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Dated: March 28, 2007.

**John C. Rood,**

*Assistant Secretary, International Security and Nonproliferation, Department of State.*

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**BILLING CODE 4710-27-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2007-27758]

#### Known Icing Conditions

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of draft letter of interpretation.

**SUMMARY:** This draft letter of interpretation addresses a request by the Aircraft Owners and Pilots Association (AOPA) that the FAA rescind a letter of interpretation dated June 6, 2006 regarding "known icing conditions". Because of the controversy surrounding this issue, the FAA is publishing a draft of its response to seek public comment.

**DATES:** Send your comments on or before May 3, 2007.

**ADDRESSES:** You may send comments, identified by docket number, using any of the following methods:

1. *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

2. *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Washington, DC 20590-0001.

3. *Facsimile:* (202) 493-2251.

4. *Hand delivery:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide.

**FOR FURTHER INFORMATION CONTACT:** Bruce Glendening, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Ave., Washington, DC 20591; telephone (202) 267-3073.

**SUPPLEMENTARY INFORMATION:** On November 17, 2006, Luis Gutierrez,

Director of Regulatory and Certification Policy for AOPA, requested the FAA's Office of the Chief Counsel rescind a letter of interpretation issued by the FAA's Office of the Regional Counsel, Eastern Region, regarding flight in known icing conditions. The letter of interpretation, dated June 6, 2006, responded to a request by Robert Miller that the FAA clarify when "known ice" exists for purposes of enforcement action.

The FAA recognizes that the term "known icing condition", the term addressed in the June 2006 letter of interpretation, could be misconstrued. Based on one's interpretation of the term, the FAA's prohibitions against flying into known icing conditions under certain circumstances could either have the effect of placing severe constraints on when individuals in aircraft without deicing equipment could fly or allowing these individuals to fly in conditions where there is a real risk of ice accretion with no means of removing the ice. Because the FAA has been asked to rescind the June 6, 2006 letter of interpretation, we have decided to publish a draft of our response in the **Federal Register** and seek comment on it. Based upon comments received in the docket, the FAA may decide to reevaluate its position on known icing conditions. The text of the draft response is as follows:

Luis M. Gutierrez, Director, Regulatory and Certification Policy, Aircraft Owners and Pilots Association, 421 Aviation Way, Frederick, MD 21701-4798.

Re: Legal Interpretation of Known Icing Conditions

Dear Mr. Gutierrez:

In a letter dated November 21, 2006, to the FAA Chief Counsel's Office, you requested the rescission of a letter of interpretation regarding flight in known icing conditions, issued by this office on June 6, 2006. The Chief Counsel's Office has referred your letter to us for response. After considering the points you and other stakeholders have raised, we are replacing our June 6 letter through the issuance of this revision.

Our letter of June 6, 2006, responded to a request by Robert J. Miller for a legal interpretation of "known ice" as it relates to flight operations. We construed the request as seeking clarification of the meaning of "known icing conditions" as that term appears in the Airplane Flight Manuals (AFM) or Pilot Operating Handbooks for many general aviation aircraft. That is also the term addressed in legal proceedings involving violations of FAA safety regulations that relate to in-flight icing.

The NTSB has held that known icing conditions exist when a pilot knows or reasonably should know of weather reports in which icing conditions are reported or forecast.<sup>1</sup>

While various FAA regulations contain limitations on flight in known icing conditions, the regulatory provision that most commonly affects general aviation operators in this respect applies the term only indirectly. 14 CFR 91.9 precludes pilots from operating contrary to the operating limitations in their aircraft's approved AFM. The operating limitations identify whether the aircraft is equipped to operate in known icing conditions and may prohibit or restrict such flights for many general aviation aircraft. 14 CFR 91.103 requires pilots to become familiar with all available information concerning their flights before undertaking them.

Permutations on the type, combination, and strength of meteorological elements that signify or negate the presence of known icing conditions are too numerous to describe exhaustively in this letter. Any assessment of known icing conditions is necessarily fact-specific. However, the NTSB's decisionmaking reflects the common understanding that the formation of structural ice requires two elements: visible moisture and an aircraft surface temperature at or below zero degrees Celsius. Even in the presence of these elements, there are many variables that influence whether ice will actually form on and adhere to an aircraft. The size of the water droplets, the shape of the airfoil, or the speed of the aircraft, among other factors, can make a critical difference in the initiation and growth of structural ice.

Whether a pilot has operated into known icing conditions contrary to any limitation will depend upon the information available to the pilot, and his or her proper analysis of that information in connection with the particular operation (e.g., route of flight, altitude, time of flight, airspeed, and aircraft performance characteristics), in evaluating the risk of encountering known icing conditions. The FAA, your own association, and other aviation- or weather-oriented organizations offer considerable information on the phenomenon of aircraft icing. Pilots are encouraged to use this information for a greater appreciation of the risks that flying in potential icing conditions can present. Likewise, a variety of sources

<sup>1</sup> See e.g., *Administrator v. Boger*, N.T.S.B. Order No. EA-4525 (Feb. 14, 1997); *Administrator v. Groszer*, NTSB Order No. EA-3770 (Jan. 5, 1993); *Administrator v. Bowen*, 2 N.T.S.B. 940, 943 (1974).

provide meteorological information that relates to forecast and actual conditions that are conducive to in-flight icing. Pilots should carefully evaluate all of the available meteorological information relevant to the proposed flight, including applicable surface observations, temperatures aloft, terminal and area forecasts, AIRMETs, SIGMETs, and pilot reports. As new technology becomes available, pilots should incorporate use of that technology into their decision-making process.

