

TABLE 3 TO PARAGRAPH (g)(1)(III)—HPT ROTOR STAGE 2 DISK P/N 2505M73P03—Continued

Part name	Part No.	Life cycles
Disk, Stage 2 .....	2505M73P03, For part serial numbers listed in SB 72–0851, latest revision APPENDIX A Table 1.	3,500
Disk, Stage 2 .....	2505M73P03, For part serial numbers listed in SB 72–0851, latest revision APPENDIX A Table 2.	5,100
Disk, Stage 2 .....	2505M73P03, For part serial numbers listed in SB 72–0851, latest revision APPENDIX A Table 3.	5,800
Disk, Stage 2 .....	2505M73P03, For part serial numbers listed in SB 72–0851, latest revision APPENDIX A Table 4.	7,200
Disk, Stage 2 .....	2505M73P03, For part serial numbers listed in SB 72–0851, latest revision APPENDIX A Table 5.	8,000
Disk, Stage 2 .....	2505M73P03, For part serial numbers listed in SB 72–0851, latest revision APPENDIX A Table 6.	8,300
Disk, Stage 2 .....	2505M73P03, For part serial numbers listed in SB 72–0851, latest revision APPENDIX A Table 7.	8,800

(2) For affected GE90–76B, GE90–85B, GE90–90B, and GE90–94B model turbofan engines, before the interstage HPT rotor seal, P/N 2629M47P01 and S/N NCU5430D, accumulates 7,400 cycles since new, remove the affected interstage HPT rotor seal from service and replace with a part eligible for installation.

**(h) Definitions**

For the purpose of this AD, a “part eligible for installation” is any interstage HPT rotor seal that does not have P/N 2629M47P01 and S/N NCU5430D.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD and email to: [ANE-AD-AMOC@faa.gov](mailto:ANE-AD-AMOC@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(j) Related Information**

(1) For more information about this AD, contact Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7178; email: [Alexei.T.Marqueen@faa.gov](mailto:Alexei.T.Marqueen@faa.gov).

(2) For service information identified (but not incorporated by reference) in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: [aviation.fleetsupport@ge.com](mailto:aviation.fleetsupport@ge.com); website: [www.ge.com](http://www.ge.com). You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

**(k) Material Incorporated by Reference**

None.

Issued on August 18, 2022.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 61 and 121**

**[Docket No. FAA–2017–1106; Amdt. Nos. 61–150 And 121–385]**

**RIN 2120–AL03**

**Recognition of Pilot in Command Experience in the Military and Air Carrier Operations**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule provides additional crediting options for certain pilot in command (PIC) time to count towards the 1,000 hours of air carrier experience required to serve as a PIC in air carrier operations. In addition, this final rule allows credit for select military time in a powered-lift flown in horizontal flight towards the 250 hours of airplane time as PIC, or second in command (SIC) performing the duties of PIC, required for an airline transport pilot (ATP) certificate. This action is necessary to expand opportunities for pilots that meet the amended criteria to use relevant flight experience toward the requirements for an ATP certificate and to meet PIC qualification requirements for air carrier operations.

**DATES:** This rule is effective October 21, 2022.

**ADDRESSES:** For information on where to obtain copies of rulemaking documents and other information related to this final rule, see “How To Obtain Additional Information” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Barbara Adams, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–8166; email [barbara.adams@faa.gov](mailto:barbara.adams@faa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Executive Summary
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  - B. Minimum of 1,000 Hours in Air Carrier Operations To Serve as Pilot in Command in Part 121 Operations (§ 121.436)
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**List of Abbreviations and Acronyms Frequently Used in This Document**

- ATP Airline Transport Pilot
- NPRM Notice of Proposed Rulemaking

PIC Pilot in Command  
SIC Second in Command

## I. Executive Summary

This rulemaking provides relief to military pilots<sup>1</sup> of powered-lift seeking to obtain an airline transport pilot (ATP) certificate with an airplane category rating. As discussed in section III.A of this preamble, the FAA is allowing military pilots to credit flight time in a powered-lift operated in horizontal flight towards the 250-hour flight time requirement in an airplane in § 61.159(a)(5). This change assists military pilots of powered-lift in qualifying for an ATP certificate in the airplane category.

This final rule also includes several changes to the 1,000-hour air carrier experience required to serve as PIC in part 121 operations. As discussed in section III.B, this final rule allows pilots with part 121 PIC experience acquired prior to July 31, 2013, to count that time towards the 1,000 hours of air carrier experience required to serve as PIC in part 121 operations. Additionally, the final rule broadens the existing 500-hour credit for military pilots of fixed-wing airplanes and can count towards the 1,000-hour air carrier experience requirement by permitting certain powered-lift experiences to be credited. The change allows up to 500 hours of experience in multiengine powered-lift in operations where more than one pilot is required to be credited towards the 1,000-hour air carrier experience requirement.<sup>2</sup> Additionally, in response to comments received, the FAA is also permitting a pilot to credit PIC time in certain part 135 eligible on-demand multiengine aircraft operations to count towards the 1,000-hour air carrier experience requirement.

Because this final rule amends two disparate regulations, the FAA has provided the necessary background information in the relevant sections of the Discussion of the Final Rule and Public Comments.

## II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 *United States Code* (U.S.C.). Subtitle I, Section 106 describes the authority of

<sup>1</sup> For the purposes of this rule, a military pilot is a U.S. military pilot or former U.S. military pilot who meets the requirements of § 61.73(b)(1), or a military pilot in the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation who meets the requirements of § 61.73(c)(1).

<sup>2</sup> Prior to this final rule, the 500-hour credit accommodated military pilots of multiengine, turbine-powered fixed wing airplanes in operations where more than one pilot was required. 14 CFR 121.436(c).

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 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; 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; and U.S.C. 44703(a), which requires the Administrator to issue airman certificates when the Administrator finds, after investigation, that an individual is qualified for and physically able to perform the duties related to, the position authorized by the certificate. This rulemaking revises the qualifications required to apply for an ATP certificate and the qualifications required to serve as PIC in part 121 operations. For these reasons, this rulemaking is within the scope of the FAA's authority.

## III. Discussion of the Final Rule and Public Comments

On November 24, 2017, the FAA published a notice of proposed rulemaking (NPRM) titled *Recognition of Pilot in Command Experience in the Military and in Part 121 Air Carrier Operations*.<sup>3</sup> In the NPRM, the FAA proposed amendments to parts 61 and 121 that would alleviate the regulatory burden on pilots with military powered-lift experience and pilots with part 121 PIC experience prior to July 31, 2013.

The NPRM provided for a 60-day comment period, which ended on January 23, 2018. The FAA received and considered a total of 146 comments to the NPRM.<sup>4</sup> Commenters included major air carriers, cargo air carriers, powered-lift manufacturers, pilot labor associations, military pilots, and private citizens. The majority of the comments were from military pilots with experience operating powered-lift.

All of the commenters, including many from the military powered-lift community, generally supported the proposal. Some commenters recommended changes to the proposed rule language. The FAA also received several comments on the cost savings for military pilots who can use the powered-lift time towards the 250 hours of PIC time for an ATP certificate in the airplane category.

<sup>3</sup> 82 FR 55791.

<sup>4</sup> The FAA notes that three comments were in response to other commenters.

Because of the specific nature of each provision, the FAA discusses each amendment separately.

### A. ATP Aeronautical Experience Requirements (§ 61.159)

Since 1969, the FAA has required an applicant for an ATP certificate with an airplane category rating to have at least 1,500 hours of flight time as a pilot.<sup>5</sup> Today, this requirement is found in § 61.159(a). As part of the 1,500 hours of the total time required, § 61.159(a)(5) requires the applicant to have at least 250 hours of flight time in an airplane as PIC, or as SIC performing the duties of PIC while under the supervision of a PIC,<sup>6</sup> or any combination thereof. The 250 hours of airplane time must include at least 100 hours of cross-country time and 25 hours of night time.<sup>7</sup>

Over the years, military pilots have asked the FAA whether they may credit their flight time in powered-lift aircraft, when operated in horizontal flight, towards the aeronautical experience requirement of § 61.159(a)(5) for an ATP certificate with an airplane category rating.<sup>8</sup> Prior to this final rule, § 61.159(a)(5) required a person to obtain 250 hours of flight time as a PIC (or SIC performing the duties of PIC while under the supervision of a PIC) in the category of aircraft for which the rating was sought. In 1997, the FAA established a separate category of aircraft for powered-lift and adopted § 61.163(a),<sup>9</sup> which prescribes the aeronautical experience required for an ATP certificate with a powered-lift category rating.<sup>10</sup> Because the FAA

<sup>5</sup> Final Rule, *Part 61 Certification: Pilots and Flight Instructors*, 34 FR 17162 (Oct. 23, 1969).

<sup>6</sup> The FAA considers an SIC to be performing the duties of PIC while under the supervision of a PIC when an SIC who is required by the type certification of the aircraft or the operation under which the flight is being conducted "performs all the functions of the pilot-in-command including landings and takeoffs, en route flying, low approaches, and ground functions." See Memorandum to John Duncan from Rebecca MacPherson, Assistant Chief Counsel for Regulations (Apr. 13, 2012) (interpreting the provision of 14 CFR 61.159(a)(4), which at the time stated "250 hours of flight time in an airplane as pilot in command, or as second in command performing the duties of pilot in command while under the supervision of a pilot in command").

<sup>7</sup> 14 CFR 61.159(a)(5)(i) and (ii).

