks led Congress to enact the Aviation and Transportation Security Act, Public Law 107-71, November 19, 2001, which established the TSA as an administration within the Department of Transportation. On February 22, 2002, the FAA published in the Federal Register (67 FR 8340) a document that transferred the regulations on civil aviation security from the FAA to the newly created TSA, and removed parts 107, 108, 109, 191, and SFAR No. 91. However, we did not include conforming amendments to certain cross-references to parts 107 and 108, which are now obsolete. This technical amendment makes the appropriate technical changes to conform obsolete references to parts 107 and 108.

Removal of SFAR No. 95

Two references to part 108 were found in SFAR No. 95 in part 91 of title 14. SFAR No. 95 is a temporary regulation related to a specific event. SFAR No. 95 concerns Airspace and Flight Operations Requirements for the 2002 Winter Olympic Games, Salt Lake City, Utah, and expired on February 25, 2002. When an SFAR expires, the Office of the Federal Register does not automatically remove it from the regulations. The agency is required to publish an amendment to accomplish the removal of an expired SFAR from the Code of Federal Regulations. Since SFAR No. 95 expired

on February 25, 2002 and is no longer in effect, we are removing SFAR No. 95 from the regulations rather than correcting the references.

Immediately Adopted Final Rule

Under the Administrative Procedure Act, an agency does not have to issue a notice of proposed rulemaking when the agency for good cause finds that notice and public procedure are “impracticable, unnecessary, or contrary to the public interest.” See 5 U.S.C. 553(b). Because this technical amendment simply corrects inaccurate references, we find that publishing the change for public notice and comment is unnecessary.

The Administrative Procedure Act also states that an agency must publish a substantive rule not less than 30 days before its effective date, except as otherwise provided by the agency for good cause. See 5 U.S.C. 553(d). We find that this technical amendment imposes no additional burden or requirement on the regulated industry, and is not substantive in nature. Moreover, we find that there is good cause to make the change effective immediately upon publication in the Federal Register. It is in the public interest to remove these inaccurate references from our regulations without further delay.

Regulatory Analyses

This regulation is editorial in nature and imposes no additional burden on any person or organization. Accordingly, we have determined that the action is not a significant rule under Executive Order 12866 or under Department of Transportation Regulatory Policy and Procedures. No impact is expected to result, and a full regulatory evaluation is not required. In addition, the FAA certifies that the rule will not have a

significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

14 CFR Part 91

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 139

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

In consideration of the foregoing, the Federal Aviation Administration amends parts 91, 121, and 139 of title 14 of the Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

Special Federal Aviation Regulation No. 95 [Removed]

2. Remove SFAR No. 95 from part 91.

**PART 121 – OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND
SUPPLEMENTAL OPERATIONS**

3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C.106(g), 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 46105.

§ 121.575 Alcoholic beverages.

4. Amend §121.575(b)(2) by removing the phrase “§ 108.21” and adding in its place the phrase “49 CFR 1544.221”.

5. Amend § 121.575(b)(3) by removing the phrase “§ 108.11” and adding in its place the phrase “49 CFR 1544.219, 1544.221, or 1544.223”.

**PART 139 – CERTIFICATION AND OPERATIONS: LAND AIRPORTS
SERVING CERTAIN AIR CARRIERS**

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

Authority: 49 U.S.C. 106(g), 40113, 44701-44706, 44709, 44719.

§ 139.335 Public protection.

7. Amend § 139.335(b) by removing the phrase “part 107 of this chapter” and adding in its place the phrase “49 CFR part 1542”.

Issued in Washington, DC on *May 3, 2002*



Donald P. Byrne,
Assistant Chief Counsel for Regulations.