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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 61 and 121

[Docket No. FAA-2006-26139; Amendment Nos. 61-123 and 121-344]

RIN 2120-AJ01

#### Part 121 Pilot Age Limit

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Code of Federal Regulations to conform certain regulations with recent legislation raising the upper age limit for pilots serving in domestic, flag, and supplemental operations until they reach their 65th birthday. The legislation, known as the “Fair Treatment for Experienced Pilots Act,” raised the upper age limit from age 60 to age 65. The legislation became effective December 13, 2007. The intended effect of this action is to update the Code of Federal Regulations to reflect the recent legislation.

**DATES:** These amendments become effective July 15, 2009. Except as otherwise required by statute, affected parties do not have to comply with the information collection requirements in §§ 61.23 and 121.440 until the FAA publishes in the **Federal Register** the control number assigned by the Office of Management and Budget (OMB) for these information collection requirements. Publication of the control number notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this rule contact Lawrence Youngblut, Air Transportation Division, AFS-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9630, e-mail [lawrence.youngblut@faa.gov](mailto:lawrence.youngblut@faa.gov). For legal

questions concerning this rule contact Angela Washington, Office of the Chief Counsel, AGC-210, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7556; e-mail [angela.washington@faa.gov](mailto:angela.washington@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

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

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

##### 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. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, [http://www.faa.gov/regulations\\_policies/rulemaking/sbre\\_act/](http://www.faa.gov/regulations_policies/rulemaking/sbre_act/).

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking fulfills the mandate of H.R. 4343, the “Fair Treatment for Experienced Pilots Act,” Pub. L. 110-135, hereinafter referred to as the Act.

##### Background

On December 13, 2007, the President signed into law the Act, which raised the upper age limit for pilots serving in 14 CFR part 121 air carrier operations to age 65. The legislation took effect December 13, 2007. As of that date, § 121.383(c) of the Code of Federal

Regulations (14 CFR 121.383(c)) ceased to be effective. Section 121.383(c) prohibited any air carrier or commercial operator conducting flights under part 121 from using the services of any person as a pilot, and prohibited any person from serving as a pilot, on an airplane engaged in operations under part 121 if that person had reached his or her 60th birthday.

The Act has now been codified at 49 U.S.C. Section 44729. Section 44729 of Title 49 allows a pilot to “serve in multicrew covered operations until attaining 65 years of age,” subject to certain limitations. For the purposes of the Act, “Covered Operations” means “operations under part 121 of Title 14, Code of Federal Regulations.” The Act specifies a limitation for international flights. Pursuant to § 44729(c)(1), “A pilot who has attained 60 years of age may serve as pilot-in-command in covered operations between the United States and another country only if there is another pilot in the flight deck crew who has not yet attained 60 years of age.” Section 44729(c)(2) states that paragraph (c)(1) ceases to be effective “on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.”

Section 44729(e)(1) states “No person who has attained 60 years of age before the date of enactment of this section may serve as a pilot for an air carrier engaged in covered operations unless—

(A) such person is in the employment of that air carrier in such operations on such date of enactment as a required flight deck crew member; or

(B) such person is newly hired by an air carrier as a pilot on or after such date of enactment without credit for prior seniority or prior longevity for benefits or other terms related to length of service prior to the date rehired under any labor agreement or employment policies of the air carrier.”

Section 44729(g)(1) requires that, except as provided by paragraph (g)(2) “a person serving as a pilot for an air carrier engaged in covered operations shall not be subject to different medical standards, or different, greater, or more frequent medical examinations, on account of age unless the Secretary determines (based on data received or studies published after the date of enactment of this section) that different medical standards, or different, greater, or more frequent medical examinations, are needed to ensure an adequate level of safety in flight.”

Section 44729(g)(2) states that “No person who has attained 60 years of age may serve as a pilot of an air carrier engaged in covered operations unless the person has a first-class medical certificate. Such a certificate shall expire on the last day of the 6-month period following the date of examination shown on the certificate.”