The ultimate decision whether, when, and where to make the flight rests with the pilot. A pilot also must continue to reevaluate changing weather conditions. If the composite information indicates to a reasonable and prudent pilot that he or she will encounter visible moisture at freezing or near freezing temperatures and that ice will adhere to the aircraft along the proposed route and altitude of flight, then known icing conditions likely exist. If the AFM prohibits flight in known icing conditions and the pilot operates in such conditions, the FAA could take enforcement action.<sup>2</sup>

Pilots should also remain aware that 14 CFR § 91.13(a) prohibits the operation of an aircraft for the purpose of air navigation in a careless or reckless manner so as to endanger the life or property of another. Meteorological information that does not evidence known icing conditions, or the extent thereof, may regardless support a finding that a pilot's operation under the circumstances was careless.

This response constitutes an interpretation of the Chief Counsel's Office and was coordinated with the FAA's Flight Standards Service.

Issued in Washington, DC, on March 27, 2007.

**Rebecca MacPherson,**

*Assistant Chief Counsel for Regulations.*

[FR Doc. 07-1620 Filed 4-2-07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-26852]

#### Notice of Request To Revise a Currently-Approved Information Collection: Request for Revocation of Authority Granted

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

<sup>2</sup> Enforcement action could also be taken for operation of an aircraft into icing conditions that exceed the certification limitations of the aircraft.

**ACTION:** Notice; and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), FMCSA announces its plan to submit to the Office of Management and Budget (OMB) its request to revise a currently-approved information collection (IC) entitled, "Request for Revocation of Authority Granted," docketed as OMB Control Number 2126-0018. This information collection notifies the FMCSA of a voluntary request by a motor carrier, freight forwarder, or property broker to amend or revoke its registration of authority granted. FMCSA will seek OMB's review and approval of this revised IC and invites public comment on this request. The Paperwork Reduction Act requires the publication of this notice.

**DATES:** We must receive your comments on or before June 4, 2007.

**ADDRESSES:** You may submit comments identified by any of the following methods. Please identify your comments by the FMCSA Docket Number FMCSA-2007-26852.

- *Web site:* <http://dms.dot.gov>. Follow instructions for submitting comments to the Docket.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Management Facility, 400 Seventh Street, SW., Plaza level, Washington, DC 20590-0001.
- *Hand Delivery:* Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590-0001, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Docket:* For access to the Docket Management System (DMS) to read background documents or comments received, go to <http://dms.dot.gov> at any time or to the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590-0001, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The DMS is available electronically 24 hours each day, 365 days each year. If you desire notification of receipt of your comments, please include a self-addressed, stamped envelope, or postcard or print the acknowledgement page that appears after submitting comments online.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** on

April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stephanie Haller, Supervisory Transportation Specialist, Commercial Enforcement Division, Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. *Telephone Number:* (202) 385-2362; *E-mail Address:* [Stephanie.haller@dot.gov](mailto:Stephanie.haller@dot.gov). Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

*Title:* Request for Revocation of Authority Granted.

*OMB Approval Number:* 2126-0018.

*Type of Request:* Revision of a currently-approved information collection. This IC is being revised due to an increase in the number of Form OCE-46s filings from 1,000 to 3,250 per year.

*Form Number:* OCE-46.

*Respondents:* Motor carriers, freight forwarders and property brokers.

*Estimated Number of Respondents:* 3,250.

*Estimated Time Per Response:* 15 minutes.

*Expiration Date:* June 30, 2007.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 813 hours [3,250 annual Form OCE-46 filers × 15 minutes/60 minutes per filing = 812.5 hours, rounded to 813 hours].

*Background:* Title 49 of the United States Code (U.S.C.) authorizes the Secretary of Transportation (Secretary) to promulgate regulations governing the registration of for-hire motor carriers of regulated commodities (49 U.S.C. 13902), surface transportation freight forwarders (49 U.S.C. 13903), and property brokers (49 U.S.C. 13904). The FMCSA carries out this registration program under authority delegated by the Secretary. Under 49 U.S.C. 13905, each registration is effective from the date specified and remains in effect for such period as the Secretary determines appropriate by regulation. Section 13905(c) of title 49, U.S.C., grants the Secretary the authority to amend or revoke a registration at the registrant's request. On complaint, or on the Secretary's own initiative, the Secretary may also suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with the regulations, an order of the Secretary, or a condition of its registration.

Form OCE-46 is used by transportation entities to voluntarily apply for revocation of their registration authority in whole or in part. FMCSA