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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 135

[Docket No.: FAA-2009-0023; Amendment No.: 135-122]

RIN 2120-AJ32

#### Crew Resource Management Training for Crewmembers in Part 135 Operations

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

**ACTION:** Final rule.

**SUMMARY:** This final rule requires all certificate holders conducting operations under part 135 to include in their training programs crew resource management training for crewmembers, including pilots and flight attendants. This final rule is needed to ensure that crewmembers in part 135 operations receive training in the use of crew resource management principles, as appropriate for their operation. This final rule responds to National Transportation Safety Board recommendations, addresses a recommendation from the Part 125/135 Aviation Rulemaking Committee, and codifies current FAA guidance. The intended effect of this final rule is to reduce the frequency and severity of errors that are crew based, which will reduce the frequency of accidents and incidents within the scope of part 135 operations.

**DATES:** This final rule becomes effective March 22, 2011.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this final rule, contact Nancy Lauck Claussen, Air Transportation Division, AFS-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202-

267-8166; e-mail:

*Nancy.L.Claussen@faa.gov*. For legal questions concerning this final rule, contact Anne Bechdolt, Office of the Chief Counsel, AGC-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202-267-3073; e-mail: *Anne.Bechdolt@faa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

##### II. Background

###### A. Summary of Notice of Proposed Rulemaking (NPRM)

Crew Resource Management (CRM) training is the incorporation of team management concepts in flight operations. This training focuses on communication and interactions among pilots, flight attendants, operations personnel, maintenance personnel, air traffic controllers, flight service stations, and others. CRM also focuses on single pilot communications, decision making and situational awareness. On May 1, 2009, the FAA published an NPRM proposing to require all part 135 certificate holders required to have training programs under 14 CFR 135.341 to implement CRM training for pilots and flight attendants in part 135 operations.<sup>1</sup> See 74 FR 20263 (May 1, 2009). The comment period for the NPRM closed on September 28, 2009.

The intent of the NPRM was to create uniform standards for CRM training in part 135 operations by codifying existing guidance material in Advisory Circular (AC) 120-51E, *Crew Resource Management Training*, (Jan. 22, 2004), and AC 00-64, *Air Medical Resource Management*, (Jan. 22, 2005). The FAA determined this was necessary following a review of 268 accidents in part 135 operations that occurred between 1998 and 2008. Of these 268

<sup>1</sup> This requirement does not extend to part 135 operators with only one pilot.

accidents, 24 were directly related to ineffective CRM and resulted in 83 fatalities and 12 serious injuries. The NPRM also addressed National Transportation Safety Board (NTSB) recommendations A-01-12, A-03-52,<sup>2</sup> and A-95-124, in addition to recommendations from the part 125/135 Aviation Rulemaking Committee that all pilots in part 135 operations be proficient at mastering the resources available to them while managing many operational factors.

###### B. Summary of Comments

The FAA received seven comments on the proposed rule. Commenters include the Air Line Pilots Association (ALPA), Century CRM, LLC, Helicopter Association International (HAI), NTSB, Scientific Alliance for Education, and 2 individuals. All comments were generally supportive of requiring CRM training for crewmembers in part 135 operations. Additionally, some comments discussed increasing the requirements for certain provisions in the proposal, such as establishing minimum programmed hour requirements for training, and prohibiting credit for previous CRM training when a crewmember changes employers. One of the comments resulted in a substantive change to the proposed requirements, as discussed below.

###### C. Summary of Final Rule

The final rule requires certificate holders to establish initial and recurrent CRM academic training programs for crewmembers within 2 years of the effective date of the rule. At a minimum, the CRM training programs must address the authority of the pilot in command, communication processes, building and maintaining a flight team, managing workload and time, maintaining situational awareness, recognizing and mitigating fatigue and stress, and mastering aeronautical decision-making skills based on the certificate holder's operating environment. Some credit may be given

<sup>2</sup> The NPRM exceeded the requirements outlined in NTSB recommendation A-03-52, which only addressed CRM training for dual-pilot operations in part 135. The FAA determined that CRM issues are not limited to dual-pilot operations, but rather, as indicated by the accident review, extend to all operations. Therefore, the FAA decided it was necessary to require CRM training for crewmembers conducting either dual- or single-pilot operations under part 135.

for CRM training provided to crewmembers before the effective date of this rule under a voluntary CRM training program developed by certificate holders in accordance with AC 120-51E and AC 00-64.

