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Part II

Department of Transportation

Federal Aviation Administration

**14 CFR Parts 1, 11, 60 and 121
Flight Simulation Training Device Initial
and Continuing Qualification and Use;
Final Rule and Proposed Rule**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 1, 11, 60, and 121**

[Docket No. FAA-2002-12461; Amendment Nos. 1-59, 11-54, 60-2, 121-335]

RIN 2120-AH07

Flight Simulation Training Device Initial and Continuing Qualification and Use

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction, delay of effective and compliance dates.

SUMMARY: The Federal Aviation Administration (FAA) is delaying the effective date of a final rule that established qualification requirements for flight simulation training devices (FSTD). In addition, because the new rule set forth specific dates for compliance, to ensure that individuals affected by the rule have adequate time to comply with the rule, the FAA will also delay the compliance date of the rule. The new rule consolidates and updates FSTD requirements that currently exist in different parts of the FAA's regulations and in advisory circulars. The extension of the effective date is necessary because the FAA has initiated a subsequent rulemaking that would provide greater harmonization with the international standards document for simulation. Delaying the effective date of the final rule will allow the agency to complete this subsequent rulemaking and amend the final rule that established qualification requirements for FSTD before the October 30, 2007, effective date.

DATES: Effective Dates: The effective date of the rule establishing 14 CFR part 60 and amending 14 CFR parts 1, 11, and 121, published at 71 FR 63392 (October 30, 2006), is delayed from October 30, 2007, to May 30, 2008. In addition, the amendments in this document are effective May 30, 2008.

Compliance Dates: The compliance date of the rule establishing 14 CFR part 60 is delayed from October 30, 2009, to May 30, 2010.

FOR FURTHER INFORMATION CONTACT: Ed Cook, Air Transportation Division (AFS-200), Flight Standards Service, Federal Aviation Administration, 100 Hartsfield Centre Parkway, Suite 400, Atlanta, GA 30354; telephone: 404-832-4700.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or
3. Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking. 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** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78), or you may visit <http://DocketInfo.dot.gov>.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, subpart I, 49 U.S.C. 44701. Under that section, the FAA is charged with regulating air commerce in a way that best promotes safety.

Background

During the development of the part 60 final rule (hereinafter "part 60 Final Rule") (October 30, 2006, 71 FR 63392), after the publication of the NPRM on September 25, 2002 (67 FR 60284), the FAA became aware of additional changes which needed to be made to the part 60 rule language. The need for additional changes was a result of requests by the aviation community to harmonize the rule with recent updates to international flight simulation standards. However, many of the changes were beyond the scope of the part 60 NPRM, and therefore, could not be included in the final rule. Rather than delay its efforts or issue a supplemental notice of proposed rulemaking, the FAA determined that the fastest approach would be to publish the part 60 Final Rule with an effective date delayed for one year after publication, and amend the technical requirements under the expedited Qualification Performance Standard (QPS) amendment process. This approach avoided increased expenses, greater workload, and conflicting compliance requirements for sponsors who would be required to comply with part 60. However, the FAA has since determined that the additional changes would require an NPRM and the initial one year delay in the effective date established for part 60 is not sufficient for completion of this process.

Therefore, the effective date for part 60 and the associated amendments to parts 1, 11, and 121 is extended to May 30, 2008. In addition, specific compliance dates for certain portions of part 60 were set forth in the part 60 Final Rule. Because of the delay of the effective date for part 60, to ensure that affected parties have adequate notice regarding compliance with the part 60 Final Rule, the FAA will extend this date from October 30, 2009, to May 30, 2010.

Good Cause for Foregoing Public Notice and Comment

Section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), authorizes agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

In this case, the FAA finds that notice and public comment are unnecessary and contrary to the public interest. This action delays the effective date for the

final rule published October 30, 2006 (71 FR 63392). We issued those regulations using the public notice and comment procedure. In that final rule, we stated "It is the FAA's intent the part 60 final rule not be effective until the first revision of the QPS appendices have been published in the **Federal Register** as a final rule." 71 FR 63398. The FAA intends to publish a notice of proposed rulemaking inviting comments on the first revision of the QPS appendices in the near future. Additional public notice and comment is also contrary to the public interest since the public is best served by informing them as soon as possible of the delay in the effective date. If the FAA were to provide notice and comment, the public would not be informed of the delay in the effective date until close to October 30, 2007, the date on which the part 60 final rule is currently scheduled to become effective.

Good Cause for Immediate Adoption

Since neither the delay in the effective date nor the delay in the compliance date of the final rule imposes any new requirements or any

additional burden on the regulated public, the FAA finds that good cause exists for immediate adoption of the new effective date and compliance date without a 30-day notice period.

The Effect of Our Decision

Our decision delays the effective date of the final rule (71 FR 63426, Oct. 30, 2006) establishing 14 CFR part 60 and amending 14 CFR parts 1, 11, and 121 from October 30, 2007, to May 30, 2008. Also, our decision delays compliance with certain sections of the final rule, as outlined below, from October 30, 2009, to May 30, 2010.

The Amendment

■ In Doc. No. FAA-2002-12461 appearing on page 63392 in the **Federal Register** of Monday, October 30, 2006 (71 FR 63392), the following corrections are made:

§ 60.5 [Corrected]

■ 1. On page 63427, in the first column in Part 60 Flight Simulation Training Device Initial and Continuing Qualification, amend § 60.5(a) by removing the date "October 30, 2009"

and adding in its place the date "May 30, 2010."

§ 60.7 [Corrected]

■ 2. On page 63427, in the second column in Part 60 Flight Simulation Training Device Initial and Continuing Qualification, amend § 60.7(b)(5) and (b)(6) (in two places) by removing the date "October 30, 2007" and adding in its place the date "May 30, 2008."

§ 60.17 [Corrected]

■ 3. On page 63429, in the third column in Part 60 Flight Simulation Training Device Initial and Continuing Qualification, amend § 60.17(a), (b), and (d) by removing the date "October 30, 2007" and adding in its place the date "May 30, 2008" and further amend (b) by removing the date "October 30, 2013" and adding in its place the date "May 30, 2014."

Issued in Washington, DC, on September 24, 2007.

Rebecca Byers MacPherson,

Assistant Chief Counsel for Regulations.

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