<sup>8</sup> 14 CFR 1.1 defines "powered-lift" as a heavier-than-air aircraft capable of vertical takeoff, vertical landing, and low speed flight that depends principally on engine-driven lift devices or engine thrust for lift during these flight regimes and on nonrotating airfoil(s) for lift during horizontal flight.

<sup>9</sup> Final Rule, *Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules*, 62 FR 16220 (Apr. 4, 1997).

<sup>10</sup> Section 61.163(a)(3) requires a person who is applying for an ATP certificate with a powered-lift

Continued

established powered-lift as a separate category of aircraft rather than a class or type under an existing category, a pilot was precluded from crediting flight time in a powered-lift aircraft towards the airplane-specific aeronautical experience requirement of § 61.159(a)(5).<sup>11</sup>

In the NPRM for this rule, the FAA proposed to amend § 61.159(a)(5) by adding a new provision that would allow military pilots to credit flight time in a powered-lift operated in horizontal flight towards the 250-hour airplane flight time requirement.<sup>12</sup> Under the proposal, a military pilot would be allowed to credit flight time obtained in a powered-lift as PIC, or SIC performing the duties of PIC while under the supervision of a PIC, towards the aeronautical experience requirement of § 61.159(a)(5). Additionally, the proposed allowance for military time in powered-lift would have extended to the cross-country time and night time requirements of § 61.159(a)(5). The FAA did not propose to limit the amount of powered-lift time a military pilot may credit towards the 250 hours of airplane time other than stating the time credited must have been acquired in horizontal flight.

All commenters generally supported the proposal to permit credit for military powered-lift PIC time. Delta Airlines Flight Operations, Coalition of Airline Pilots Associations (CAPA), and AgustaWestland Philadelphia Corporation (AWPC) fully supported the proposal. Several commenters suggested changes to the proposed rule language, which are discussed below.

The Air Line Pilots Association, International (ALPA) suggested the FAA limit the amount of flight time a military powered-lift pilot may credit towards the 250 hours of airplane PIC time but did not state what it believed would be an appropriate amount of time. ALPA was concerned about the pilots' ability to track and verify the applicable powered-lift time. ALPA also stated that the number of takeoffs and landings in the "airplane" mode is important. ALPA believed it would be inappropriate to allow a pilot to credit 250 hours of powered-lift time that was conducted at

category rating to obtain the same 250 hours of flight time in a powered-lift aircraft.

<sup>11</sup> For a more detailed discussion of the background relevant to the FAA's amendment to § 61.159, see the NPRM, 82 FR at 55793.

<sup>12</sup> In July 2013, the FAA published a final rule that permits military pilots to obtain an ATP certificate with 750 hours total time as a pilot as compared with the 1,500-hours generally required to apply for the certificate. Final Rule, *Pilot Certification and Qualification Requirements for Air Carrier Operations*, 78 FR 42324 (Jul. 15, 2013).

cruise while most takeoffs and landings were done vertically.

An individual commenter responded to ALPA's concerns. With regard to ALPA's concerns about tracking the flight time, the commenter explained that a pilot can easily determine and log the flight time obtained in a powered-lift in horizontal flight. The commenter added that each military pilot signs each page of his or her logbook as a "certified and correct record"; therefore, any powered-lift "horizontal" flight time credited towards the 250-hour aeronautical experience requirement could be properly accounted for in the pilot's records. With respect to takeoff and landing, the commenter believed that ALPA erred in suggesting that vertical takeoffs and landings are the standards for powered-lift. According to the commenter, a typical profile for both the V-22 and AV-8<sup>13</sup> includes takeoffs and landings in airplane mode. Nonetheless, because the FAA already proposed to preclude the crediting of vertical flight time in a powered-lift, the commenter found no reason to further limit the horizontal portion of powered-lift flight time simply because vertical landings or takeoffs occurred.

While the FAA acknowledges that military pilots do not typically log powered-lift time in each "mode" of flight (*i.e.*, horizontal or vertical), the FAA has determined that limiting the amount of credit on this basis is not necessary. As many of the commenters attested, a significant majority<sup>14</sup> of the time spent in powered-lift is in horizontal flight. Military pilots will have well in excess of 250 hours of PIC time in powered-lift. Even using the most conservative approximation, these pilots will generally have two to five times that amount of PIC-powered-lift time.<sup>15</sup> Because the applicable amount of powered-lift time will well exceed the 250-hour flight time requirement, the FAA finds it unnecessary to limit the amount of credit simply because military pilots may not have tracked the exact number of hours spent in horizontal flight. In response to ALPA's

<sup>13</sup> The V-22 is a multiengine powered-lift military aircraft commonly known as the Osprey. The AV-8 and F-35B are single-engine powered-lift military aircraft commonly known as the Harrier and Lightning II, respectively.

<sup>14</sup> Commenters estimated that military pilots operate powered-lift aircraft in horizontal flight between 80–99% of the time. These comments are available in the docket for this rulemaking at <https://www.regulations.gov> at Docket No. FAA-2017-1106.

<sup>15</sup> Based on discussions with current and former military powered-lift pilots, the FAA determined that a military powered-lift pilot will generally have between 1,000–2,500 hours of total powered-lift time, which includes about 500–1,250 hours of PIC powered-lift time.

comment about the FAA's ability to verify the hours, the evaluator for the ATP certificate will determine if the pilot's records and desired credit sought are appropriate.<sup>16</sup> For these reasons, the FAA does not share ALPA's concern about the ability to track and verify the applicable amount of PIC powered-lift time.

In response to ALPA's concern about takeoffs and landings, the FAA recognizes that a military powered-lift pilot may conduct more takeoffs and landings in the vertical mode rather than "airplane" mode. As noted by commenters, however, this is not always the case. The type of takeoff and landing largely depends on the powered-lift and the military operation. Nevertheless, the FAA finds it unnecessary to limit the amount of military powered-lift time that may be credited towards the 250-hour requirement merely because the pilot may have conducted takeoffs and landings in the vertical mode. Section 61.159(a)(5) does not expressly require any of the 250 hours of airplane PIC time to include takeoffs and landings. The requirement in § 61.159(a)(5), which has existed since 1952,<sup>17</sup> is intended to require aeronautical experience performing the duties and functions of a PIC or SIC performing the duties of PIC while under the supervision of a PIC in an airplane.

The FAA recognizes that, in obtaining the 250 hours of PIC time in an airplane, a pilot who has learned to fly and acquired experience in an airplane will likely have obtained a certain amount of PIC experience performing takeoffs and landings in an airplane. The FAA finds, however, that this is not a basis to limit the amount of powered-lift time a military pilot may credit towards the 250 hours of airplane time, other than stating the time credited must have been acquired in horizontal flight. As previously stated, military powered-lift pilots will have two to five times the amount of PIC time required by the

<sup>16</sup> A military powered-lift pilot will account for his or her flight time on the FAA Form 8710 (Airman Certificate or Rating Application). This flight time will be reviewed to determine eligibility for the certificate or rating sought by an FAA inspector or designee. In FAA Order 8900.1, volume 5, chapter 3, section 1, the FAA recognizes that the aeronautical experience shown in official military records may not always align with the required aeronautical experience requirements in part 61. See also FAA Order 8900.95A, volume 3, section 2, paragraph 2b, Note, (page 3–8) of the Designee Management Policy, which applies the 8900.1, volume 5 to designees. In such circumstances, an inspector who has past military flight experience as a military pilot may validate the flight records.

<sup>17</sup> Final Rule, *Aeronautical Experience Requirement for Airline Transport Pilot Rating*, 17 FR 3479 (Apr. 19, 1952). In 1952, the Civil Aeronautics Board adopted this requirement in § 21.16(a).

regulation. In addition, due to the quality and structure of military training and the demanding nature of military operations, the FAA finds that a pilot who has spent approximately 500–1,250 hours performing the duties and functions of a PIC in military powered-lift operations will have obtained a level of experience comparable to the experience obtained by accruing 250 hours of PIC time in an airplane.

To the extent ALPA is concerned that a military powered-lift pilot will not have airplane experience, particularly in takeoff and landing, prior to obtaining an ATP certificate in the airplane category, the FAA responds that military powered-lift pilots receive training and are qualified in an airplane prior to transitioning to a powered-lift. The amount of airplane-specific training varies depending upon which powered-lift the pilot will transition to. However, the comprehensive and demanding nature of military pilot training and the military's assessment of flight proficiency ensures that the pilot is capable of successfully performing takeoffs and landings in an airplane prior to operating a powered-lift. As evidenced by several commenters, military V–22<sup>18</sup> pilots were required to demonstrate proficiency to the commercial level in the King Air 200<sup>19</sup> while attending Naval Flight Training. With the required documentation outlined in § 61.73, the FAA acknowledges the airplane training and checking a military powered-lift pilot has completed and permits those pilots to apply for a commercial pilot certificate in the appropriate airplane class(es) as a result.<sup>20</sup>

Furthermore, the accumulation of 250 hours of PIC time in a military powered-lift does not automatically result in an ATP certificate in the airplane category. Rather, a military pilot will still be required to meet the other aeronautical experience requirements of § 61.159, including the requirement to obtain at least 50 hours of flight time in the class of airplane for the rating sought.<sup>21</sup> This means a military pilot seeking an ATP certificate with an airplane category

multiengine class rating must have at least 50 hours of flight time in a multiengine airplane, which will provide the pilot with experience performing takeoffs and landings in the class of airplane appropriate to the rating sought. Additionally, the military pilot will still be required to complete the ATP certification training program (ATP CTP) required by § 61.156 for a multiengine airplane ATP certificate, pass the ATP knowledge test, and pass the ATP practical test or air carrier evaluation that results in the issuance of an ATP certificate. The ATP CTP requires 10 hours of training in a flight simulation training device (FSTD) that represents a multiengine turbine airplane.<sup>22</sup> In addition, the practical test—or the proficiency and competency checks required under parts 121 and 135—will be conducted in the class of airplane for the rating sought and will include an evaluation of the pilot's ability to take off and land the airplane.