### III. Discussion of Final Rule and Comments

In the final rule, the FAA has retained all the requirements as proposed with one exception. The NTSB did not support the provision in the proposed rule that allowed part 135 operators to waive the requirement to provide initial CRM training to crewmembers who have previously received initial CRM training from another operator. The NTSB stated that such a provision would not be consistent with CRM training requirements for part 121 operators, and, in the interest of safety, should not be allowed for part 135 operations. The NTSB further supported this position by stating that part 135 operations are characterized by a wide range of operational environments, applications, aircraft and automation capabilities, and crew complements. As a result, CRM training programs may vary widely among operators. To ensure the crewmember is familiar with its operator's processes and procedures, NTSB asserted that initial CRM should be provided to crewmembers when transitioning to a new certificate holder. The NTSB recommended the FAA withdraw the provision that would allow certificate holders to waive the requirement for initial CRM training for crewmembers who have received initial CRM training from another part 135 operator.

Upon further review, the FAA has removed the language that allows certificate holders to waive the requirement for initial CRM training for crewmembers who have received initial CRM training from another operator. Given the unique operating environments of the various part 135 operators, it is essential that a crewmember receive training on the certificate holder's operational environment, procedures, effective use of automation capabilities, and communication with fellow crewmembers. When a crewmember begins employment with a different part 135 certificate holder, the crewmember must complete that certificate holder's initial CRM training program to ensure the crewmember is familiar with the operator's policies and procedures.

The NTSB also responded to the FAA's request for comments about whether there is justification for applying the proposed rule differently for intrastate operations in Alaska. The

NTSB stated that it believed that CRM training would improve safety for all part 135 on-demand operations, including certificate holders in Alaska. The NTSB recommended that the proposed requirements should be applied to certificate holders conducting operations in Alaska.

The FAA agrees with the NTSB regarding the application of the requirements for CRM training. Of the 24 accidents that the FAA identified as directly related to ineffective CRM, one-third of the accidents occurred in Alaska. Therefore, the FAA has retained the language proposed in the NPRM. There is no exception for certificate holders conducting intrastate operations in Alaska.

ALPA supported the proposal and also recommended integrating CRM into flightcrew member job performance training as a tool to minimize the consequences of human error and to improve flightcrew performance. ALPA also agreed with the FAA that CRM training is appropriate for both pilots of single and multi-crew operations conducted under part 135. ALPA suggests the FAA require that individuals providing CRM training be employees of the air carrier. ALPA asserts this would ensure the instructors are familiar with the air carrier's culture, policies and procedures, as opposed to a contracted instructor. As with the CRM requirements for part 121 operations, the requirements in this final rule allow each operator the flexibility to design a training program that can meet the curriculum requirements via academic training and does not require job performance training. As recognized by HAI, these requirements allow "significant flexibility to allow training to be customized to the specific needs of individual operators." For some operators, it may be appropriate to incorporate CRM training in their job performance training curriculums. This may not be necessary for all operators, however, because of the size of their operations. At a minimum, CRM training elements must be completed in initial and recurrent academic training. This final rule does not preclude an operator from incorporating CRM training into its job performance training curriculum if the operator determines it is necessary based on the complexity of its operations.

The FAA has not required that all CRM instructors be employed by the air carrier. The FAA believes that the current requirements for instructors are appropriate. As with any other academic training, whether or not an instructor is a direct employee of the

part 119 certificate holder or the employee of a part 142 certificate holder does not relieve the instructor or the certificate holder from the requirement in 14 CFR 135.323 that all instructors must be properly qualified to conduct the training in the certificate holder's training program.

