

Office of Personnel Management.

Linda M. Springer,
Director.

■ For the reasons set forth in the preamble, OPM is amending 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under section 599C of Pub. L. 101-513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), 11246 (b) and (c) of Pub. L. 105-33, 111 Stat. 251; and section 721 of Pub. L. 105-261, 112 Stat. 2061, unless otherwise noted.

■ 2. Section 890.303 paragraph (i) is revised to read as follows:

§ 890.303 Continuation of enrollment.

* * * * *

(i) Service in the uniformed services.
(1) The enrollment of an individual who separates, enters military furlough, or is placed in nonpay status to serve in the uniformed services under conditions that entitle him or her to benefits under part 353 of this chapter, or similar authority, may continue for the 24-month period beginning on the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, provided that the individual continues to be entitled to benefits under part 353 of this chapter, or similar authority. As provided for by 5 U.S.C. 8905(a), the continuation of enrollment for up to 24 months applies to employees called or ordered to active duty in support of a contingency operation on or after September 14, 2001. The enrollment of an employee who met the requirements of chapter 43 of title 38, United States Code, on or after December 10, 2004, may continue for the 24-month period beginning on the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, provided that the employee continues to be entitled to continued coverage under part 353 of this chapter, or similar authority.

(2) An employee in nonpay status is entitled to continued coverage under paragraph (e) of this section if the employee's entitlement to benefits under part 353 of this chapter, or similar authority, ends before the expiration of 365 days in nonpay status.

(3) If the enrollment of an employee had terminated due to the expiration of 365 days in nonpay status or because of

the employee's separation from service, it may be reinstated for the remainder of the 24-month period beginning on the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, provided that the employee continues to be entitled to continued coverage under part 353 of this chapter, or similar authority.

■ 3. Section 890.304 paragraphs (a)(1)(vii) and (a)(1)(viii) are revised to read as follows:

§ 890.304 Termination of enrollment.

(a) * * *

(1) * * *

(vii) For an employee who separates to serve in the uniformed services under conditions entitling him or her to benefits under part 353 of this chapter, or similar authority, for the purpose of performing duty not limited to 30 days or less, the date that is 24 months after the date that the employee is placed on leave without pay or separated from service to perform active duty in the uniformed services, or the date entitlement to benefits under part 353 of this chapter, or similar authority, ends, whichever is earlier, unless the enrollment is terminated under paragraph (a)(1)(vi) of this section.

(viii) For an employee who is furloughed or placed on leave of absence under conditions entitling him or her to benefits under part 353 of this chapter, or similar authority, the date that is 24 months after the date that the employee is placed on leave without pay or separated from service to perform active duty to serve in the uniformed services, or the date entitlement to benefits under part 353 of this chapter, or similar authority, ends, whichever is earlier, but not earlier than the date the enrollment would otherwise terminate under paragraph (a)(1)(v) of this section.

* * * * *

■ 4. Section 890.502 paragraph (f) is revised to read as follows:

§ 890.502 Employee withholdings and contributions.

* * * * *

(f) Uniformed services. (1) Except as provided in paragraph (f)(2) of this section, an employee whose coverage continues under § 890.303(i) is responsible for payment of the employee share of the cost of enrollment for every pay period for which the enrollment continues for the first 365 days of continued coverage as set forth under paragraph (b) of this section. For coverage that continues after 365 days in nonpay status, the employee must pay, on a current basis, the full

subscription charge, including both the employee and Government shares, plus an additional 2 percent of the full subscription charge.

(2) As provided by 5 U.S.C. 8906(e)(3), an employing agency may pay both the Government and employee contributions and any additional administrative expenses for the cost of coverage for the employee and the employee's family for a period of 24 months for employees called or ordered to active duty in support of a contingency operation on or after September 14, 2001. The payment of Government and employee contributions and any additional administrative expenses authorized by this section only applies to employees while they are serving in support of a contingency operation, and eligibility for these payments terminates when the employee ceases to be on orders for a contingency operation. Payment of these contributions and expenses is solely at the discretion of the employing agency.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 121 and 135

[Docket No. FAA-2002-6717; Amendment Nos. 1-55, 121-329, 135-108]

RIN 2120-AI03

Extended Operations (ETOPS) of Multi-Engine Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The Federal Aviation Administration is correcting a final rule published in the **Federal Register** on January 16, 2007 (72 FR 1808). That final rule applied to air carrier (part 121), commuter, and on-demand (part 135) turbine powered multi-engine airplanes used in passenger-carrying, and some all-cargo, extended-range operations. This amendment corrects the rule language applicable to dual maintenance and formatting of a Part 1 definition and section of Appendix G. None of these changes is substantive, but will clarify the FAA's intent of the final rule for the public.

DATES: These amendments become effective February 15, 2007.

