

contrast, the current rule language requires a certificate holder to include this information in its manual only if the certificate holder has will-carry status.

A certificate holder may carry hazmat in accordance with 49 CFR 175.10.

Training for recognition of the hazardous materials excepted from 49 CFR would be included in the will-carry and will-not-carry training programs.

The proposed rule also would require the manual to indicate whether a certificate holder is a will-carry or will-not-carry operator, as specified in its operations specifications. (See proposed §§ 121.135(b)(23)(ii)(C) and 135.23(p)(2)(iii)). This information currently does not have to be in the certificate holder's manual.

Certificate holders electing will-carry status would be required to provide procedures and information to ensure that: (1) The packages containing hazmats are properly offered, accepted, handled, stored, packaged, loaded, unloaded and carried on the aircraft in compliance with DOT's HMRs; (2) DOT requirements regarding discrepancy reporting (§ 175.31) and notice to the pilot in command (§ 175.33) are met; and (3) aircraft replacement parts shipped as COMAT, consumable materials, and any other item regulated under the HMRs, are properly handled, packaged, and carried on board an aircraft.

As noted above, if the proposed changes are adopted, certificate holders certificated on or before the effective date of the final rule would have 15 months from the effective date to revise their manuals and implement the changes. Current §§ 121.135(b) and 135.23(p) would be placed in SFAR No. 99 (discussed under II.A.), which would expire at the end of the 15-month transition period. Applicants certificated after the effective date of the final rule to operate under part 121 or 135 would be subject to the new requirements upon certification.

D. Sections 121.401(a)(1), 121.433a, 135.323(a)(1), and 135.333—Transfer of Hazmat Provisions to SFAR

The hazmat requirements currently in §§ 121.401(a)(1), 121.433a, 135.323(a)(1), and 135.333 would be moved to SFAR No. 99, which would remain in effect for the 15-month transition period, as discussed under II.A. Sections 121.401(a)(1) and 135.323(a)(1) would be revised to continue to require crewmember training other than hazmat. New subparts in parts 121 and 135 (discussed under II.E.) would contain revised hazmat training requirements. A new

§§ 121.802 and 135.502 would require the hazmat training for part 119 certificate holders conducting operations in accordance with part 121 or part 135. This reorganization would provide needed separate emphasis for hazmat training.

E. Part 121, Subpart Y, and Part 135, Subpart K—Hazardous Materials Training Program

The proposed hazmat training rules in part 121, subpart Y, and part 135, subpart K, would require all air carriers and commercial operators to train each person who may perform or supervise a TRF. The FAA believes that adequate training of each person involved in a TRF would greatly enhance safety in air transportation and help avoid life-threatening incidents. Moreover, given the frequency of undeclared hazmat incidents, the FAA believes that a broader training curriculum, which includes hazmat recognition training, should be mandated for all part 121 and part 135 certificate holders.

Because the changes that are proposed to the manual and training requirements in parts 121 and 135 are virtually identical, this discussion of the individual sections will address the changes to the parallel provisions of these parts together.

1. Applicability and Definitions (§§ 121.801 and 135.501)

These proposed provisions would clarify that the new subparts prescribe requirements for certificate holders for training persons performing or supervising a TRF, whether the certificate holder is a will-carry or will-not-carry operator. The will-carry or will-not-carry status would be relevant only to the nature of the training curriculum, not to the requirement to train. The proposed rules would be broader than the current requirements in §§ 121.433a and 135.333, which apply only to persons handling or carrying hazardous materials.

Paragraph (a): The proposal would cover persons who perform or supervise any function for a certificate holder in the transport of an item on board an aircraft, whether or not an item is, or contains, a hazmat. The proposed rules would include ground-handling personnel, passenger check-in personnel, skycaps, cargo acceptance personnel, maintenance shop personnel, shipping and receiving personnel, and their supervisors.

Currently, §§ 121.433a and 135.333 forbid certificate holders from using a person to perform, and forbids a person from performing, "any assigned duties and responsibilities for the handling or

carriage of dangerous articles and magnetized materials governed by Title 49 CFR" unless the person has been trained. The proposed applicability provisions in §§ 121.801 and 135.501 are intended to be broad enough to cover not only those persons directly performing a TRF, but also those persons supervising the performance of a TRF. Whether a person were officially assigned to perform a function would be irrelevant. This would ensure that the certificate holder identifies and trains each person who could reasonably be foreseen as performing or supervising a TRF, whether or not it is part of his or her job description.

Paragraph (b): Sections 121.801(b) and 135.501(b) would define "initial hazardous materials training" and "recurrent hazardous materials training."

Paragraph (b)(1) would define "Company material (COMAT)" as material owned or used by the certificate holder. COMAT is a term of art used in the aviation industry. It is used in the proposed rule to ensure that persons are trained to understand that hazardous COMAT must be marked, labeled, and identified as hazmat, and that there is no exception for the carriage of hazardous COMAT even by will-not-carry certificate holders.

Paragraph (b)(2) would define "initial hazardous materials training" consistent with the initial training required by 49 CFR 172.704, although 49 CFR does not specifically define initial hazmat training.

Paragraph (b)(3) would define "recurrent hazardous materials training" consistent with the way the term is used in 49 CFR 172.704, although it too is not a defined term in DOT's regulations. The FAA's recurrent hazardous materials training requirement, however, would be for annual training, instead of every 3 years, as required by DOT. The yearly recurrent hazardous materials training requirement is consistent with other current training requirements for part 121 and part 135 certificate holders.

2. General Requirement To Train (§§ 121.802 and 135.502)

The FAA believes that a mandated curriculum for both will-carry and will-not-carry certificate holders would improve the knowledge base of persons performing or supervising a TRF. This training would improve transportation safety by ensuring that persons perform their job functions or supervisory responsibilities under the certificate holder's hazmat policy and the DOT's HMRs.