For the reasons explained above, the FAA finds it unnecessary to limit the amount of PIC-powered-lift flight time that a military pilot may credit toward the 250-hour flight time requirement. Section 61.159(a)(5) remains unchanged from the proposed rulemaking.

One commenter suggested the FAA also allow powered-lift flight time to be credited toward the commercial pilot certificate in the airplane category with a multiengine class rating.

The FAA finds it unnecessary to amend the regulations in response to this comment. Consistent with the NPRM, the amendment to § 61.159(a)(5), which allows certain powered-lift times to be credited, applies only to military pilots. While a military pilot must satisfy the aeronautical requirements of § 61.159(a) to obtain an ATP certificate with an airplane category rating, a military pilot is not required to satisfy the aeronautical experience requirements of § 61.129(a) to obtain a commercial pilot certificate with an airplane category rating. Instead, § 61.73(a) allows military pilots to apply for a commercial pilot certificate with the appropriate aircraft category and class rating “on the basis of their military pilot qualifications” without taking a practical test.<sup>23</sup> Military

powered-lift pilots receive comprehensive training in an airplane and a rating qualification prior to transitioning to the powered-lift.<sup>24</sup> Military powered-lift pilots may therefore obtain a commercial pilot certificate with an airplane category rating and single-engine or multiengine class rating(s), as appropriate, based on their military pilot qualifications, provided the pilot satisfies the requirements of § 61.73.<sup>25</sup> Because the regulations allow a military powered-lift pilot to obtain a commercial pilot certificate with an airplane category rating without satisfying the aeronautical experience requirements of § 61.129, the FAA finds it unnecessary to revise § 61.129 in response to the commenter.

Two commenters suggested the FAA allow powered-lift credit toward the requirements for the flight instructor certificate and the flight instructor certificate with an instrument rating.<sup>26</sup> One commenter specifically mentioned instructor ratings obtained based on military competency, which is a term associated with § 61.73. Because the commenters did not provide specific detail about the kind of credit that the FAA should allow, the FAA will address both avenues for obtaining an instructor certificate based on military experience in accordance with § 61.73(g) and adding instructor ratings through the regular FAA certification process in accordance with § 61.183.<sup>27</sup>

or (2) logged 10 hours of pilot time as a military pilot in a U.S. military aircraft in the kind of aircraft category, class, and type (if applicable) for the aircraft rating sought. The evidentiary document that must be submitted in accordance with § 61.73(h)(2) is an official U.S. Armed Forces record that shows the person graduated from a U.S. Armed Forces undergraduate pilot training school and received a rating qualification as a military pilot.

<sup>24</sup> The training and testing received is acknowledged in FAA inspector guidance and was further validated based on discussions with current and former military pilots. A military powered-lift pilot obtains flight training and a rating qualification in an airplane prior to receiving training in the powered-lift aircraft. See FAA Order 8900.1, volume 5, chapter 12, section 15.

<sup>25</sup> A military pilot who holds a rating qualification in a single-engine airplane may only obtain a commercial pilot certificate with an airplane category single-engine class rating pursuant to § 61.73. The FAA emphasizes, however, that upon obtaining a commercial pilot certificate pursuant to § 61.73, that individual may add an airplane multiengine rating to his or her commercial pilot certificate in accordance with § 61.63(c).

<sup>26</sup> One of the individual commenters specified multiengine instructor and instrument instructor.

<sup>27</sup> Section 61.183 contains the eligibility requirements for obtaining a flight instructor certificate through the normal civilian certification process as opposed to obtaining a flight instructor certificate based on military competence under § 61.73(g).

<sup>18</sup> The V–22 Osprey is a twin-engine powered-lift aircraft in a tiltrotor configuration. The maximum takeoff weight is approximately 52,600 lbs. It is operated by the military.

<sup>19</sup> King Air 200 is a twin-engine turboprop aircraft. The military uses this aircraft for pilot training in addition to passenger transportation, cargo, and intelligence gathering. Maximum takeoff weight is typically 12,500 lbs.

<sup>20</sup> The FAA more fully explains § 61.73 and the ability for a military powered-lift pilot to apply for a commercial pilot certificate with an airplane category and appropriate class ratings later in this section.

<sup>21</sup> 14 CFR 61.159(a)(3).

<sup>22</sup> 14 CFR 61.156(b).

<sup>23</sup> Under § 61.73(b), a person who qualifies as a military pilot or former military pilot in the U.S. Armed Forces may apply for a pilot certificate and ratings under § 61.73(a) if that person, in part, presents evidentiary documents described under § 61.73(h)(2) and presents official U.S. military records that show, before the date of application, the person either: (1) passed an official U.S. military pilot and instrument proficiency check in a military aircraft of the kind of aircraft category, class, and type of aircraft (if applicable) for the ratings sought;

As with military pilot ratings, § 61.73 allows a military instructor to obtain an FAA flight instructor certificate based on prior military instructor experience in a particular category and class of aircraft. For military instructor pilots seeking a flight instructor certificate from the FAA based on military experience pursuant to § 61.73(g), experience as a military powered-lift instructor does not make that pilot eligible for a flight instructor certificate in the airplane category. To obtain a flight instructor certificate through military competence, a person must: (1) hold an FAA commercial pilot certificate or ATP certificate with the category and class ratings for the instructor privileges being sought; (2) hold an instrument rating, or have instrument privileges, on the pilot certificate that is appropriate to the flight instructor rating sought; and (3) provide documentation that demonstrates that the pilot has a military qualification as an instructor pilot or examiner, completed military instructor pilot or examiner training, and completed a proficiency check as a military instructor pilot or examiner in the instructor ratings sought. Because § 61.73(g) is solely based on a person's military instructor experience, it would be inappropriate to give an airplane instructor rating (or credit towards a rating) to a military instructor who did not instruct in airplanes.

For example, in order to obtain a flight instructor certificate with airplane category multiengine class ratings, a military pilot would have to obtain either a commercial pilot certificate (and instrument rating) with airplane category multiengine class ratings or an ATP certificate with an airplane category multiengine class ratings and demonstrate he or she was a military instructor in multiengine airplanes in accordance with § 61.73(g). The same would apply to instrument privileges. The military pilot would have to demonstrate he or she holds or held an instrument rating or instrument privileges in the appropriate category of aircraft for the instructor rating sought and was qualified as a military instrument instructor to obtain an instrument instructor rating on their flight instructor certificate.

As noted, a military pilot may be initially qualified in an airplane before receiving a powered-lift qualification, thereby allowing the pilot to receive both airplane and powered-lift ratings through military competency. A military powered-lift instructor, however, does not receive an initial qualification as a military airplane instructor. Therefore, a military powered-lift instructor is

eligible for only a powered-lift instructor rating through § 61.73(g).

To the extent that commenters suggested the FAA should issue airplane ratings on FAA flight instructor certificates based solely on military powered-lift instructor documentation, the FAA does not agree because these instructors have no specific military experience instructing in airplanes. Such an allowance would be inconsistent with the FAA's longstanding position that an instructor must demonstrate knowledge and skill in the category and class of aircraft in which he or she is going to instruct. With military competency, the instructor demonstrates this within the military system by obtaining a military instructor qualification and subsequently passing the FAA instructor knowledge test. Absent military competency, this demonstration is achieved through successful completion of the FAA knowledge test and practical test in accordance with § 61.183.

Section 61.183 prescribes the eligibility requirements for a person seeking an FAA flight instructor certificate or an additional flight instructor rating.<sup>28</sup> The FAA also disagrees with allowing military pilots to credit powered-lift time towards the flight time required for a flight instructor certificate with an airplane category rating under this section. The following paragraphs explain the FAA's rationale.

Section 61.183(c) requires an applicant for a flight instructor certificate to hold at least a commercial pilot certificate with the aircraft category and class rating appropriate to the flight instructor rating sought. As previously explained, a military powered-lift pilot is eligible for a commercial pilot certificate in the airplane category with the appropriate class rating based on the airplane rating qualification that the military pilot initially received prior to being qualified on the powered-lift. Therefore, the military powered-lift pilot already receives credit for his or her military experience as a pilot in an airplane to meet the eligibility requirement for a flight instructor certificate in § 61.183(c). The FAA has determined that where a military pilot cannot demonstrate prior military instructor experience in an airplane, it is not appropriate to give any credit toward an FAA instructor certificate with airplane ratings based on military instructor experience in a powered-lift. Rather, as with all instructors who seek to add an

additional instructor rating, a military powered-lift instructor must satisfy the requirements of § 61.183 to add an airplane instructor rating, which includes flight time, an instructor endorsement, and a practical test.