The FAA also received a comment from a commercial provider of CRM training, Century CRM, LLC. Century CRM, LLC supported adoption of the provisions in the NPRM with regard to requiring CRM training for part 135 operators, recognizing that CRM and human factors training are crucial to flight safety. In addition, Century CRM recommended that the FAA establish a minimum programmed hour requirement for CRM training to cover the required CRM training topics.

The amount of CRM training that is necessary for each certificate holder may vary based on the complexity of the operations. Therefore, similar to the CRM training requirements for part 121 operators, the FAA has not established a minimum programmed hour requirement for CRM for part 135 operators. In evaluating and approving part 135 CRM training programs, the FAA will consider instructional techniques, the number of students in a class, the use of performance-based scenarios, new training technology, the use of student feedback, the measurement of training outcomes, as well as the time necessary to accomplish the training requirements for each certificate holder.

The FAA is adopting the rule as proposed, with the exception that certificate holders will not be permitted to give credit for initial CRM training to new employees who have received initial CRM training with another operator. Within 2 years after the effective date of this rule, a certificate holder conducting part 135 operations is prohibited from using a crewmember unless that person has completed the certificate holder's approved initial CRM training.

Under the final rule, initial and recurrent CRM academic training must be provided to crewmembers in part 135 operations. At a minimum, the training must address the authority of the pilot in command, communication processes, building and maintaining a flight team, managing workload and time, maintaining situational awareness, recognizing and mitigating fatigue and stress, and mastering the aeronautical decision-making skills tailored to the certificate holder's operations. This training is in addition to current training requirements for crewmembers under part 135. In evaluating and

approving part 135 CRM training programs, the FAA will consider instructional techniques, the number of students in a class, the use of performance-based scenarios, new training technology, the use of student feedback, the measurement of training outcomes, as well as the number of hours of training time.

*Paperwork Reduction Act*

This final rule will impose the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted these information collection amendments to OMB for its review. Notice of OMB approval for this information collection will be published in a future **Federal Register** document.

*Title:* Crew Resource Management Training for Crewmembers in Part 135 Operations.

*Summary:* This final rule requires CRM training for crewmembers in 14 CFR part 135 operations. This final rule is necessary to ensure that crewmembers in part 135 operations receive training and practice in the use of CRM principles, as appropriate for their operation. The intended effect of this final rule is to reduce the frequency and severity of errors that are crew-based, which will reduce the frequency of accidents and incidents within the scope of part 135 operations.

*Use of:* This project is in direct support of the Department of Transportation’s Strategic Plan—Strategic Goal—SAFETY; *i.e.*, to promote the public health and safety by working toward the elimination of transportation-related deaths and injuries. This clearance reflects requirements necessary under Title 14 CFR part 135 to ensure safety-of-flight by making certain that complete and adequate training is provided and

maintained by those who operate under this part of the regulation. The FAA will use the information it collects and reviews to ensure compliance and adherence to regulations and, where necessary, to take enforcement action on violators of the regulations.

*Respondents (including number of):* The FAA estimated that there are 1,625 certificate holders who are required to provide information in accordance with the final rule. The respondents to this proposed information requirement are certificate holders using the training requirements in 14 CFR part 135.

*Frequency:* The FAA estimated that certificate holders will have a one time information collection and will then collect or report information occasionally thereafter.

*Annual Burden Estimate:* This rulemaking results in a 10-year recordkeeping and reporting burden as follows:

SUMMARY OF TIME AND COSTS  
[10-Year]

|  | Cost         | Hours    |
|--|--------------|----------|
| Development and submission of CRM Training Program ..... | \$302,260.00 | 8,636.0  |
| Crewmember Training Record Keeping .....                 | 65,540.50    | 1,872.5  |
| Total .....  | 367,800.50   | 10,508.5 |

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted a copy of the new information collection requirements in this final rule to the Office of Management and Budget for its review.

An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number.

*International Compatibility*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

**IV. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment**

*Economic Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment*

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a

written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA’s analysis of the economic impacts of this rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this rule: (1) Has benefits that justify its costs; (2) is not an economically “significant regulatory action” as defined in section 3(f) of Executive Order 12866; (3) is not “significant” as defined in DOT’s Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector by exceeding the threshold

identified above. These analyses are summarized as follows.

