

SECTION 4. AMENDMENT, SURRENDER, SUSPENSION, REVOCATION, AND REPLACEMENT OF OPERATING CERTIFICATES

203. GENERAL. This section contains information, direction, and guidance to be used by principal operations inspectors (POI's) and other involved inspectors for accomplishing the amendment, surrender, suspension, revocation, and replacement of operating certificates.

A. *Background.* The basis for these various certificate actions is found in section 609 of the Federal Aviation Act (FA Act) and in FAR's 13.19, 121.29, 121.53, 121.77, 135.9, and 135.15. These certificate actions may be initiated by either the FAA or the operator. These actions can proceed with a full agreement between the POI and the operator or they may be contested.

NOTE: The term "operator" is used in this section to refer to the holder of either an air carrier certificate or an operating certificate (see volume 2, chapter 1, section 2).

B. *Definitions.* Inspectors should have an understanding of the distinctions between the various certificate actions that can occur. Inspectors should also have a knowledge of the following general definitions:

- *Certificate:* A certificate is a document that contains the name of the operator, a broad statement of the operator's operating authority, and an effective date. An operator may not conduct operations without a currently valid certificate.
- *Amendment of a Certificate:* The amendment of a certificate is a change to the information on the face of the document, usually as the result of a name change or administrative change. Certificates rarely require amendment because the details of operating authorizations are contained in the operations specifications.
- *Surrender of a Certificate:* The surrender of a certificate occurs when an operator voluntarily gives up operating authority.
- *Suspension of a Certificate:* The suspension of a

certificate is the temporary, involuntary removal of an operator's operating authority by the FAA using due process of law. Suspension usually results in either the restoration, revocation, or surrender of the operator's operating authority.

- *Revocation of a Certificate:* The revocation of a certificate is the permanent, involuntary removal of an operator's operating authority by the FAA using due process of law.
- *Replacement of a Certificate:* The replacement of a certificate is the reissuance of a new certificate to an operator when the operator's original certificate has either been lost or destroyed.

205. AMENDMENT OF A CERTIFICATE. An operator's certificate must be amended whenever there is a change in the information on the face of the document. For example, the amendment of a certificate is required when there is a change in the legal name of the owner or an administrative change.

A. *Administrative Change to a Certificate.* An administrative change to a certificate may be required because of an error in the preparation of a certificate or because a piece of information on the certificate has become outdated. When an administrative change is made to a certificate, the original certificate number and date are retained. An administrative change to a certificate does not interrupt the operator's authority to conduct operations. Some events which necessitate an administrative change to an operator's certificate are as follows:

- A change in the address of the operator's principal base of operations
- A change to correct a mistake
- A change in the certificate-holding district office (CHDO)
- A change in name of the FAA or a change in the FA Act

NOTE: DBA's (doing business as) are no longer placed on certificates (see paragraph 137A of this handbook volume). The deletion of a DBA is considered to be an administrative change. The addition or deletion of a DBA does, however, require an amendment to paragraph A1 of the operator's OpSpecs.

B. *Operator-Initiated Amendment.* In the case of an operator initiating an amendment, such as a name or ownership change, documentation is required. The POI must determine what these requirements are and discuss the requirement with the operator. A clear understanding at this stage of the process precludes difficulties from arising later.

(1) FAR 121.77 and FAR 135.15 require that an operator desiring an amendment submit an application for amendment to the CHDO at least 15 working days before the requested effective date. The application consists of a letter of request and any required documentation.

(2) The POI shall conduct a preliminary review of the application for completeness and general acceptability. The entire review process may be little more than a formality. In such cases, the POI may issue the certificate immediately upon completion of the review. In other cases, the full review process can require detailed analysis. When the full review cannot be completed within 10 days, the POI shall notify the operator of the estimated time that will be required. In the case of an administrative change, the POI should reissue the certificate with the original effective date, certificate number, and an added amended date.

(3) When the operator submits incomplete documentation, the POI shall promptly inform the operator that action cannot proceed until the deficiency is corrected. Usually these deficiencies will be overcome in the normal process of events. Should the operator's proposal be unacceptable or should the operator fail to proceed, the POI shall notify the operator in writing that the proposal has been denied. The letter must include a clear statement of why the proposal has been denied.

(4) FAR 121.77(c) and FAR 135.15(d) state that those operators that have received a denial to an application for amendment may petition the Director of Flight Standards Services (AFS-1) for a reconsideration. The petition must be made within 30 days of the operator's

receipt of the letter of denial. The operator may submit the appeal directly to the CHDO. In such a case, the CHDO shall immediately notify AFS-1 and forward a copy of the petition through the regional flight standards division (RFSD) and AFS-200. An analysis of the circumstances surrounding the matter shall be forwarded by the same route within 5 working days.

(5) A new certificate number is required when there is a change in ownership or operator name. When the POI is ready to prepare the new certificate, the POI must contact AVN-120. The POI should give an explanation of the changes to AVN-120 and request a new certificate number. In most cases, the designator element of the certificate number will remain the same. The type certificate code and the numeric or alpha suffix element should be appropriately changed to form the new certificate number (see volume 2, chapter 1, section 4).

(6) An amended certificate shall be prepared with the new certificate number and a new effective date. The amended certificate shall be exchanged for the superseded certificate. The operator's Vital Information System (VIS) file should be updated to reflect any new information that may be on the certificate.

C. *FAA-Initiated Amendment.* On rare occasion, it is necessary for the FAA to make an amendment to an operator's certificate. In this case the POI shall contact the operator and explain the circumstances. The POI shall prepare the amended certificate and have the operator exchange its current certificate for the amended one.