To the extent that the commenters were recommending flight hour credit for powered-lift time, the only flight time required for a flight instructor certificate is 15 hours as PIC in the category and class of aircraft for the flight instructor rating sought.<sup>29</sup> The FAA notes that a person who is already certificated as a flight instructor under part 61 is also required to have 15 hours as PIC in the category and class of aircraft for the rating sought when he or she seeks to add an additional rating on his or her flight instructor certificate.<sup>30</sup>

When the FAA first adopted this 15-hour requirement,<sup>31</sup> it applied only to flight instructors seeking an additional rating, and the FAA acknowledged the difficulty and expense involved in obtaining PIC time in aircraft such as multiengine airplanes and helicopters. However, the FAA determined it was necessary to require some actual PIC time in the aircraft in which the flight instructor will instruct.<sup>32</sup> In 1997, the FAA adopted § 61.183(j), which imposed the 15-hour flight time requirement on applicants for a flight instructor certificate.<sup>33</sup> The FAA still finds it necessary to require an applicant for a flight instructor certificate or an additional rating to obtain 15 hours of PIC time in the category and class of aircraft prior to providing flight instruction in that category and class of aircraft. This requirement is intended to prevent a flight instructor from giving multiengine flight instruction, for example, in a category and class of aircraft in which they do not have sufficient experience.<sup>34</sup> The military powered-lift

<sup>29</sup> 14 CFR 61.183(j). The FAA adopted this requirement for applicants seeking a flight instructor certificate in 1997. Final Rule, *Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules*, 62 FR 16220, 16273 (Apr. 4, 1997).

<sup>30</sup> 14 CFR 61.191. The FAA also notes that § 61.187 requires an applicant for a flight instructor certificate to obtain the flight training on the areas of operation listed in § 61.187 in an aircraft or FSTD that is representative of the category and class of aircraft for the flight instructor rating sought.

<sup>31</sup> Final Rule, *Certification: Pilots and Flight Instructors*, 38 FR 3156, 3160 (Feb. 1, 1973). The FAA notes that when it first proposed this flight time requirement, it proposed 25 hours of PIC time in the category and class of aircraft in which a rating is sought. NPRM, *Certification: Pilots and Flight Instructors*, 37 FR 6012, 6015 (Mar. 23, 1972). In the final rule, the FAA lowered the requirement to 15 hours in response to comments. 38 FR at 3161.

<sup>32</sup> 38 FR 3161.

<sup>33</sup> 62 FR 16220, 16273.

<sup>34</sup> 37 FR 6012, 6015.

<sup>28</sup> 14 CFR 61.191(a).

pilot may have PIC airplane time from his or her military experience that could be used to meet the 15-hour requirement, but ultimately that pilot will need to demonstrate knowledge and skill instructing in airplanes in order to receive a flight instructor certificate with an airplane category rating.

AWPC and two individuals commented that the FAA should allow military pilots to credit powered-lift time toward an ATP certificate with a rotorcraft category helicopter class rating.<sup>35</sup> The FAA is not adopting a similar credit for the aeronautical experience required for an ATP certificate in the rotorcraft category with a helicopter class rating. As explained in the NPRM, powered-lift are predominantly operated in the horizontal flight regime. When operated in this mode, the FAA finds that powered-lift are, for all practical purposes, operated like airplanes. Many commenters supported this rationale.<sup>36</sup> The FAA finds that there would be a minimal benefit to crediting powered-lift time towards an ATP certificate with a rotorcraft rating.

AWPC also suggested the FAA allow powered-lift time to be credited towards the ATP certificate with a powered-lift category rating. The FAA finds it unnecessary to make any revisions to § 61.163, which prescribes the aeronautical experience requirements for persons seeking an ATP certificate with a powered-lift category rating. Unlike the 250-hour PIC requirement in § 61.159(a)(5), which was airplane category-specific,<sup>37</sup> the 250-hour PIC requirement in § 61.163(a)(3) is powered-lift category specific. Therefore, military pilots may already credit their PIC time in a powered-lift towards this requirement.<sup>38</sup> The FAA notes that military pilots may credit their powered-lift time towards the other aeronautical requirements of § 61.163 as well.

One commenter stated that powered-lift time should be allowed to count towards “currency requirements”<sup>39</sup> for

both airplanes and helicopters. The commenter contended that many powered-lift pilots are being turned down from employment opportunities since they do not have recent experience in airplanes or helicopters.

Although the FAA understands the commenters’ concern, the FAA does not control an employer’s minimum requirements for hiring a pilot. It is the employer’s decision as to the acceptable level of recent experience they require of a potential employee.

One commenter questioned the accuracy of the cost analysis for this rulemaking. The commenter suggested that the FAA’s determination does not consider the total costs to the Federal Government, particularly to the Department of Defense (DoD). The commenter further suggested that the timing of this rulemaking could be costly to the armed services due to a convergence of circumstances that will exacerbate an existing pilot retention problem facing the armed services. The commenter urged the FAA to conduct another analysis of the cost impact to the entire Federal Government or request the armed services to provide feedback.

Two individuals submitted rebuttals to this commenter. One commenter stated that this proposal “seeks to rectify rules that unfairly and inadvertently handicapped Honorably Discharged powered-lift veterans from capitalizing on the same military competency rules as their traditional “fixed-wing” peers. Military competency rules are not politically based—they only recognize the high quality of military training and flight time and allow pilots the ability to easily transfer their flight time to earn FAA certificates.”<sup>40</sup> The other commenter agreed that the United States Air Force (USAF) has acknowledged a looming pilot shortage. However, the commenter stated that the United States Marine Corps (USMC) has not announced a pilot shortage, and this rulemaking primarily affects USMC aircraft. This commenter explained that the real issue is the correct accounting for experience gained by flying powered-lift and how that should translate to the FAA and civilian flight ratings and certification eligibility. The commenter asserted that, of the several aircraft mentioned in the NPRM, the USAF only flies a very small number of CV-22s; however, the individual who questioned the cost analysis based his entire argument on USAF pilot data.

In response to the commenter’s concerns that this rulemaking would further exacerbate the military pilot shortage, the FAA reviewed recent literature, studies, and data on this issue to identify the causes of the military pilot shortage. Military pilots separate from service for a variety of reasons, especially the large pay gap between commercial and military pilots, which this rulemaking does not directly affect. As a result, the FAA has concluded that this rulemaking by itself will not increase the attrition rate of powered-lift pilots due to the limited relief and the small number of pilots with powered-lift time affected by the rulemaking. For a more detailed discussion of the FAA’s reasons for this finding, please reference Section IV., Regulatory Notices and Analyses.

Furthermore, allowing military pilots to credit powered-lift time towards airplane time does not necessarily mean a pilot will leave the military sooner. In response to the commenter’s request, the FAA had conversations with the Department of Defense.<sup>41</sup> Following these conversations, the FAA concluded that, although this final rule could make a separation for civilian flying jobs more appealing, that is not adequate justification for not giving credit for the relevant experience a military powered-lift pilot has gained. That training and experience can transfer to airplane flying, and requiring these pilots to accrue additional airplane time to satisfy the airplane PIC requirement for an ATP certificate is unnecessary and burdensome.

#### *B. Minimum of 1,000 Hours in Air Carrier Operations To Serve as Pilot in Command in Part 121 Operations (§ 121.436)*

The *Airline Safety and Federal Aviation Administration Extension Act of 2010* (Pub. L. 111–216, “the Act”), directed the FAA to conduct rulemaking to improve the qualifications and training for pilots serving in air carrier operations. In support of the Act, the FAA published the *Pilot Certification and Qualification Requirements for Air Carrier Operations* final rule on July 15, 2013.<sup>42</sup> The rulemaking created new certification and qualification requirements for pilots in air carrier operations, including the addition of an experience requirement to serve as a PIC in part 121 operations.

Specifically, § 121.436(a)(3) requires pilots serving as PIC in part 121 operations to have, in addition to an

<sup>35</sup> 14 CFR 61.161 prescribes the aeronautical experience requirements for obtaining an ATP certificate in the rotorcraft category with a helicopter class rating. A pilot must have at least 75 hours of helicopter PIC time, or as SIC performing the duties of a PIC under the supervision of a PIC, to be eligible.

<sup>36</sup> See Docket No. FAA–2017–1106.

<sup>37</sup> Because this requirement was specific to the airplane category, flight time obtained in the powered-lift category could not be credited.

<sup>38</sup> Under § 61.51(j), a person may log flight time in a military aircraft under the direct operational control of the U.S. Armed Forces.

<sup>39</sup> In this context, the commenter is referring to employer established hiring requirements, not FAA requirements for currency.

<sup>40</sup> Docket Number: FAA–2017–1106–0136; Comment Tracking Number: 1k2–912t-fq9n.

<sup>41</sup> The FAA posted a record of conversation to FAA–2017–1106–0147.

<sup>42</sup> 78 FR 42324.

ATP certificate and an aircraft type rating, at least 1,000 hours of air carrier experience. Prior to this final rule, a pilot could satisfy the 1,000-hour air carrier experience requirement by using a combination of time serving as SIC in operations under part 121, or serving as PIC in operations under § 91.1053(a)(2)(i) or § 135.243(a)(1). One limitation on meeting the 1,000-hour air carrier experience requirement in § 121.436, however, was that it did not allow a pilot to use any flight time obtained as PIC in part 121 operations prior to July 31, 2013.<sup>43</sup> In addition, § 121.436(c) limited military flight time credit toward the 1,000-hour air carrier experience requirement to military time obtained as PIC of a multiengine, turbine-powered, fixed-wing airplane in an operation requiring more than one pilot.<sup>44</sup> Because the regulation expressly limited the creditable military flight time to PIC time acquired in fixed-wing airplanes, military pilots could not credit any of their military time obtained in multiengine, turbine-powered powered-lift aircraft towards the 1,000-hour air carrier experience requirement.

In the NPRM, the FAA proposed to amend these requirements to provide relief to pilots who obtained part 121 PIC experience prior to July 31, 2013, and to military pilots of powered-lift.