*Total Benefits and Costs of This Rule*

As seen in Table 1, the cost of this rule is \$12.749 million (\$9.015 million

in present value terms using a 7 percent discount rate). Using a 25 percent accident rate reduction in which causal factors involved CRM training, the benefits are \$32.261 million (\$21.021 million in present value terms using a

7 percent discount rate). The net benefits from the rule will be \$19.512 million (\$12.016 million in present value terms using a 7 percent discount rate).

TABLE 1—SUMMARY OF THE TOTAL AND PRESENT VALUE CRM TRAINING COSTS AND BENEFITS  
[Rounded to the nearest thousand 2010 dollars]

| Year  | Total costs |         |         | Total benefits |         |         | Benefits—costs |           |           |
|-------|-------------|---------|---------|----------------|---------|---------|----------------|-----------|-----------|
|       | Total       | P.V. 7% | P.V. 3% | Total          | P.V. 7% | P.V. 3% | Total          | P.V. 7%   | P.V. 3%   |
| 2011  | \$1,177     | \$1,101 | \$1,143 | \$0            | \$0     | \$0     | (\$1,177)      | (\$1,101) | (\$1,143) |
| 2012  | 1,870       | 1,634   | 1,762   | 0              | 0       | 0       | (1,870)        | (1,634)   | (1,762)   |
| 2013  | 1,133       | 924     | 1,037   | 4,032          | 3,292   | 3,690   | 2,899          | 2,368     | 2,653     |
| 2014  | 1,155       | 881     | 1,026   | 4,032          | 3,076   | 3,583   | 2,877          | 2,195     | 2,557     |
| 2015  | 1,177       | 839     | 1,016   | 4,032          | 2,875   | 3,478   | 2,855          | 2,036     | 2,462     |
| 2016  | 1,200       | 799     | 1,005   | 4,032          | 2,687   | 3,377   | 2,832          | 1,888     | 2,372     |
| 2017  | 1,223       | 761     | 995     | 4,032          | 2,511   | 3,279   | 2,809          | 1,750     | 2,284     |
| 2018  | 1,247       | 726     | 984     | 4,032          | 2,347   | 3,183   | 2,785          | 1,621     | 2,199     |
| 2019  | 1,271       | 691     | 974     | 4,032          | 2,193   | 3,091   | 2,761          | 1,502     | 2,117     |
| 2020  | 1,296       | 659     | 964     | 4,032          | 2,050   | 3,001   | 2,736          | 1,391     | 2,037     |
| Total | 12,749      | 9,015   | 10,906  | 32,261         | 21,031  | 26,681  | 19,512         | 12,016    | 15,775    |

*Aviation Industry Affected*

The rule will affect part 135 certificate holders who are required to have an approved training program. In 2009, there were 1,625 part 135 operators that employed 25,033 crewmembers, of which 24,447 were pilots and 586 were flight attendants.

*Period of Analysis*

We used a 10-year time period (2011–2020) to calculate the CRM training costs and benefits from CRM training. A 10-year period of analysis is sufficient to determine costs and benefits because much of the costs are front-loaded.

*Risk of an Accident Caused by the Absence of CRM Training*

We evaluated part 135 accidents from March 20, 1997 through March 7, 2008. During this time period, there were 24 accidents (18 involving airplanes and 6 involving helicopters) with causal factors directly related to a lack of effective CRM. These accidents were responsible for 83 fatalities (66 involving airplanes and 17 involving helicopters) and 12 serious injuries (all involving airplanes).

Further, of the 18 airplane accidents, 8 involved single-pilot operations and 10 involved dual-pilot operations. All 6 of the helicopter accidents involved single-pilot operations. The individual accident histories are in the Final Regulatory Evaluation, which is in the docket.

*Assumptions and Data Used To Estimate Benefits*

The values are \$6 million for a prevented fatality, \$2.015 million for a prevented serious injury, and \$53,000 for a minor injury.

