



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 110

[Docket No. FAA-2023-1857]

RIN 2120-ZA32

Revisions to the Regulatory Definitions of “On-Demand Operation”, “Supplemental Operation” and “Scheduled Operation”

AGENCY: Department of Transportation (DOT), Federal Aviation Administration (FAA).

ACTION: Request for comments.

SUMMARY: This document alerts the public that the FAA intends to initiate a rulemaking to address the exception from FAA’s domestic, flag, and supplemental operations regulations for public charter operators. To inform this effort, the FAA seeks public comment, data, and other information regarding current and planned public charter flights operated under on-demand rules that appear indistinguishable from flights conducted by air carriers as supplemental or domestic operations. The FAA will review comments received in response to this document to evaluate the need for and, if necessary, scope of any rulemaking.

DATES: Send comments on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Send comments identified by docket number FAA-2023-1857 using any of the following methods:

- Federal eRulemaking Portal: Go to *regulations.gov*. Follow the instructions for submitting comments.

- Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations at 202-493-2251.

Docket: Background documents or comments received may be read at <https://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jackie Clow, Aviation Safety Inspector, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8166; email: jackie.a.clow@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to provide comments, written data, views, or arguments relating to this document. Send your comments to an address listed under the **ADDRESSES** section. The FAA will consider comments received on or before the closing date. All comments received will be available in the docket for examination by interested persons.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit,

including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000, see 65 FR 19477, or you may visit <https://www.regulations.gov>.

Background

Title 14 CFR part 380 is an economic regulation administered by the Department of Transportation. Currently, under 14 CFR 110.2 of FAA's safety regulations, public charters operated under the terms of 14 CFR part 380 may be conducted as "on-demand operations" if the aircraft operator is using airplanes, including turbo-jet powered airplanes, with 30 or fewer passenger seats. On-demand operations must be conducted under the operating rules in 14 CFR part 135. See, 14 CFR 119.21(a)(5) and 135.1(a)(1). Similarly, public charter operations are excepted from the § 110.2 definition of "scheduled operation" and are included in the definition of "supplemental operation" regardless of whether such operator offers in advance to the public the departure location, departure time, and arrival location of the flight. But for the part 380 exceptions in § 110.2, public charter operators would be required to comply with the operating rules applicable to their operations based on the same criteria as all other air carriers and commercial operators, i.e., 14 CFR part 121.

The FAA intends to initiate a rulemaking to amend title 14, Code of Federal Regulations (14 CFR), part 110 to address these public charter operations that, in light of recent high-volume operations, appear to be offered to the public as essentially indistinguishable from flights conducted by air carriers as supplemental or domestic operations under 14 CFR part 121. Specifically, the size, scope, frequency, and complexity of charter operations conducted as "on-demand" operations under the part 135 operating rules has grown significantly over the past 10 years. While the FAA has

adjusted its oversight of these increased operations, the FAA is considering whether a regulatory change may be appropriate to ensure the management of the level of safety necessary for those operations.

The FAA is considering issuing a notice of proposed rulemaking that will seek comment on removing the exceptions for part 380 public charter operators from the definitions in 14 CFR 110.2 and delink FAA's safety regulations from DOT's economic regulations. If the FAA were to remove the exceptions, operators would then conduct public charter flights under the operating part applicable to their operation based on the same criteria that apply to all other non-part 380 operators, including the size and complexity of aircraft they operate and the frequency of flights.

Were FAA to amend its regulatory framework, some operators conducting public charter operations would need to transition from operating under part 135 to part 121. This transition may require affected operators to adjust their service models. As such, this document solicits comment, data, and other information regarding: the effects of any removal of the part 380 exception (including any effect on service to small and underserved communities); potential impacts on competition, innovation, and emerging technologies; alternative regulatory structures that could apply to the provision of commercial passenger services under a regime other than part 121 or part 135; if FAA were to adopt a rule, the reasonable period of time needed to allow affected operators to obtain appropriate certificates and authorizations to transition their operations to the applicable operating parts of 14 CFR; and any additional topics interested parties believe should be considered.

The FAA will review all comments submitted to inform its planned rulemaking.

Issued on August 24, 2023.

David H. Boulter,

Acting Associate Administrator, Aviation Safety,

Federal Aviation Administration.

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