#### 1. Part 121 Experience Prior to July 31, 2013

In the NPRM, the FAA proposed to add new § 121.436(d) to allow experience gained as PIC in part 121 operations prior to July 31, 2013, to count towards the 1,000 hours of air carrier experience required by § 121.436(a)(3).

ALPA and an individual commenter supported this proposal. The FAA did not receive any opposing comments or recommended changes. Therefore, for the reasons explained in the NPRM,<sup>45</sup> the FAA is adding new § 121.436(d) as proposed.<sup>46</sup>

<sup>43</sup> As discussed more fully in the NPRM, the FAA granted petitions for exemption to allow pilots who had part 121 PIC experience prior to July 31, 2013, but were not employed as a part 121 PIC on July 31, 2013, to count their previously accrued part 121 PIC time towards the 1,000-hour air carrier experience requirement. The exemption allowed the pilot to serve as PIC in part 121 operations and permitted the part 119 certificate holder to employ the pilot as PIC.

<sup>44</sup> Under § 121.436(c), a military pilot may credit 500 hours of military flight time obtained as pilot in command of a multiengine turbine-powered, fixed-wing airplane in an operation requiring more than one pilot toward the 1,000-hour air carrier experience requirement.

<sup>45</sup> 82 FR at 55794–95.

<sup>46</sup> As discussed further in Section III.C of this preamble, the FAA is removing paragraph (d) (as it

#### 2. Military Time

In the NPRM, the FAA proposed to amend § 121.436(c) to allow military flight time accrued as PIC of a multiengine, turbine-powered powered-lift aircraft to be credited towards the 1,000-hour air carrier experience requirement. Consistent with the existing requirement in § 121.436(c), the proposal would have required the operation to require more than one pilot.

Delta Air Lines, CAPA, three military commenters, and one individual fully supported the proposal.

ALPA agreed that the powered-lift time should be credited towards the requirements of § 121.436. However, similar to ALPA's comments on proposed § 61.159(c)(5), ALPA believed the FAA should reduce the number of creditable hours. ALPA was concerned with the military pilot's ability to accurately track the time spent in horizontal flight and the FAA's ability to verify this flight time. ALPA also argued that it would be inappropriate for a pilot to credit time spent in horizontal flight with takeoffs and landings being conducted vertically. ALPA, however, did not recommend the amount of time it believed would be appropriate.

One individual commenter disagreed with ALPA's suggestion to limit the amount of powered-lift time that may be credited towards § 121.436(a). This commenter explained that pilots can accurately track time in horizontal flight, most takeoffs and landings are not vertical, and since the vertical time is already omitted, there should be no reduction in credit.

The existing requirement in § 121.436(c) limits the amount of military time that may be credited towards the 1,000-hour air carrier experience requirement to 500 hours. The FAA finds it unnecessary to further limit the amount of military time that may be credited merely because the flight time was obtained while operating a multiengine, turbine-powered, powered-lift aircraft in horizontal flight. As explained in the NPRM, military flight time obtained as PIC of transport category powered-lift provides significant multi-crew experience substantially similar to that obtained in transport category fixed-wing airplanes. The FAA also finds that allowing a military-trained PIC of a multiengine, turbine-powered, powered-lift aircraft to credit up to 500 hours towards the 1,000-hour air carrier experience required to serve as PIC of an aircraft,

existed prior to this final rule) from § 121.436 as unnecessary.

is consistent with the intent of § 121.436. The FAA has previously recognized the quality of military training and appreciates the complexity of those kinds of transport-like operations. In addition, the FAA has acknowledged that powered-lift are predominantly operated in the horizontal flight regime, much like an airplane.<sup>47</sup> The FAA maintains, however, that while there is value in this experience, these pilots operate in a unique system that is different from a part 121 air carrier environment and military pilots will benefit from spending some time serving as a required crewmember in a civilian air carrier operation before upgrading to PIC. This time will prepare them for operating in compliance with the FAA regulations that govern civil aviation, the air carrier's particular operating specifications, and the airplane's operations manual.

To the extent ALPA is concerned that a military powered-lift pilot will not have airplane experience, particularly in takeoff and landing, prior to serving as a PIC in part 121 operations, the FAA responds that military powered-lift pilots receive training and are checked in an airplane prior to transitioning to a powered-lift.<sup>48</sup> In addition, a military pilot is checked in all modes of flight (*i.e.*, horizontal, vertical) in a powered-lift during military proficiency checks, including the performance of takeoffs and landings. Finally, prior to serving as a SIC in part 121, the pilot will also have been evaluated on the ability to take off and land an airplane used in air carrier operations. Furthermore, because § 121.436(c) limits the amount of creditable military flight time to 500 hours, a military powered-lift pilot will still be required to obtain at least 500 hours in an airplane prior to serving as PIC in part 121 operations.<sup>49</sup> During this time, the pilot will obtain a significant amount of experience performing takeoffs and landings in the airplane category.

As discussed in Section III.A of this preamble, the FAA does not share ALPA's concerns about tracking and verifying the amount of powered-lift time spent in horizontal flight. Military powered-lift pilots will generally have well in excess of 500 hours of PIC time

<sup>47</sup> In horizontal flight, a powered-lift, like an airplane, is supported in flight by the dynamic reaction of the air against its wings.

<sup>48</sup> See Section III.A of the preamble to this final rule for a more detailed discussion of this training.

<sup>49</sup> Pursuant to § 121.436(a)(3), the pilot would be required to obtain the other 500 hours as SIC in operations under part 121, PIC in operations under § 91.1053(a)(2)(i), PIC in operations under § 135.243(a)(1), or any combination thereof.

in multiengine, turbine-powered powered-lift aircraft.<sup>50</sup> And, as many of the commenters attested to, a significant majority of the time spent in powered-lift is in horizontal flight.<sup>51</sup> For these reasons, the FAA finds it unnecessary to limit the amount of credit based on the fact that military pilots may not have tracked the exact number of hours spent in horizontal flight. Furthermore, as explained in Section III.A of this preamble, the evaluator will review and validate the pilot's records to determine if the amount of credit sought is appropriate.

For the reasons explained above, § 121.436(c) remains unchanged from the proposed rulemaking.

One commenter asked the FAA to allow select helicopter time to be credited towards the 1,000-hour air carrier experience requirement. The commenter argued that helicopters, such as the CH-46E,<sup>52</sup> are large aircraft, which have turbine-powered engines and are operated by more than one pilot. The commenter also stated that out of hover, the CH-46E is operated similarly to an airplane and frequently conducts running takeoffs and landings similar to an airplane.

In the 2013 final rule that established the air carrier experience required to serve as a PIC in part 121 operations, the FAA did not allow a PIC in a part 135 helicopter operation that requires that pilot to hold an ATP certificate by rule (§ 135.243) to credit that time. The FAA has determined that helicopter operations are not sufficiently similar to an air carrier operation or the environment in which an air carrier operates. While operations in a large helicopter, such as the CH-46E, may provide multi-crew experience in an aircraft that has turbine-powered engines, these operations are not substantially similar to operations in transport category fixed-wing airplanes. Unlike powered-lift, which are predominantly operated like an airplane when operated in horizontal flight, there are significant differences between helicopters and airplanes, including differences in operating speeds, typical operating altitudes, and aerodynamic

<sup>50</sup> Based on discussions with current and former military pilots, the FAA determined that a military powered-lift pilot will generally have between 1,000–2,500 hours of total powered-lift time, which includes about 500–1,250 hours of PIC powered-lift time.

<sup>51</sup> Commenters estimated that powered-lift aircraft are operated in horizontal flight between 80–99% of the time. These comments are available in the docket for this rulemaking at docket No. FAA-2017-1106.

<sup>52</sup> The CH-46E is a medium-lift tandem-rotor transport helicopter powered by twin turboshaft engines.

differences. As a result, the FAA finds that the differences outweigh the similarities too much to justify the credit for air carrier experience and these pilots would benefit from the additional time flying an airplane in the air carrier environment prior to upgrading to PIC.

### 3. Eligible On-Demand Experience in Part 135

As previously explained, the FAA proposed to revise § 121.436 by expanding the types of operational experience that may be credited toward the 1,000-hour air carrier experience requirement. Specifically, the FAA proposed to allow flight time obtained as PIC in part 121 operations prior to July 31, 2013, to count towards the 1,000-hour air carrier experience requirement. In addition, the FAA proposed to allow military pilots to credit certain powered-lift flight times towards 1,000 hours. In the NPRM, the FAA explained how these proposals were consistent with the intent of the 1,000-hour air carrier experience requirement, which was adopted in the 2013 final rule.

In the 2013 final rule, the FAA adopted § 121.436(a)(3) to require a PIC in part 121 operations to have 1,000 hours of air carrier experience. In addition, the FAA determined which operational experience may count towards the 1,000-hour requirement. In the preamble, the FAA explained that the intent of the 1,000-hour air carrier experience requirement in § 121.436(a)(3) is to prevent two pilots in part 121 operations with little or no air carrier experience from being paired together as crewmembers in line operations. In addition, the regulation ensures that pilots obtain at least one full year of relevant air carrier operational experience before assuming the authority and responsibility of a PIC in operations conducted in part 121 operations. The FAA ultimately determined that certain operational experience outside of serving as a SIC in part 121 may count towards the 1,000-hour air carrier experience requirement if the operations: (1) require an ATP certificate, (2) are multi-crew operations, and (3) generally use turbine aircraft. The FAA reasoned that these operations are most applicable to part 121 operations.

