



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 117, and 121

[Docket No. FAA-2009-1093; Amdt. Nos. 117-1, 119-16, 121-357]

RIN 2120-AJ58

Flightcrew Member Duty and Rest Requirements; Technical Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical correction.

SUMMARY: The FAA is correcting the final flightcrew member duty and rest rule published on January 4, 2012. In that rule, the FAA amended its existing flight, duty and rest regulations applicable to certificate holders and their flightcrew members operating certain domestic, flag, and supplemental operations. This document corrects several issues requiring a technical correction in the codified text of the final flightcrew member duty and rest rule.

DATES: Effective January 4, 2014.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Dale E. Roberts, AFS-200, Flight Standards Service, Air Transportation Division Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-5749; e-mail dale.e.roberts@faa.gov.

For legal questions concerning this action, contact Alex Zektser or Bonnie Dragotto, AGC-220, Office of Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3073; e-mail: alex.zektser@faa.gov or bonnie.dragotto@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2012, the FAA published a final rule entitled “Flightcrew Member Duty and Rest Requirements” (77 FR 330). In that rule, the FAA created a new part, part 117, which replaced the then-existing flight, duty, and rest regulations for part 121 passenger operations. As part of this rulemaking, the FAA also applied the new part 117 to certain part 91 operations, and it permitted all-cargo operations operating under part 121 to voluntarily opt into the part 117 flight, duty, and rest regulations.

After the final rule was published, the FAA discovered several issues requiring a technical correction in the regulatory text of the rule. These issues, and the corresponding technical corrections, are as follows.

Technical Corrections:

1. Certain domestic all-cargo operations (§ 121.470(b))

Under the existing rules, 14 CFR 121.470(b) states that “[c]ertificate holders conducting scheduled operations entirely within the States of Alaska or Hawaii with airplanes having a passenger seat configuration of more than 30 seats, excluding each crewmember seat, or a payload capacity of more than 7,500 pounds” may elect to comply with the flag flight, duty, and rest rules of part 121.

The final rule that created 14 CFR part 117 provides that all-cargo operations that do not choose to operate under part 117 will be able to operate under the same flight, duty, and rest rules that they operated under prior to the creation of part 117.¹ However, the final rule inadvertently changed the regulatory text of § 121.470(b) to apply to airplanes with a passenger

¹ See Flightcrew Member Duty and Rest Requirements Final Rule, 77 FR 330, 336-337 (Jan. 4, 2012).

seat configuration of “30 seats *or fewer . . . and* a payload capacity of 7,500 pounds or less.”²

Because this was not the intent of the final rule, § 121.470(b) has been corrected so that all-cargo operations that previously operated pursuant to § 121.470(b) can continue to do so after the final rule becomes effective.³

2. Conflict between the definitions in § 117.3 and other definitions

The regulatory text in § 117.3 has been corrected to clarify that if there is a conflict in definitions, the definitions in § 117.3 control only for purposes of the flight and duty limitations and rest requirements of part 117.

3. Reporting requirements of § 117.11(c)

Section 117.11(b) permits a flightcrew member to exceed the flight-time limits of § 117.11(a) and § 117.23(b) in certain circumstances. To ensure that the FAA is notified in all instances in which the § 117.11(b) extension is utilized, § 117.11(c) has been corrected to clarify that reporting is required if the extension in § 117.11(b) is used to exceed either the limits of § 117.11 or § 117.23(b).

4. Reporting requirements of § 117.19(b)(4)

Similar to § 117.11(b), § 117.19(b) permits a flightcrew member to exceed the flight-duty-period limits specified in Tables B and C and in § 117.23(c). To ensure that the FAA is notified in all instances in which the § 117.19(b) extension is utilized, § 117.19(b)(4) has been corrected to clarify that reporting is required if the extension in § 117.19(b) is used to exceed either the limits of Tables B/C or § 117.23. We note that while reporting is not required if the

² *Id.* at 403 (emphasis added).