NOTE: One circumstance which has caused difficulty is a change in CHDO. The FAA may decide to change the CHDO without the operator's concurrence. Should this situation arise, the POI should explain to the operator that, since such a change is an internal FAA matter, it does not constitute an amendment of the operator's certificate. In this case, the POI should make the change and issue the changed certificate to the operator. The operator may not appeal this type of action.

D. *Re-Examination.* A change in ownership or other significant event requires an evaluation by the POI to determine whether the operator remains properly and adequately equipped and able to conduct safe operations. The evaluation process may or may not lead to a complete re-examination. When a substantial change in an operation

occurs, the POI may find it necessary to increase surveillance of the operation or to initiate a formal re-examination of the operator under FAR 13.19(b) and section 609 of the FA Act. A significant event would be a change which could affect the safety of that operation.

(1) POI's should initiate an evaluation of an operator when the following events occur:

- A substantial change in management personnel
- A substantial change in flightcrew personnel
- Signs of significant financial stress
- The addition of a new type or make model aircraft to the operator's fleet
- A change in the base of operations
- A change in the operations conducted, such as Part 135 to Part 121
- A cessation of operations in excess of 30 days (This is not meant to include seasonal operators or on-demand operators for whom a 30-day lapse is a normal condition of business.)

(2) POI's should be aware that problems requiring a formal re-examination do not always occur immediately after a change in name or ownership occurs. When a change in name or ownership occurs, the POI shall request a letter from the operator that contains details of the changes in operations that are planned for a period of at least 6 months. These changes will be evaluated by the POI to determine the need for a formal re-examination. The POI may find later that, in spite of an operator's intention, other changes have occurred and a recertification may then be required.

207. SURRENDER OF A CERTIFICATE. POI's may request, but may not compel operators to voluntarily surrender, certificates. An operator may voluntarily surrender a certificate at any time. To do so, the operator should send the certificate to the POI with a written request that the certificate be cancelled and a statement of why the certificate is being surrendered. The request must

be signed by either the operator, agent for service, or a court-appointed individual authorized to act for the operator. This procedure also applies to certificates that have been lost or destroyed. POI's shall enter a brief statement of the circumstances surrounding the voluntary surrender of the certificate in the "Remarks" section of the operator's VIS. A certificate that has been surrendered should be retained at the CHDO along with a copy of the operator's OpSpecs for a period of 3 years.

A. Reinstatement of Voluntarily Surrendered Certificate. A voluntarily surrendered certificate may not be reinstated. If the operator subsequently decides to reinstate operations, the operator must apply and qualify for a new certificate.

B. Surrendering an Operating Certificate in Lieu of an Enforcement Action. Operators may propose surrendering an operating certificate in lieu of enforcement action. POI's should not agree to such an action without the concurrence of the RFSO and Regional Counsel. Should such an agreement be reached, the operator's letter of request must contain a statement that the certificate is being surrendered on the basis that enforcement action will not be taken. When a certificate is surrendered, the POI shall enter a brief statement of the circumstances surrounding the voluntary surrender of the certificate in the "Remarks" section of the operator's VIS file.

209. SUSPENSION OF A CERTIFICATE. When a certificate is suspended, the Regional Counsel office will issue the operator a letter of suspension containing instructions with which the operator must comply. In general, the regional counsel will request that the operator's certificate be forwarded to the regional office, where it will be held until the end of the suspension period. Information concerning the disposition of a suspended certificate can be found in Order 2150.3A. When a certificate has been suspended, the operator's VIS file should be amended to reflect the suspended status.

211. REVOCATION OF A CERTIFICATE. Operators must forward revoked certificates to the address contained in the order revoking the certificate. Additionally, the operator's VIS file should be amended to show that the certificate has been revoked and should contain a statement of the reasons for the action in the "Remarks" section. Should revocation be appropriate, the POI should contact the operator and request that the operator voluntarily surrender the certificate. Should the operator refuse, the

POI shall proceed in accordance with the instructions in paragraph 245.A on emergency revocation.

213. REPLACEMENT OF A LOST OR DESTROYED CERTIFICATE. A lost or destroyed certificate may be replaced by the CHDO using the same information that was on the original certificate. The replacement certificate should have the word “DUPLICATE” annotated on the front of the certificate. A copy of the duplicate certificate should be retained in the CHDO’s files. In the case of a destroyed certificate, the operator should send any remains of the certificate to the POI with a written request that the certificate be replaced and a statement of why the certificate is being surrendered. The request must be signed by the operator or an agent for service authorized to act for the operator.

215. ADVERSE ACTIONS. According to FAR 13.19(b), the FAA may find it necessary to amend, suspend, or revoke a certificate without the operator’s concurrence. An adverse action of this nature should be initiated by the POI only after an unsuccessful attempt has been made to negotiate with the operator concerning the voluntary amendment or surrendering of the certifi-

adverse action is necessary, the RFS manager and the Regional Counsel will confer and decide whether an order should be issued for the amendment, suspension, or revocation of the operator’s certificate. The POI must prepare the enforcement package in accordance with Order 2150.3A, “Compliance and Enforcement Program.” The order to amend, suspend, or revoke a certificate should be a mutual decision between the POI, the RFS manager, and the Regional Counsel.

A. *Emergency Revocation.* FAR 13.19 provides for the operator to have a hearing before the order which amends, suspends, or revokes the certificate can take effect. Should an emergency exist, however, the order which amends, suspends, or revokes the certificate may be made effective immediately.

B. *Appeals.* The operator may appeal an order amending, suspending, or revoking its certificate to the National Transportation Safety Board (NTSB). Should the operator elect to appeal a certificate action to the NTSB, the effective date of the order is stayed until the NTSB acts on the appeal, unless it is an emergency order.

216. RESERVED.

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