In response to the NPRM, Ameristar Air Cargo and Gulf & Caribbean Cargo asked the FAA to revise § 121.436(a)(3) to also allow operational experience obtained under part 135 where the PIC meets the requirements stated in

§ 135.4(a)(2)(ii)(A)<sup>53</sup> to count towards the 1,000-hour requirement. These commenters made a generalized argument that if a part 135 cargo-only PIC holds an ATP certificate and appropriate type rating, then that cargo flying time should count toward the air carrier experience requirement. They believed this rule change would be consistent with the intent of the 2013 final rule because it would include flight time where the PIC must hold an ATP certificate and has extensive experience in air carrier operations. In addition, an anonymous commenter asked the FAA to allow persons to credit time serving as PIC in eligible on-demand operations under § 135.4 to count towards the 1,000-hour air carrier experience requirement. This commenter explained that § 135.4 requires a two-pilot crew and, for operations in multiengine turbine-powered fixed-wing and powered-lift aircraft, the PIC is required to hold an ATP certificate with applicable type ratings. This commenter believed that not including these operations in the list of operational experience in § 121.436(a)(3) was an oversight.

Upon review of these comments, the FAA agrees that excluding certain eligible on-demand operations from the list of operational experience in § 121.436(a)(3) was an oversight.<sup>54</sup> In eligible on-demand operations where the PIC is required to satisfy § 135.4(a)(2)(ii)(A),<sup>55</sup> that PIC is exercising the privileges of an ATP certificate in a position where the certificate is required by rule in the United States. In addition, eligible on-demand operations conducted in accordance with this regulation are multi-crew operations and are conducted in turbine-powered aircraft. As explained in the 2012 NPRM,<sup>56</sup> these were the reasons the FAA proposed to allow flight time obtained as PIC in part 121 operations prior to July 31, 2013, to count towards the 1,000-hour air carrier experience requirement. Therefore, consistent with the proposal, the FAA is revising § 121.436(a)(3) to also include

<sup>53</sup> Under § 135.4(a)(2)(ii)(A), an “eligible on-demand operation” using multi-engine turbine-powered fixed-wing and powered-lift aircraft requires the PIC to hold an ATP certificate with applicable type ratings.

<sup>54</sup> On September 15, 2018, the FAA granted USA Jet Airlines an exemption from § 121.436(a)(3) allowing pilots to use the flight time gained as PIC at USA Jet Airlines in accordance with § 135.4(a)(2)(ii)(A) to count towards the 1,000-hour air carrier experience requirement. Exemption No. 17940 (Docket No. FAA-2015-6560).

<sup>55</sup> Section 135.4(a)(2)(ii)(A) requires the PIC to hold an ATP certificate.

<sup>56</sup> Pilot Certification and Qualification Requirements for Air Carrier Operations, 77 FR 12374, February 29, 2012.

operational experience obtained in eligible on-demand operations where the PIC is required to satisfy § 135.4(a)(2)(ii)(A). The FAA notes that this revision is also consistent with the intent of the 1,000-hour air carrier experience requirement, as evident from the preamble to the 2013 final rule.<sup>57</sup> Furthermore, for ease of readability, the FAA is reorganizing § 121.436(a)(3) by listing the creditable operational experience in subparagraphs (a)(3)(i) through (v).

Allowing eligible on-demand operations conducted in accordance with § 135.4(a)(2)(ii)(A) to count towards the 1,000-hour air carrier experience requirement will provide an avenue for pilots in part 135 all-cargo operations to accrue PIC time that may be credited towards the 1,000-hour requirement. However, to the extent Ameristar Air Cargo and Gulf & Caribbean Cargo believe that all part 135 cargo-only turbojet PIC flight time should be counted towards the 1,000-hour requirement in § 121.436(a)(3), the FAA disagrees. The regulations do not require a PIC of part 135 all-cargo turbojet operation to hold an ATP certificate.<sup>58</sup> As explained in the 2013 final rule and the NPRM to this final rule, the FAA determined that the ability to fly at the ATP certificate level and have demonstrated this proficiency during evaluation is an important regulatory differentiation.

The FAA first proposed that certain operations under part 135 should require an ATP certificate in 1977. In the 1977 NPRM, the FAA stated the requirement to hold an ATP certificate to act as PIC in some part 135 operations was “based in part on operational complexity and the number of persons carried, would provide a level of safety more comparable to that provided by part 121.”<sup>59</sup> The FAA still maintains this position. Operations under §§ 91.1053(a)(2)(i), 135.243(a)(1) and 135.4(a)(2)(ii)(A) require an ATP certificate, are multi-crew operations, generally use turbine aircraft, and therefore, are the most comparable to part 121 operations. In response to the commenters’ argument that a PIC who holds an ATP certificate should be allowed to credit time obtained in a part 135 cargo operation, the FAA disagrees. Because the regulations do not require an ATP certificate for cargo-only operations under part 135, the FAA finds that the operational complexity of

part 135 cargo operations is not substantially similar to operations conducted under part 121, §§ 135.243(a)(1), 135.4(a)(2)(ii)(A), and 91.1053(a)(2)(i). As explained in the 2013 final rule and the associated NPRM, while other parts 91 and part 135 operations may involve certain elements that are relatable to part 121 operations, the varied nature of operations does not make credit toward the 1,000-hour requirement appropriate. Therefore, because turbojet pilots in part 135 cargo operations are not required to hold an ATP certificate, the time accrued in such operations should not count toward the requirements of § 121.436(a)(3).

### C. Miscellaneous Amendments

Prior to this rulemaking, § 121.436(a)(3) contained an exception from the 1,000-hour air carrier experience requirement for pilots who “are” employed as PIC in part 121 operations on July 31, 2013. Because the date referenced in paragraph (a)(3) has passed, the FAA proposed to revise the statement to accept pilots who “were” employed as PIC in part 121 operations on July 31, 2013. The FAA received no comments on this proposed change. Therefore, the FAA is adopting this revision as proposed. However, due to the restructuring of § 121.436(a)(3), the FAA has decided to relocate this requirement from proposed § 121.436(a)(3) to § 121.436(e) for ease of readability.

In the NPRM, the FAA also proposed to remove paragraph (d) from § 121.436 (as it existed prior to this final rule) because the dates in the provision are no longer relevant, thereby making the requirements obsolete. The FAA did not receive any comments on this proposed change. The FAA is therefore removing paragraph (d) as proposed.<sup>60</sup>

### D. Comment Regarding the Regulatory Evaluation

In the NPRM, the FAA requested comments on whether the enactment of counting military powered-lift time towards airplane PIC time would change these pilots’ military retirement decisions. One commenter expressed concern that the rulemaking would exacerbate an existing pilot retention problem facing the military, specifically referring to the Air Force. The commenter pointed out that the FAA analysis did not consider the total costs to the Federal government, particularly to the Department of Defense. As the analysis did not consider the cost to

train and retain pilots, the commenter indicated he thought the analysis was lacking. The commenter pointed out that no analysis was performed on the impact the proposed rule change would have on the retention of military pilots. As more pilots retire from the armed forces, the military must increase the number of pilots trained in order to overcome this deficit.

In response to the commenter’s claim that this rulemaking would exacerbate the existing pilot retention problem, the FAA reviewed recent literature and publications on military pilot shortage. The FAA found that pilot retention problems likely arise for the following reasons:

a. Significant gap (approximately \$55,000 per year) between Air Force pilot pay (\$80,000 average salary plus a bonus of \$13,000, or a total of approximately \$93,000 per year)<sup>61</sup> and civilian pilot pay (\$148,010 average salary)<sup>62</sup>

b. In comparison to flying commercial aircraft in the civilian workforce, military pilots face higher occupational and safety risks while performing duties around the world. In addition, military pilots experience high burnout rates due to assignments up to one year away from home and families.<sup>63</sup>

c. After fifteen years of flying in uniform, military pilots get fewer flying assignments and more desk or managerial duties in their early forties,<sup>64</sup>

d. Military pilots serve, on average, about twenty years in the Air Force, and a large majority of them transition to become commercial airline pilots to earn much higher salaries for approximately another twenty years until the mandatory retirement age of 65 in commercial airlines.<sup>65</sup>

<sup>61</sup> [https://www.payscale.com/research/US/Job=U.S.\\_Air\\_Force\\_Fighter\\_Pilot/Salary/](https://www.payscale.com/research/US/Job=U.S._Air_Force_Fighter_Pilot/Salary/) Last accessed on December 17, 2021.

<sup>62</sup> <https://datausa.io/profile/soc/aircraft-pilots-flight-engineers> Last accessed on December 17, 2021.

<sup>63</sup> “Quality of life and service” section of this article starts with the following paragraph: “Job dissatisfaction, career dissatisfaction, frequent and long deployments, poor quality of life, non-competitive pay and lack of personal and professional development are among the reasons cited for why many experienced military pilots separate from military service,” the DOT study states. Source: <https://federalnewsnetwork.com/dod-personnel-notebook/2019/04/new-study-shows-grim-outlook-for-future-of-air-force-pilot-shortage/> Accessed on December 17, 2021.

<sup>64</sup> <https://www.defenseone.com/ideas/2016/07/us-air-force-short-700-fighter-pilots-our-plan/129907/?oref=d-skybox> Accessed on December 17, 2021. “. . . from dramatically reduced flying hours for the high-end fight as a result of Pentagon budget cuts. . . .” “We are . . . working to get help for fighter squadrons burdened with time-consuming administrative duties. . . .”

<sup>65</sup> <https://www.airforcetimes.com/news/your-air-force/2020/03/04/air-force-no-progress-in-closing->

<sup>57</sup> 78 FR at 42356–57.

