

ACTION: Final rule; request for comments.

SUMMARY: This final rule clarifies existing regulations as they apply to Department of Defense (DOD) commercial air carrier evaluators. These amendments are necessary to clarify DOD's congressionally mandated cockpit evaluation mission and authority for the aviation security community and for industry. DOD's Air Mobility Command (AMC) will create and issue a new credential to permit DOD commercial air carrier evaluators uninterrupted access to the cockpit for evaluations. These amendments explicitly clarify existing DOD legal authority and responsibilities.

DATES: This final rule is effective July 10, 2003. You may send your comments to reach us on or before August 11, 2003.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet at <http://dms.dot.gov>. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Lt Col. Tom Barrale, USAF, Department of Defense Air Mobility Command Liaison Officer to FAA Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7088.

SUPPLEMENTARY INFORMATION

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, federalism, or security impacts that might result from this rule. The most helpful comments reference a specific portion of the rule, explain the reason

for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

All comments received will be filed in the docket. The FAA will develop a report that summarizes each substantive public contact with the FAA personnel concerning this rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

We will consider all comments we receive on or before the closing date for comments. We may change this rule based on the comments we receive. If you want the FAA to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard that identifies the docket number. We will stamp the date on the postcard and mail it to you.

Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at <http://www.faa.gov/avr/armhome.htm> or the Government Printing Office's Web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or

advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, <http://www.gov/avr/arm/sbreffa.htm>. For more information on SBREFA, e-mail us 9-AWA-SBREFA@faa.gov.

Background

The DOD contracts for passenger and air cargo movements from air carriers certificated by the FAA. Pursuant to Public Law 99-661 (November 14, 1986), the DOD is required to conduct capability evaluations of these carriers to ensure each is able to satisfy the unique requirements of military contracts and adhere to the DOD Commercial Air Carrier Quality and Safety Requirements as codified in Title 32 of the Code of Federal Regulations (CFR), part 861. Generally, DOD surveillance requirements include an initial on-site capability survey with a recurring on-site survey every 2 years thereafter, a performance evaluation every 6 months, periodic ramp inspections, and operational evaluations conducted periodically on aircraft (Pub. L. 99-661, November 14, 1986). These operational evaluations apply only to carriers that are under contract with DOD or carriers desiring to enter contracts with DOD. Specific guidance can be found in DOD Directive 4500.53. In general, these cockpit observations are subjective in nature and serve to validate that the actions of the aircrews are in line with the procedures and policies of the company. The four major categories observed in flight are airmanship, crew coordination, safety awareness, and judgment. In the event discrepancies in compliance with the Federal Aviation Regulations are noted, such discrepancies will be brought to the attention of the FAA and the Air Carrier. Follow-up actions will be dependent upon the severity of the discrepancy as determined by the Air Mobility Command, Survey and Analysis Office (AMC/DOB).

Cockpit observations are one means by which evaluators assess the effectiveness of programs during the on-site capability surveys and performance evaluations. DOD commercial air carrier evaluators require uninterrupted access to the flight deck to perform their congressionally mandated duties. The existing language in 14 CFR parts 121 and 135 does not explicitly include DOD commercial air carrier evaluators among those persons authorized access