*Potential CRM Training Effectiveness and Benefits*

We reviewed all part 121 accidents contained in the NTSB data base between 1988 through 2007 involving the same causal factors relevant to CRM and divided them into accidents occurring from 1988 through 1997, and accidents occurring after 1997, the effective date of the CRM training requirement for certificate holders conducting operations under 14 CFR part 121. We then calculated the CRM training-related accident rates for these two groups and found that the accident rates decreased from 0.0000206 to 0.0000182 (an 11.65 percent decline) and the accident rate for all fatal accidents decreased from 0.0000048 to 0.0000036 (a 25 percent decline). Although these rate reductions are not statistically significant due to the infrequency of these accidents, they can be useful in establishing an upper bound for the potential CRM training effectiveness rate for part 135 operations.

In order to illustrate the potential part 135 CRM training benefits, we applied the part 121 accident rate reductions of 25 percent for fatal accidents and 11.65 percent for non-fatal accidents to the 24 CRM-related part 135 accidents. Had the CRM training rule been effective in 1997 for all certificate holders conducting

operations under part 135 that are required to have an approved training program, it could have prevented 2.75 of these fatal airplane accidents involving 16.5 fatalities and 2.25 serious injuries, as well as 1 fatal helicopter accident involving 4.25 fatalities. It also could have prevented 1 non-fatal airplane and helicopter accident. On that basis, the rule could have prevented 3.75 fatal accidents involving 20.75 fatalities and 2.25 serious injures.

Applying the DOT values to all of the accidents hypothetically prevented, an upper-bound quantified benefit of about \$121 million, which has a present value of about \$84 million using a 7 percent discount rate, would have resulted had the rule been in effect since 1997.

*Compliance Cost Assumptions*

Current industry practice is the baseline for the incremental compliance costs.

Each operator will provide training for its employees because CRM training is classroom training that will be incorporated into the current initial and recurrent academic training programs required by existing rules.

All 26 large operators with more than 100 crewmembers and 10 percent of the 400 operators with 10–99 crewmembers (40 operators) already provide CRM training and will incur minimal compliance costs.

The FAA estimates that 360 of the medium-sized operators and all of the 1,199 small operators with fewer than 10 crewmembers currently do not provide CRM training. These operators will incur compliance costs.

The average cost to develop a CRM training program will be \$1,170 for a medium-sized operator and \$680 for a small operator.

Current pilots and future new pilots in medium-sized operations will need 4 hours for initial CRM training while those in small operations will need 3 hours.

Current flight attendants and future new flight attendants will need 2 hours for initial CRM training.

Annual recurrent CRM training will take one-half of the time that initial CRM training would require.

There will be an average of 10 pilots in an initial or recurrent CRM training session for a medium-sized operator and an average of 3.66 pilots for a small operator.

There will be an average of 3.92 flight attendants in an initial or recurrent

CRM training session for a medium-sized operator and an average of 1.1 flight attendants for a small operator.

The average cost for an initial CRM pilot training session will be \$1,293 for a medium-sized operator and \$428 for a small operator.

The average cost for an initial CRM flight attendant training session will be \$207 for a medium-sized operator and \$94 for a small operator.

The average cost for recurrent CRM pilot training will be \$647 for a medium-sized operator and \$214 for a small operator.

The average cost for recurrent CRM flight attendant training will be \$104 for a medium-sized operator and \$47 for a small operator.

Initial CRM training for crewmembers new to part 135 employment as well as initial CRM training for crewmembers

who change employers within part 135 operators will be done on a one-to-one basis with the trainer. The average cost will be \$208 per new pilot hire for medium-sized operators and \$156 for small operators. The average cost will be \$76 per new flight attendant hire for medium-sized and small operators.

*Compliance Costs*

Based on those data and assumptions, as shown in Table 2, we estimated that the rule from 2011 through 2020 would have a total cost of \$12.749 million, which would have a present value of \$9.015 million using a 7 percent discount rate, and a present value of \$10.906 million using a 3 percent discount rate.