<sup>58</sup> 14 CFR 135.243(a).

<sup>59</sup> Part 135 Regulatory Review Program Air Taxi Operators and Commercial Operators, 42 FR 43490, 43504, August 29, 1977.

<sup>60</sup> As previously discussed, the FAA is adding a new paragraph (d) to § 121.436.

Military pilots separate from service for these reasons that pre-exist this rule. In particular, the large pay gap between commercial and military pilots, which this rulemaking does not directly affect, plays a major role in the military retention problem. As a result, the FAA has concluded that this rulemaking by itself will not increase the attrition rate of powered-lift pilots due to the limited relief and the small number of pilots with powered-lift time affected by the rulemaking.

Recent reports suggest the Air Force is attempting to fill the projected gaps for 800 active duty pilots and 1,150 reserve pilots.<sup>66</sup> The Air Force needs 12,842 active duty pilots, 3,843 Air National Guard pilots, and 3,684 reserve pilots in a steady state.<sup>67</sup>

According to one pilot training school, 1,500 hours of required flight time can be earned in over 2 years.<sup>68</sup> The final rule allows a relatively small number of pilots (estimated 70 pilots against a total pool of over 12,800 military pilots) to get a credit of 250 hours of flight time towards the 1,500 hours needed for an ATP certificate. What this means is that military pilots switching to civilian commercial air carrier jobs will get the ATP certificate 4 to 6 months earlier.

Given average 20 years in military service and additional 20 years of potential civilian employment (a total combined 40 years of professional career for a pilot who started in the military and ended in commercial air carriers), a maximum potential gain of 6 months due to the rule is rather a small incentive for military pilots to accelerate their retirement or retire in very large numbers.

Although the FAA recognizes that this rulemaking could make separation for civilian flying jobs marginally more appealing, this will not substantively increase the attrition rate that the Air Force is trying to address because of broader, pre-existing reasons previously discussed. Further, the FAA emphasizes that the commenter's concern is not an adequate or appropriate justification for not giving credit for relevant experience a military powered-lift pilot has gained.

*pilot-shortfall* // "The Air Force in 2016 began increasingly to discuss the problem of pilot retention and its difficulty in holding on the skilled pilots in the face of a major hiring wave by deep-pocketed commercial airlines." Accessed on December 17, 2021.

<sup>66</sup> <https://federalnewsnetwork.com/dod-personnel-notebook/2019/04/new-study-shows-grim-outlook-for-future-of-air-force-pilot-shortage/> Accessed on December 17, 2021.

<sup>67</sup> *Ibid.* footnote 62.

<sup>68</sup> <https://atpflightschool.com/become-a-pilot/airline-career/how-long-to-become-a-pilot.html> Accessed on December 17, 2021.

That training and experience can transfer to airplane flying, and requiring these pilots to accrue additional airplane time to satisfy the airplane PIC requirement for an ATP certificate is unnecessary and burdensome. It could also be that crediting powered-lift time towards airplane time does not necessarily mean a pilot will leave the military sooner.

#### IV. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct 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, the 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 the base year of 1995).

In conducting these analyses, the FAA has determined that this rule has benefits that justify its costs and is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866. The rule will not have a significant economic impact on a substantial number of small entities, will not create unnecessary obstacles to the foreign commerce of the United States, and will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector by exceeding the threshold identified previously. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

#### A. Regulatory Evaluation

The rulemaking will be relieving to pilots and air carriers by expanding opportunities for pilots that meet the amended criteria to use relevant flight experience toward the requirements for an ATP certificate and to meet PIC

qualification requirements for air carrier operations. The FAA identifies cost savings and benefits from the rule for the following parts:

#### 1. ATP Aeronautical Experience Requirements (§ 61.159)

Amendment of § 61.159(a)(5) to allow military pilots to credit experience in military powered-lift flown in horizontal flight towards the 250 hours of airplane time as pilot in command (PIC), or second in command (SIC) performing the duties of PIC while under the supervision of a PIC, required for the certificate. This rule will relieve those military pilots who are seeking an ATP certificate in the airplane category of the expense of accruing civilian PIC flight time in airplanes to meet the PIC airplane time requirement. The FAA notes that the multiengine airplane ATP certificate is required to serve at a part 121 air carrier.<sup>69</sup> At an estimated \$175 an hour per flight hour,<sup>70</sup> the value of 250 flight hours is a cost savings of \$43,750<sup>71</sup> per pilot.

Examples of powered-lift for which pilots could receive credit include<sup>72</sup> the AV–8B, which is a single-engine aircraft, and the MV–22, which is a multiengine aircraft. The FAA obtained data<sup>73</sup> on the number of pilots with experience in these aircraft that separated from the U.S. Marine Corps<sup>74</sup>

<sup>69</sup> Although the part 121 air carrier requires a multiengine airplane ATP certificate, the PIC time in airplanes required for an ATP certificate is not category specific. Therefore, the FAA estimates the military pilot would use a single-engine airplane to accrue the necessary time because it is the cheaper option.

<sup>70</sup> A newer Cessna 182 rents for \$175 per hour "wet" that includes maintenance, insurance, fuel, airport fees and additional duties or taxes. Source: <https://www.aopa.org/go-fly/aircraft-and-ownership/buying-an-aircraft/reducing-the-cost-of-flying>. Accessed December 17, 2021. This is an appropriate estimate for avoided training center or flight time costs because military pilots seeking a commercial pilot certificate will choose a lower cost alternative to obtain it. Part 61 rules do not specify which type of aircraft needs to be flown to accrue required flight time. Cessna 182 represents a reasonable average airplane type typically chosen to obtain a commercial pilot certificate. <https://www.aopa.org/training-and-safety/active-pilots/safety-and-technique/operations/commercial-pilot-certificate>, Accessed on December 17, 2021.

<sup>71</sup> This cost savings estimate has been updated from the NPRM's \$37,500 (\$150/hour × 250 hours) as the FAA used \$175/hour in estimating cost savings.

<sup>72</sup> Flight-time in an F–35B can also be credited, but as these aircraft are new, there is not sufficient data on pilots separating from the military with experience in this aircraft. Therefore, the FAA did not include F–35B pilots in its estimates.

<sup>73</sup> Marine Corps Total Force System, Total Force Data Warehouse, U.S. Marine Corps.

<sup>74</sup> The majority of the aircraft this rule affects are flown in the U.S. Marine Corps. Although the U.S. Marine Corps has the majority of these pilots, the U.S. Air Force also has some powered-lift pilots. As

Continued

each year between 2014 and 2018. An average of 70 pilots per year, with experience in these two aircraft, separated from the U.S. Marine Corps over the years 2014 to 2018. The data did not indicate the number of hours of experience each pilot had, nor did it indicate how many will seek an ATP certificate and apply their military experience. The FAA makes the simplifying assumption that each year all of these 70 pilots will apply 250 hours of military PIC experience in powered-lift while in horizontal flight towards an ATP certificate in the airplane category. The resulting cost savings over a 10-year analysis period is \$30.6 million<sup>75</sup> undiscounted or \$21.5 million and \$26.1 million discounted at 7 percent and 3 percent discount rates, respectively. The annualized value of estimated cost savings is \$3.1 million using either a 7 percent or 3 percent discount rate.

Pilots might also save additional expenses, such as the cost of travel and lodging, which they might otherwise incur to reach a location, such as a flight school, where they can obtain flight time. These pilots might further benefit by advancing more quickly in their careers and receiving higher pay sooner as well.

## 2. Part 121 Experience Prior to July 31, 2013 (§ 121.436)

Modification of the part 121 air carrier experience required to serve as a PIC will allow credit for experience as PIC if a pilot held that position prior to July 31, 2013.<sup>76</sup> Currently, such experience does not count towards qualifying to be a PIC without filing for an exemption. This recognition of previous status and qualification for part 121 PIC employment service will relieve the individual pilots, part 121 air carriers that will employ those pilots, and the Federal government of procedural costs for developing, filing, and reviewing petitions for exemption. The combined cost of an exemption to the pilots and the FAA is about \$1,500.<sup>77</sup> The FAA has

the FAA does not have data on the number of Air Force pilots, the cost savings may be underestimated. In addition, the FAA received input from comments that the U.S. Air Force flies a very small number of affected powered-lift aircraft.

<sup>75</sup> Using the previously estimated \$43,750 cost savings per pilot, annual cost savings would be \$3,062,500 ( $=\$43,750 \times 70$  pilots) or \$30,625,000 over a 10-year period in undiscounted dollars.

<sup>76</sup> Cost savings due to the part 121 experience prior to July 31, 2013, are likely to decrease over the 10-year period of analysis as there would be fewer pilots who would be filing for an exemption.

<sup>77</sup> This cost assumption is based on a review of FAA exemption information received between 2013 and 2019.

granted eight such exemptions<sup>78</sup> to individual pilots over the years 2013 to 2019. Each exemption costs \$1,500 and has to be renewed every 5 years. Assuming the number of exemptions will continue at the same rate ( $1.14 = 8$  exemptions  $\div$  7 years), one exemption (rounding down to one per year) is expected to be issued every year without the rule. Given the exemption renewal cycle every five years during the 10-year analysis period of the rule, the FAA estimates a total of 21 renewals—8 in year one through year five and 13 in years six through ten. The FAA estimates the cost savings due to avoided exemptions will be \$46,500 undiscounted<sup>79</sup> or \$30,795 and \$38,668 discounted at seven percent and three percent, respectively. The annualized value of estimated cost savings due to avoidance of these 31 exemptions in total, including 10 new ones and 21 renewals over a 10-year period, is \$4,384 and \$4,533 at seven percent and three percent discount rates, respectively.