FOR FURTHER INFORMATION CONTACT: For technical information on operational issues, contact Robert Reich, Flight

Standards Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-8166; facsimile (202) 267-5229; e-mail Robert.Reich@faa.gov. For technical information on certification issues, contact Steve Clark, Transport Airplane Directorate, ANM-140S, 1601 Lind Ave., Renton, WA 98055; telephone (425) 917-6496; facsimile (425) 917-6590; e-mail Steven.P.Clark@FAA.gov. For legal information, contact Bruce Glendenning, Office of the Chief Counsel, Division of Regulations, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591; telephone (202) 267-3073; facsimile (202) 267-7971; e-mail Bruce.Glendenning@faa.gov.

SUPPLEMENTARY INFORMATION: The final rule, Extended Operations (ETOPS) of Multi-engine Airplanes, applied to air carrier (part 121), commuter, and on-demand (part 135) turbine powered multi-engine airplanes used in passenger-carrying, extended-range operations. (January 16, 2007; 72 FR 1808) All-cargo operations in airplanes with more than two engines of both part 121 and part 135 were exempted from the majority of this rule. The rule established regulations governing the design, operation and maintenance of certain airplanes operated on flights that fly long distances from an adequate airport. It codified current FAA policy, industry best practices and recommendations, as well as international standards designed to ensure long-range flights will continue to operate safely. To ease the transition for current operators, the rule included delayed compliance dates for certain ETOPS requirements.

Need for the Correction

Following publication of the final rule, it was brought to the attention of the FAA that the original intent of the concept of "dual maintenance" in the final rule did not codify existing FAA ETOPS guidance as published in the notice of proposed rulemaking. This amendment clarifies that language in 14 CFR 121.374.

The concept of "dual maintenance" was set out in the preamble to the NPRM:

"(2) Dual Maintenance

Dual maintenance is a concept relating to repetition of maintenance errors on redundant systems. There have been instances of a single mechanic repeating a maintenance error on multiple systems. An example of dual maintenance error is failing to

install o-rings on engine oil or fuel components on multiple engines. Establishing procedures to avoid dual maintenance can minimize the probability of such errors. The use of two or more mechanics reduces the risk of this type of error. Routine tasks on multiple similar elements, such as oil and fuel filter changes, should never be scheduled and assigned on the same maintenance visit.

However, the FAA is aware that under some limited circumstances, dual maintenance may be unavoidable. For instance, a pilot's report of a discrepancy on an ETOPS significant system may require maintenance on one engine at the same time as a scheduled maintenance event for the other engine. In such cases, the certificate holder must establish and follow procedures to mitigate the risk of a common cause human error."

The final rule, however, would appear to go beyond this concept and prohibit the maintenance of more than one ETOPS Significant System during a single maintenance visit. In the final rule, 14 CFR 121.374 (c) read:

"(c) Limitations on dual maintenance.

(1) Except as specified in paragraph (c)(2), the certificate holder may not perform scheduled or unscheduled maintenance during the same maintenance visit on more than one ETOPS Significant System listed in the ETOPS maintenance document, if the improper maintenance could result in the failure of an ETOPS Significant System.

(2) In the event an unforeseen circumstance prevents the certificate holder from complying with paragraph (c)(1) of this section, the certificate holder may perform maintenance on more than one ETOPS Significant System provided:

(i) The maintenance action on each ETOPS Significant System is performed by a different technician, or

(ii) The maintenance action on each ETOPS Significant System is performed by the same technician under the direct supervision of a second qualified individual; and

(iii) For either paragraph (c)(2)(i) or (ii) of this section, a qualified individual conducts a ground verification test and any in-flight verification test required under the program developed pursuant to paragraph (d) of this section."

As written, a certificate holder would be forced to schedule a separate maintenance visit for each ETOPS significant system; moreover, scheduled maintenance would not qualify as an "unforeseen circumstance" in paragraph (2). The FAA finds that the intent of

dual maintenance is clarified by writing 14 CFR 121.374 (c) as:

"(c) *Limitations on dual maintenance.*

(1) Except as specified in paragraph (c)(2), the certificate holder may not perform scheduled or unscheduled dual maintenance during the same maintenance visit on the same or a substantially similar ETOPS Significant System listed in the ETOPS maintenance document, if the improper maintenance could result in the failure of an ETOPS Significant System.

(2) In the event dual maintenance as defined in paragraph (c)(1) of this section can not be avoided, the certificate holder may perform maintenance provided:

(i) The maintenance action on each affected ETOPS Significant System is performed by a different technician, or

(ii) The maintenance action on each affected ETOPS Significant System is performed by the same technician under the direct supervision of a second qualified individual; and

(iii) For either paragraph (c)(2)(i) or (ii) of this section, a qualified individual conducts a ground verification test and any in-flight verification test required under the program developed pursuant to paragraph (d) of this section."

Additionally, in Part 1, Definitions, the FAA corrects the definition of Extended operation (ETOPS) to add commas to avoid misinterpretation. Also, we correct the numbering of section G135.2.7 in Appendix G in Part 135.

Corrections

Part 1—Commas inserted in the definition of ETOPS in section 1.1 to avoid misinterpretation.

Part 121—Section 121.374 (c) is rewritten to clarify restrictions on dual maintenance.

Part 135—Section G135.2.7 is renumbered correctly.

