

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

High Density Rule

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of Proposed Interpretation; reopening of comment period.

SUMMARY: On July 2, 1999, the FAA published a Notice of proposed interpretation, which proposed to interpret the term "operator" as interpreted in the extra section provision of the FAA's High Density Rule to permit one airline code-share partner to operate an extra section of a regularly scheduled flight of another code-share partner. This notice announces the reopening of the comment period for an additional 30 days.

DATES: Comments must be submitted on or before September 13, 1999.

ADDRESSES: Comments regarding the notice of interpretation should be mailed, in triplicate, to Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 29624, 800 Independence Avenue, SW, Washington, DC 20591. Comments must be marked Docket No. 29624. Comments may be examined in Room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to comment on this action by submitting such written data, views, or arguments, as they may desire. Comments should identify the regulatory docket and should be submitted in triplicate to the Rules Docket address specified above. Comments may also be sent electronically to the Rules Docket by using the following

Internet address: 9-NPRM-CMTS@faa.gov. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must include a preaddressed, stamped postcard marked "Comments to Docket 29624." The postcard will be date stamped and mailed to the commenter.

Availability of this Notice

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service {telephone : (703)321-3339} or the Federal Register's electronic bulletin board service {telephone: (202) 512-1661}. Internet users may reach the FAA's web page at <http://www.faa.gov/avr/arm/nprm/nprm.htm> or the Federal Register's web page at http://www.access.gop.gov/su_docs for access to recently published rulemaking documents. .

Background

On June 28, 1999, the FAA issued a notice proposing to interpret the term "operator" as interpreted in the extra section provision of the FAA's High Density Rule to permit one airline code-share partner to operate an extra section of a regularly scheduled flight of another code-share partner (64 FR 35963; July 2, 1999). The purpose of this proposed interpretation is to recognize the development of code-share arrangements in the aviation industry. The FAA issued this Notice with a 10-day comment that closed on July 12, 1999.

In the Notice, the FAA did not adequately identify the circumstances that prompted the proposed interpretation. This proposed interpretation arose as a result of an

April 1, 1999, letter from Delta Air Lines, Inc. (Delta) requesting that the FAA confirm Delta's interpretation of the extra section provision set forth in 14 CFR Section 93.123(b)(4). Specifically, Delta interpreted this provision to permit codeshare partners to operate an extra section of a scheduled flight operated by a second codeshare partner. A copy of Delta's letter has been included in the docket for this matter.

In the past, the FAA has consistently interpreted the term operator to be the air carrier operating the flight. However, after consideration of Delta's proposal, the FAA believes that emerging use of codeshare arrangement in the aviation industry requires a reevaluation of agency interpretation. As a result, the FAA issued the Notice of proposed interpretation.

Additionally, several commenters were concerned with the short comment period that was provided in the Notice. Therefore, in order to provide full disclosure of the circumstances that gave rise to the Notice, the FAA is reopening the comment period to ensure that all interested parties have full knowledge of the basis for the proposed interpretation and an opportunity to comment. Accordingly, the FAA is reopening the comment period for this proposed interpretation for an additional 30 days.

Issued in Washington, DC on August 9, 1999.

/s/

Nicholas G. Garaufis
Chief Counsel