

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 91, 121, and 142**

[Docket No. 25910; Amendment Nos. 91-255, 121-267, and 142-2]

RIN 2120-AE71

Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; disposition of comments and conforming amendments.

SUMMARY: This document disposes of comments on an age limitation provision in a final rule published on April 4, 1997. That final rule amended the certification, training, and experience requirements for pilots, flight instructors, and ground instructors, and the certification requirements for pilot schools approved by the FAA. This document also revises certain references in the Federal Aviation Regulations to conform to the references in that final rule. These revisions will not impose any additional restrictions on persons affected by the regulations.

EFFECTIVE DATE: This rule is effective January 29, 1998.

FOR FURTHER INFORMATION CONTACT: John Lynch, Certification Branch, AFS-840, General Aviation and Commercial Division, Flight Standards Service, FAA, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-3844.

SUPPLEMENTARY INFORMATION:**Availability of Final Rule**

Any person may obtain a copy of this final rule by submitting a request to the FAA, Office of Rulemaking, Attn.: ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the amendment number or docket number of this final rule.

Using a modem and suitable communications software, an electronic copy of this document may be downloaded 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> or the **Federal Register's** web page at http://www.access.gpo.gov/su_docs for

access to recently published rulemaking documents.

Background

On April 4, 1997, the FAA published a final rule titled "Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules" (62 FR 16220). That final rule, which became effective on August 4, 1997, amended the certification, training, and experience requirements for pilots, flight instructors, and ground instructors, and the certification requirements for pilot schools approved by the FAA. The FAA published corrections to that final rule on July 30, 1997 (62 FR 40888).

This document addresses comments on an age limitation provision in the final rule and revises certain references to Title 14, Code of Federal Regulations (14 CFR) part 61 contained in 14 CFR parts 91, 121, and 142 to conform to the provisions of the final rule. These revisions will not impose any additional restrictions on persons affected by the regulations.

Discussion of Comments

In Notice of Proposed Rulemaking No. 95-11, "Pilots, Flight Instructors, Ground Instructors, and Pilot Instructors, and Pilot Certification Rules" (60 FR 41160, August 11, 1995), the FAA included a proposal to amend part 61 by extending the "Age 60 Rule" (§ 121.383(c)) to holders of U.S. pilot certificates and special purpose pilot authorizations employed by foreign air carriers that operate U.S.-registered civil aircraft in certain scheduled international air services and nonscheduled international air transport operations. The proposal aligned the age limitations in §§ 61.3 and 61.77 with the "Age 60 Rule" applicable to pilots servicing U.S. air carriers operating under part 121. The proposal, however, was limited to the operation of aircraft operated under part 121 at that time. Thus, it only addressed U.S.-registered civil aircraft having (1) a passenger seating configuration of more than 30 seats, excluding any required crewmember seat, or (2) a payload capacity of more than 7,500 pounds. Before adoption of the final rule, the applicability of part 121 was amended to include certain "commuter" airplanes. To further align the age limitations in part 61 with the provisions of part 121, the FAA amended §§ 61.3 and 61.77 in the final rule to include those commuter aircraft. The final rule also extended the date for pilots to comply with the age limitations in §§ 61.3 and 61.77. Because Notice No. 95-11 did not include these provisions,

the FAA invited public comment on the amendment.

Comments: The FAA received eight comments on the "Age 60 Rule." The Air Line Pilots Association (ALPA) supports the provisions in §§ 61.3 and 61.77 as a means of providing the same level of safety to passengers on all U.S.-registered aircraft. The remaining seven commenters oppose the provisions. These commenters, for the most part, challenge the age limitation for part 121 pilots and all pilots affected by §§ 61.3 and 61.77, rather than address the more specific issue of whether certain commuter aircraft should be included in the age limitation provisions of §§ 61.3 and 61.77.

Many of the individual commenters base their opposition to the "Age 60 Rule" on multiple grounds. Three commenters who oppose the "Age 60 Rule" believe that the medical certification process for pilots adequately identifies disqualifying physical and mental conditions. One of those commenters states that commuter aircraft pilots should be able to fly as long as they pass the required physical examination because the economic burden on these pilots is greater than the burden on air carrier pilots. Another of those commenters contends that the rule results in age discrimination. Four commenters who oppose the inclusion of the "Age 60 Rule" in § 61.77 cite the experience level of pilots over the age of 60 in support of their position.

One commenter states that a "medical panel" found that there was no justification for the "Age 60 Rule." That commenter also states that a pilot shortage has caused other countries to relax their "Age 60 Rule." Another commenter contends that there is no relevant data to support the age limit. That commenter also states that without evidence of a need for the "Age 60 Rule" the economic hardship imposed by the rule on the aviation industry and individual citizens cannot be justified.