List of Subjects

14 CFR Parts 1 and 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

The Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR parts 1, 121, and 135 as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

- 1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

- 2. In § 1.1, revise the following definition, in alphabetical order, to read as follows:

§ 1.1 General definitions.

* * * * *

Extended Operations (ETOPS) means an airplane flight operation, other than an all-cargo operation in an airplane with more than two engines, during which a portion of the flight is conducted beyond a time threshold identified in part 121 or part 135 of this chapter that is determined using an approved one-engine-inoperative cruise speed under standard atmospheric conditions in still air.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

- 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 45101-45105, 46105, 46301.

- 4. In § 121.374, revise paragraph (c) to read as follows:

* * * * *

(c) *Limitations on dual maintenance.*

(1) Except as specified in paragraph (c)(2), the certificate holder may not perform scheduled or unscheduled dual maintenance during the same maintenance visit on the same or a substantially similar ETOPS Significant System listed in the ETOPS maintenance document, if the improper maintenance could result in the failure of an ETOPS Significant System.

(2) In the event dual maintenance as defined in paragraph (c)(1) of this section cannot be avoided, the certificate holder may perform maintenance provided:

- (i) The maintenance action on each affected ETOPS Significant System is performed by a different technician, or
- (ii) The maintenance action on each affected ETOPS Significant System is performed by the same technician under the direct supervision of a second qualified individual; and
- (iii) For either paragraph (c)(2)(i) or (ii) of this section, a qualified individual conducts a ground verification test and any in-flight verification test required

under the program developed pursuant to paragraph (d) of this section.

* * * * *

PART 135—OPERATING REQUIREMENTS; COMMUTER AND ON DEMAND OPERATION AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

- 5. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722.

- 6. In appendix G of part 135, revise section 135.2.7 to read as follows:

Appendix G to Part 135—Extended Operations (ETOPS)

* * * * *

G135.2.7 *Fuel Requirements.* No person may dispatch or release for flight an ETOPS flight unless, considering wind and other weather conditions expected, it has the fuel otherwise required by this part and enough fuel to satisfy each of the following requirements:

(a) *Fuel to fly to an ETOPS Alternate Airport.*

(1) Fuel to account for rapid decompression and engine failure. The airplane must carry the greater of the following amounts of fuel:

(i) Fuel sufficient to fly to an ETOPS Alternate Airport assuming a rapid decompression at the most critical point followed by descent to a safe altitude in compliance with the oxygen supply requirements of § 135.157;

(ii) Fuel sufficient to fly to an ETOPS Alternate Airport (at the one-engine-inoperative cruise speed under standard conditions in still air) assuming a rapid decompression and a simultaneous engine failure at the most critical point followed by descent to a safe altitude in compliance with the oxygen requirements of § 135.157; or

(iii) Fuel sufficient to fly to an ETOPS Alternate Airport (at the one-engine-inoperative cruise speed under standard conditions in still air) assuming an engine failure at the most critical point followed by descent to the one engine inoperative cruise altitude.

(2) Fuel to account for errors in wind forecasting. In calculating the amount of fuel required by paragraph G135.2.7(a)(1) of this appendix, the certificate holder must increase the actual forecast wind speed by 5% (resulting in an increase in headwind or a decrease in tailwind) to account for any potential errors in wind forecasting. If a certificate holder is not using the actual forecast wind based on a wind model accepted by the FAA, the airplane must carry additional fuel equal to 5% of the fuel required by paragraph G135.2.7(a) of this appendix, as reserve fuel to allow for errors in wind data.

(3) Fuel to account for icing. In calculating the amount of fuel required by paragraph G135.2.7(a)(1) of this appendix, (after

completing the wind calculation in G135.2.7(a)(2) of this appendix), the certificate holder must ensure that the airplane carries the greater of the following amounts of fuel in anticipation of possible icing during the diversion:

(i) Fuel that would be burned as a result of airframe icing during 10 percent of the time icing is forecast (including the fuel used by engine and wing anti-ice during this period).

(ii) Fuel that would be used for engine anti-ice, and if appropriate wing anti-ice, for the entire time during which icing is forecast.

(4) Fuel to account for engine deterioration. In calculating the amount of fuel required by paragraph G135.2.7(a)(1) of this appendix (after completing the wind calculation in paragraph G135.2.7(a)(2) of this appendix), the certificate holder must ensure the airplane also carries fuel equal to 5% of the fuel specified above, to account for deterioration in cruise fuel burn performance unless the certificate holder has a program to monitor airplane in-service deterioration to cruise fuel burn performance.

(b) *Fuel to account for holding, approach, and landing.* In addition to the fuel required by paragraph G135.2.7 (a) of this appendix, the airplane must carry fuel sufficient to hold at 1500 feet above field elevation for 15 minutes upon reaching the ETOPS Alternate Airport and then conduct an instrument approach and land.

(c) *Fuel to account for APU use.* If an APU is a required power source, the certificate holder must account for its fuel consumption during the appropriate phases of flight.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate and Estradiol

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Intervet, Inc. The NADA provides for use of an additional dose of trenbolone acetate and estradiol implant used for increased