TABLE 2—SUMMARY OF THE TOTAL CRM TRAINING COSTS BY SOURCE OF COST

[2011 through 2020]

[Rounded to the nearest thousand 2010 dollars]

| Source of cost                          | Total costs   |                    |                    |
|---|---------------|--------------------|--------------------|
|   | Nominal       | Present value (7%) | Present value (3%) |
| EXISTING OPERATOR CRM PLAN .....        | \$1,177       | \$1,101            | \$1,143            |
| NEW OPERATOR CRM PLAN .....             | 345           | 234                | 290                |
| EXISTING PILOT TRAINING .....           | 1,621         | 1,415              | 1,527              |
| NEW PILOT TRAINING .....                | 1,513         | 1,015              | 1,267              |
| JOB-TRANSFERRED PILOT TRAINING .....    | 882           | 582                | 733                |
| PILOT RECURRENT (ANNUAL) TRAINING ..... | 7,135         | 4,617              | 5,881              |
| FLIGHT ATTENDANT TRAINING .....         | 76            | 51                 | 65                 |
| <b>TOTAL .....</b>                      | <b>12,749</b> | <b>9,015</b>       | <b>10,906</b>      |

*Cost-Benefit Comparison*

As presented earlier, an upper-bound estimate of the quantified benefits using a \$6 million value for a prevented fatality would be \$121 million, which would be larger than the undiscounted compliance cost of \$12.75 million.

An alternative way of looking at the cost-benefit analysis is that if the rule were to prevent only 2 fatalities and 1 serious injury during this 10-year period, the rule would be cost beneficial.

Finally, we should not overlook the fact that 9 out of 9 operators we surveyed already provide CRM training. Thus, these operators have already made an implied internal cost-benefit analysis that the benefits from CRM training are worth its costs.

For those reasons, we conclude that the CRM training rule would be cost beneficial.

*Regulatory Flexibility Determination*

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes “as a

principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a

significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. Based on the following, the FAA certifies that this rule would not have a significant impact on a substantial number of small entities.

There would be 1,559 small entities employing 11,815 crewmembers under the North American Industrial Classification System (NAICS) codes 481211 (Non-Scheduled Air Services) and 621910 (Ambulance Services) that would be affected by the rule. The average number of crewmembers would be 7.6. The Small Business Administration (SBA) has established, under NAICS code 481211, that all operators with fewer than 1,500 employees are small businesses. Furthermore, for all operators that fall

under NAICS code 621910, SBA has established that all operators with annual receipts of \$7 million or less are small businesses. All of the operators affected by the rule except one are small businesses.

This rule will not have a significant economic impact on a substantial number of entities because the average initial cost per operator is between \$680 and \$1,170. Further, the average annual cost per operator is \$450, which is less than one percent of annual revenues. The Initial Regulatory Flexibility Assessment had estimated similar compliance costs and the FAA received no adverse comments in response to its assessment.

Therefore, as Administrator I certify that this rule will not have a significant economic impact on a substantial number of small entities.

#### *International Trade Analysis*

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards are not considered unnecessary obstacles to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The FAA notes the purpose is to ensure the safety of the American public, and has assessed the effects of this rule to ensure it does not exclude imports that meet this objective. As a result this rule is not considered as creating an unnecessary obstacle to foreign commerce.

#### *Unfunded Mandates Assessment*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$143.1 million in lieu of \$100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

#### *Executive Order 13132, Federalism*

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action does not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

#### *Regulations Affecting Intrastate Aviation in Alaska*

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, we requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. We did receive a comment from the NTSB recommending that this rule should apply to operations in Alaska. We have determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation in Alaska.

#### *Environmental Analysis*

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312F and involves no extraordinary circumstances.

#### *Regulations That Significantly Affect Energy Supply, Distribution, or Use*

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a “significant energy action” under the executive order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *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/](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://DocketsInfo.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 the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at [http://www.faa.gov/regulations\\_policies/rulemaking/sbre\\_act/](http://www.faa.gov/regulations_policies/rulemaking/sbre_act/).