FAA Response: As previously noted, these comments, for the most part, concern the general merits of the "Age 60 Rule" rather than the expansion of the applicability of the age limitation in §§ 61.3 and 61.77 to include certain commuter aircraft. Furthermore, the FAA has previously addressed the issues raised by the commenters. In the final rule published on April 4, 1997, the FAA addressed comments on whether the "Age 60 Rule" should be included in §§ 61.3 and 61.77. The FAA also addressed the application of the "Age 60 Rule" to pilots of certain commuter aircraft in Amendment Nos. 121-251 and 135-58 (60 FR 65832, December 20, 1995), which requires

certain commuter operations previously conducted under part 121. In addition, the FAA issued a disposition of comments and notice of agency decision on December 11, 1995 (60 FR 65977) that addressed various issues regarding the need for an age limitation including issues raised in many of the comments discussed above. Because these issues previously have been addressed, the FAA will not reconsider them at this time. In addition, because the comments do not address the specific issue raised by the most recent amendment to §§ 61.3 and 61.77 or provide any new arguments concerning the age limitation, the FAA has not further revised those sections.

Conforming Amendments

In the final rule that amended part 61, certain sections were redesignated. As a consequence, references to those sections in § 91.307, appendix H to part 121, § 142.3, § 142.47, and § 142.49 have been revised to reflect the new designations.

Good Cause Justification for Immediate Adoption

This amendment is needed to conform certain references in parts 91, 121, and 142 to the appropriate sections in part 61. Because the amendment would impose no additional burden on the public, the FAA finds that notice and opportunity for public comment before adopting this amendment are unnecessary.

Conclusion

The FAA has determined that this regulation imposes no additional burden on any person. Accordingly, it has been determined that the action (1) is not significant under Executive Order 12866 and (2) is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Also, because this amendment will not impose any additional burdens on the parties subject to the regulations, a full regulatory evaluation is not required. In addition, the FAA certifies that the rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

14 CFR Part 91

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 142

Aircraft, Airman, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 91, 121, and 142 of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citations for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 4013, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

§ 91.307 [Amended]

2. In § 91.307(d)(2)(ii) remove “§ 61.169” and add “§ 61.67” in its place.

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, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

4. Appendix H to part 121 is amended by revising paragraphs 1 and 4 of the section titled Level C, Training and Checking Permitted, and revising the section titled Level D, Training and Checking Permitted, to read as follows:

Appendix H to Part 121—Advanced Simulation

* * * * *

Level C

Training and Checking Permitted

1. For all pilots, transition training between airplanes in the same group, and for a pilot in command the certification check required by § 61.153(g) of this chapter.

* * * * *

4. For all second-in command pilot applicants who meet the aeronautical experience requirements of § 61.159 of this chapter in the airplane, the initial and upgrade training and checking required by this part, and the certification check requirements of § 61.153 of this chapter.

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Level D

Training and Checking Permitted

Except for the requirements listed in the next sentence, all pilot flight training and checking required by this part and the certification check requirements of § 61.153(g) of this chapter. The line check required by § 121.440 of this part, the static airplane requirements of appendix E to this part, and the operating experience requirements of § 121.434 of this part must still be performed in the airplane.

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PART 142—TRAINING CENTERS

5. The authority citation for part 142 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44703, 44705, 44707, 44709–44711, 45102–45103, 45301–45302.

6. Section 142.3 is amended by revising the definition of “flight training equipment” to read as follows:

§ 142.3 Definitions.

* * * * *

Flight training equipment means flight simulators, as defined in § 61.1(b) (5) of this chapter, flight training devices, as defined in § 61.1 (b)(7) of this chapter, and aircraft.

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7. Section 142.47 is amended by revising paragraphs (a)(3) and (a)(5) (i) and (ii) to read as follows:

§ 142.47 Training center instructor eligibility requirements.

(a) * * *

(3) If instructing in an aircraft in flight, is qualified in accordance with subpart H of part 61 of this chapter;

* * * * *

(5) * * *

(i) Except as allowed by paragraph (a)(5)(ii) of this section, meets the aeronautical experience requirements of § 61.129 (a), (b), (c), or (e) of this chapter, as applicable, excluding the required hours of instruction in preparation for the commercial pilot practical test;

(ii) If instructing in flight simulator or flight training device that represents an airplane requiring a type rating or if instructing in a curriculum leading to the issuance of an airline transport pilot certificate or an added rating to an airline transport pilot certificate, meets the aeronautical experience requirements of § 61.159, § 61.161, or § 61.163 of this chapter, as applicable; or

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§ 142.49 [Amended]

8. In § 142.49(c)(3)(ii) remove “subpart G” and add “subpart H” in its place.

Issued in Washington, D.C., on December
19, 1997.

Jane F. Garvey,
Administrator.

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