## 3. Military Time (§ 121.436)

Amends § 121.436(c) by expanding the 500 hours of credit a military pilot can take for PIC time in a multiengine, turbine-powered, fixed-wing airplane, accrued in a multi-crew environment that is currently allowed to apply towards the 1,000 hours of air carrier experience required to serve as a PIC in part 121, to include PIC experience in a powered-lift. Allowing powered-lift flight time obtained in the military to be credited to experience required to serve as a PIC could allow pilots with this experience to advance more quickly in their careers and conceivably benefit from higher wage rates 6 to 9 months<sup>80</sup> sooner than if they had to accumulate the experience while working at an air carrier as a SIC. Consequently, their lifetime earnings as airline pilots could

<sup>78</sup> Exemption No. 13993 (Docket No. FAA-2014-0658); Exemption No. 15473 (FAA-2016-1287); Exemption No. 17177 (FAA-2016-9249); Exemption No. 18197 (Docket No. FAA-2019-0030); Exemption No. 17819 (Docket No. FAA-2017-1165); Exemption No. 17902 (Docket No. 2018-0252); Exemption No. 18288 (Docket No. 2019-0432); and Exemption No. 18309 (Docket No. 2019-0555).

<sup>79</sup> During the 10-year period of analysis, the FAA assumed there will be one new exemption request each year, or 10 new exemption requests, and one renewal request each year after year six until year 10, or 5 renewals in addition to 8 exemptions that will come to renewal twice between 2021 and 2029 (16 renewals). Total number of exemption requests both new and renewals would be 31 (10 new + 21 renewals). Therefore, the total undiscounted cost savings estimate would be \$46,500 ( $31 \times \$1,500$ ).

<sup>80</sup> The FAA estimates that on average an airline pilot will fly 55–85 hours per month. This equates to a range of 6–9 months to accrue 500 hours of flight time.

increase because they could advance to a higher-paying job sooner. However, this more rapid advance is more realistic for pilots working at regional carriers because upgrade time at major airlines proceeds more slowly. The FAA did not quantify this benefit because there is not an estimate for the number of military powered-lift pilots that separate from the military and are subsequently hired by an airline. As a result, the FAA does not have an estimate on how many are hired by a major airline versus a regional airline. Finally, the time it takes to upgrade to PIC can be highly variable depending on the individual air carrier and, over time, the varying state of the industry, making a quantification of benefits extremely difficult.

## 4. Eligible On-Demand Experience in Part 135 (§ 121.436)

Amends § 121.436(a)(3) to allow eligible on-demand pilots that meet the requirements of § 135.4(a)(2)(ii)(A) to credit that PIC time towards the 1,000 hours of flight time required to serve as PIC in part 121. This will allow pilots with this experience to accelerate more quickly in their careers. It could also avoid the need for exemptions from this provision. The FAA did not quantify this savings because the FAA does not have an estimate of the number of pilots that could take advantage of this relief and the variability in the time it takes to upgrade to PIC from one air carrier to another makes the quantification of benefits difficult.

## 5. Summary of Total Quantified Cost Savings

The FAA quantified these two cost savings: (1) cost savings due to 250 hours of military PIC experience in powered-lift while in horizontal flight credited towards ATP experience requirements, and (2) cost savings due to avoided exemptions.

The total quantified cost savings over a 10-year period will be \$30,671,500 (\$30,625,000 + \$46,500) undiscounted or \$21,540,513 (\$21,509,718 + \$30,795) and \$26,162,414 (\$26,123,746 + \$38,668) discounted at seven percent and three percent discount rates, respectively. The annualized value of estimated total cost savings due to 250 hours of military PIC experience credit and avoided exemptions over a 10-year period is \$3,066,884 (\$3,062,500 + \$4,384) and \$3,067,033 (\$3,062,500 + \$4,533) at seven percent and three percent discount rate, respectively.

Therefore, the FAA has determined that this rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866.

### B. Regulatory Flexibility Act

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.

The rulemaking will be relieving to pilots who take the opportunity to reduce the cost of earning an ATP certificate<sup>81</sup> by applying flight time obtained in powered-lift in the military to meet the airplane PIC flight time requirements. It will also be relieving to pilots who would like to advance more quickly in their careers by applying flight time earned in eligible powered-lift operations in the military, flight time earned during certain part 135 eligible on-demand operations, and part 121 PIC flight time earned prior to July 31, 2013, to further their careers into a position as PIC in part 121 operations.

The FAA has determined this rulemaking will not impose a significant economic impact on a substantial number of small entities because it will

be relieving to pilots, and pilots are not small entities.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

### C. International Trade Impact Assessment

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 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 is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that the rule will have the same impact on international and domestic flights and is a safety rule and thus is consistent with the Trade Agreements Act.

### D. 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 \$165 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.

### E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

### F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

### G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from the 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 paragraphs 5–6.6 and involves no extraordinary circumstances.

## V. Executive Order Determinations

### A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will 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.

### B. Executive Order 13211, 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. The agency has determined that it is not a “significant energy action” under the executive order, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

### C. Executive Order 13609, International Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed

<sup>81</sup> The FAA acknowledges that some providers of training schools and facilities providing flight services to pilots might lose revenue due to reduced demand for such services by pilots directly affected by this rule. However, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates small entities. This final rule does not directly affect the aviation training schools and other related service providers. Therefore, the FAA did not analyze the indirect impacts of this rule on those small training schools and providers.

this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

**VI. How To Obtain Additional Information**

*A. Electronic Filing and Access*

A copy of the notice of proposed rulemaking (NPRM), all comments received, the final rule, and all background material may be viewed online at <https://www.regulations.gov> using the docket number listed above. A copy of this rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s website at <https://www.federalregister.gov> and the Government Publishing Office’s website at <https://www.govinfo.gov>. A copy may also be found on the FAA’s Regulations and Policies website at [https://www.faa.gov/regulations\\_policies](https://www.faa.gov/regulations_policies).

Copies may also be obtained 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) 267-9677. Commenters must identify the docket or amendment number of this rulemaking.

All documents the FAA considered in developing this final rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

*B. 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. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit [http://www.faa.gov/regulations\\_policies/rulemaking/sbre\\_act/](http://www.faa.gov/regulations_policies/rulemaking/sbre_act/).

**List of Subjects**

14 CFR Part 61

Aircraft, Airmen, Aviation safety.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety.

**The Amendment**

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

**PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS**

■ 1. The authority citation for part 61 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 44729, 44903, 45102–45103, 45301–45302; Sec. 2307 Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note).

■ 2. Amend § 61.159 by revising paragraph (a)(5) to read as follows:

**§ 61.159 Aeronautical experience: Airplane category rating.**

(a) \* \* \*

(5) 250 hours of flight time in an airplane as a pilot in command, or as second in command performing the duties of pilot in command while under the supervision of a pilot in command, or any combination thereof, subject to the following:

(i) The flight time requirement must include at least—

(A) 100 hours of cross-country flight time; and

(B) 25 hours of night flight time.

(ii) Except for a person who has been removed from flying status for lack of proficiency or because of a disciplinary action involving aircraft operations, a U.S. military pilot or former U.S. military pilot who meets the requirements of § 61.73(b)(1), or a military pilot in the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation who meets the requirements of § 61.73(c)(1), may credit flight time in a powered-lift aircraft operated in horizontal flight toward the flight time requirement.

\* \* \* \* \*

**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(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95 126 Stat 62 (49 U.S.C. 44732 note).

■ 4. Amend § 121.436 by revising paragraphs (a)(3), (c), and (d) and adding paragraph (e) to read as follows:

**§ 121.436 Pilot Qualification: Certificates and experience requirements.**

(a) \* \* \*

(3) If serving as pilot in command in part 121 operations, has 1,000 hours as:

(i) Second in command in operations under this part;

(ii) Pilot in command in operations under § 91.1053(a)(2)(i) of this chapter;

(iii) Pilot in command in operations under § 135.243(a)(1) of this chapter;

(iv) Pilot in command in eligible on-demand operations that require the pilot to satisfy § 135.4(a)(2)(ii)(A) of this chapter; or

(v) Any combination thereof.

\* \* \* \* \*

(c) For the purpose of satisfying the flight hour requirement in paragraph (a)(3) of this section, a pilot may credit 500 hours of military flight time provided the flight time was obtained—

(1) As pilot in command in a multiengine, turbine-powered, fixed-wing airplane or powered-lift aircraft, or any combination thereof; and

(2) In an operation requiring more than one pilot.

(d) For the purpose of satisfying the flight hour requirement in paragraph (a)(3) of this section, a pilot may credit flight time obtained as pilot in command in operations under this part prior to July 31, 2013.

(e) For those pilots who were employed as pilot in command in part 121 operations on July 31, 2013, compliance with the requirements of paragraph (a)(3) of this section is not required.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a)(5), and 44703 in Washington, DC.

**Billy Nolen,**

*Acting Administrator.*

[FR Doc. 2022–20328 Filed 9–20–22; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF THE INTERIOR**

**National Indian Gaming Commission**

**25 CFR Part 522**

**RIN 3141–AA73**

**Submission of Gaming Ordinance or Resolution**

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Final rule.

**SUMMARY:** The National Indian Gaming Commission (NIGC) is amending the procedures for Submission of Gaming Ordinance or Resolution under the Indian Gaming Regulatory Act. The