#### **List of Subjects in 14 CFR Part 135**

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

#### **The Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations, as follows:

#### **PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT**

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

**Authority:** 49 U.S.C. 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 45101–45105.

■ 2. In § 135.329, add paragraph (a)(4) to read as follows:

**§ 135.329 Crewmember training requirements.**

(a) \* \* \*

(4) Crew resource management training in § 135.330.

\* \* \* \* \*

■ 3. Add § 135.330 to subpart H to read as follows:

**§ 135.330 Crew resource management training.**

(a) Each certificate holder must have an approved crew resource management training program that includes initial and recurrent training. The training program must include at least the following:

(1) Authority of the pilot in command;

(2) Communication processes, decisions, and coordination, to include communication with Air Traffic Control, personnel performing flight locating and other operational functions, and passengers;

(3) Building and maintenance of a flight team;

(4) Workload and time management;

(5) Situational awareness;

(6) Effects of fatigue on performance, avoidance strategies and countermeasures;

(7) Effects of stress and stress reduction strategies; and

(8) Aeronautical decision-making and judgment training tailored to the operator's flight operations and aviation environment.

(b) After March 22, 2013, no certificate holder may use a person as a flightcrew member or flight attendant unless that person has completed approved crew resource management initial training with that certificate holder.

(c) For flightcrew members and flight attendants, the Administrator, at his or her discretion, may credit crew resource management training completed with that certificate holder before March 22, 2013, toward all or part of the initial CRM training required by this section.

(d) In granting credit for initial CRM training, the Administrator considers training aids, devices, methods and procedures used by the certificate holder in a voluntary CRM program included in a training program required by § 135.341, § 135.345, or § 135.349.

■ 4. In § 135.351, revise paragraph (b)(2) to read as follows:

**§ 135.351 Recurrent training.**

\* \* \* \* \*

(b) \* \* \*

(2) Instruction as necessary in the subjects required for initial ground

training by this subpart, as appropriate, including low-altitude windshear training and training on operating during ground icing conditions as prescribed in § 135.341 and described in § 135.345, crew resource management training as prescribed in § 135.330, and emergency training as prescribed in § 135.331.

\* \* \* \* \*

Issued in Washington, DC, on January 11, 2011.

**J. Randolph Babbitt,**  
*Administrator.*

[FR Doc. 2011-1211 Filed 1-20-11; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9512]

**RIN 1545-BF08**

**Nuclear Decommissioning Funds; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to final regulations (TD 9512) that were published in the **Federal Register** on Thursday, December 23, 2010 (75 FR 80697) relating to deductions for contributions to trusts maintained for decommissioning nuclear power plants.

**DATES:** This correction is effective on January 21, 2011, and is applicable on December 23, 2010.

**FOR FURTHER INFORMATION CONTACT:** Patrick S. Kirwan, (202) 622-3110 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations (TD 9512) that are the subject of this document are under section 468A of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9512) contain an error that may prove to be misleading and is in need of clarification.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

**PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.468A-6 is amended by revising the last sentence of paragraph (e)(3) *Example 2.* to read as follows:

**§ 1.468A-6 Disposition of an interest in a nuclear power plant.**

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

*Example 2.* \* \* \* Pursuant to paragraph (e)(1)(iii) of this section, Y must file a request for a revised schedule of ruling amounts by March 15 of year 7.

\* \* \* \* \*

**LaNita Van Dyke,**

*Branch Chief, Publications and Regulations, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2011-1215 Filed 1-20-11; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2010-1142]

**Drawbridge Operation Regulation; Chickasaw Creek, AL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the CSX Railroad Swing Span Bridge across Chickasaw Creek, mile 0.0, in Mobile, Alabama. The deviation is necessary to replace railroad ties on the bridge. This deviation allows the bridge to remain closed for nine hours with a one-hour mid-day opening on February 8 and 9, 2011.

**DATES:** This deviation is effective from 7 a.m. on Tuesday, February 8, 2011 until 4 p.m. on Wednesday, February 9, 2011.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2010-