³ The FAA acknowledges that § 121.470(b) governs scheduled operations and § 110.2 defines a scheduled operation as a “passenger-carrying operation.” Consequently, an all-cargo operation may not be able to operate under § 121.470(b) as currently written. The FAA is examining this issue and may address it in a future regulatory action.

limits of Table B or C are exceeded by 30 minutes or less, the corrected § 117.19(b) requires certificate holder reporting if the limits of § 117.23 are exceeded by any amount of time.

5. Cumulative limitations in § 117.23(b)

The cumulative flight-time limitations in § 117.23(c) have been corrected to clarify that a flightcrew member cannot accept an assignment that would cause that crewmember's total flight duty period to exceed either 60 hours in any 168 consecutive hours or 190 hours in any 672 consecutive hours.

6. Reporting requirements of § 117.29(e)

Similar to § 117.11(b) and § 117.19(b), § 117.29 permits a flightcrew member to exceed the cumulative limits specified in Tables A, B, and C, and in § 117.23. To ensure that the FAA is notified in all instances in which the § 117.29(b) extension is utilized, § 117.29(e) has been corrected to clarify that reporting is required if the extension in § 117.29(b) is used to exceed either the limits of Tables A/B/C or § 117.23.

Accordingly, in the final rule, FR Doc. 2011-33078, published on January 4, 2012 (77 FR 330), make the following corrections:

§ 117.3 [Corrected]

1. On page 398, in the second column, in § 117.3, the introductory text is corrected to read as follows:

§ 117.3 Definitions.

In addition to the definitions in §§ 1.1 and 110.2 of this chapter, the following definitions apply to this part. In the event there is a conflict in definitions, the definitions in this part control for purposes of the flight and duty limitations and rest requirements of this part.

* * * * *

§ 117.11 [Corrected]

2. On pages 399 and 400, in the third column on page 399 and the first column of page 400, in § 117.11, correct paragraph (c) to read as follows:

§ 117.11 Flight time limitation.

* * * * *

(c) Each certificate holder must report to the Administrator within 10 days any flight time that exceeded the maximum flight time limits permitted by this section or § 117.23(b). The report must contain a description of the extended flight time limitation and the circumstances surrounding the need for the extension.

* * * * *

§ 117.19 [Corrected]

3. On page 400, in the third column, in § 117.19, correct paragraph (b)(4) to read as follows:

§ 117.19 Flight duty period extensions.

* * * * *

(b) * * *

(4) Each certificate holder must report to the Administrator within 10 days any flight duty period that either exceeded the cumulative flight duty periods specified in § 117.23(c), or exceeded the maximum flight duty period limits permitted by Tables B or C of this part by more than 30 minutes. The report must contain a description of the circumstances surrounding the affected flight duty period.

§ 117.23 [Corrected]

4. On page 401, in the first column, in § 117.23, paragraph (c)(1) is corrected to read as follows:

§ 117.23 Cumulative limitations

* * * * *

(c) * * *

(1) 60 flight duty period hours in any 168 consecutive hours or

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§ 117.29 [Corrected]

5. On page 401, in the third column, in § 117.29, correct paragraph (e) to read as follows:

§ 117.29 Emergency and government sponsored operations.

* * * * *

(e) Each certificate holder must report within 10 days:

(1) Any flight duty period that exceeded the maximum flight duty period permitted in Tables B or C of this part, as applicable, by more than 30 minutes;

(2) Any flight time that exceeded the maximum flight time limits permitted in Table A of this part and § 117.11, as applicable; and

(3) Any flight duty period or flight time that exceeded the cumulative limits specified in § 117.23.

* * * * *

§ 121.470 [Corrected]

6. On page 403, in the first column, in § 121.470, correct paragraph (b) to read as follows:

§ 121.470 Applicability.

* * * * *

(b) Certificate holders conducting scheduled operations entirely within the States of Alaska or Hawaii with airplanes having a passenger seat configuration of more than 30 seats,

excluding each crewmember seat, or a payload capacity of more than 7,500 pounds, may comply with the requirements of this subpart or subpart R of this part for those operations.

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Mark W. Bury,
Assistant Chief Counsel for International Law, Legislation, and Regulations Division, AGC-200

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