Section 44729(h)(1) requires that “Each air carrier engaged in covered operations shall continue to use pilot training and qualification programs approved by the Federal Aviation Administration, with specific emphasis on initial and recurrent training and qualification of pilots who have attained 60 years of age, to ensure continued acceptable levels of pilot skill and judgment.”

Section 44729(h)(2) requires that “Not later than 6 months after the date of enactment of this section, and every 6 months thereafter, an air carrier engaged in covered operations shall evaluate the performance of each pilot of the air carrier who has attained 60 years of age through a line check of such pilot. Notwithstanding the preceding sentence, an air carrier shall not be required to conduct for a 6-month period a line check under this paragraph of a pilot serving as second-in-command if the pilot has undergone a regularly scheduled simulator evaluation during that period.”

This final rule implements congressional legislation by conforming FAA regulations to statutory requirements. It was Congress’ objective to impact rules governing the age limitation requirements (and associated medical certificate and training requirements) of pilots engaged in operations under part 121. However, part 121 contains regulations imposing the same age limitation on check airmen and flight instructors. Specifically, check airmen and flight instructors who have reached their 60th birthday may not serve as pilot flight crewmembers in part 121 operations. Yet, Congress did not specifically amend those requirements. We do not believe that Congress intended that the age limitation imposed on a particular population of pilots should be different than that imposed on check airmen and flight instructors when they serve as pilot flight crewmembers, especially when, prior to the legislation’s enactment, the age limitation was the same for all airmen. To maintain that consistency, the FAA is amending §§ 121.411 and 121.412 to raise the age limit from age 60 to age 65, thus allowing check airmen and flight instructors to serve as pilot flight

crewmembers until they reach the age of 65.

Likewise, part 61 contains similar age restrictions for pilots operating civil airplanes of U.S. registry. Section 61.3(j) prohibits a person who holds a part 61 pilot certificate from serving as a pilot in certain international air services and air transportation operations if the pilot has reached the age of 60. Also, § 61.77(e) prohibits a person who holds a part 61 special purpose pilot authorization from serving as a pilot in certain international air services and air transportation operations if the pilot has reached the age of 60. While part 61 encompasses operations conducted under part 121, it could also include operations governed by parts 125 and 129. These are not “covered operations” pursuant to the Act. Although Congress did not directly mandate amendments to these provisions, the FAA believes Congress clearly intended to implement the ICAO age requirements for pilots operating internationally, allowing them to conduct commercial air transportation operations under certain conditions until the age of 65. The ICAO standard increases the upper age limit for commercial pilots operating two pilot aircraft. In operations with more than one pilot, ICAO standard 2.1.10.1 allows a person to serve as a pilot in command of an aircraft engaged in international commercial air transport operations until his or her 65th birthday if the other pilot is younger than 60 years of age. Again, we do not think it was the intent of Congress to treat that population of pilots who conduct operations under parts 125 and 129 any differently than pilots conducting operations under part 121. Thus, the FAA is also amending the applicable provisions of part 61 to reflect the new upper age limit.

Additionally, the ICAO standard places no limitation on whether a pilot is operating between his or her home state and another country or whether he or she is operating between two international territories. Because we believe Congress intended to implement ICAO standards, we do not think that it intended to limit pilots over the age of 60 from operating between two international territories. However, the crew pairing provision of the Act does not address this scenario. The crew pairing provision states that a pilot over the age of 60 could serve as a pilot in command in covered operations between the United States and another country, assuming there was another pilot as part of the flight deck crew under the age of 60. This provision is not entirely consonant with the ICAO standard. The unintended consequence

under the statute would lead to a contradiction with ICAO standards for international flights, which include those flights between two countries outside of the United States. The FAA believes that one of the primary purposes of the Fair Treatment Act is to harmonize FAA regulations with ICAO standards, and we have amended our regulations to reflect those standards. This rule allows a person over the age of 60 to serve as a pilot in command in covered operations between the United States and another country, and in operations between other countries, if there is another pilot in the flight deck crew under the age of 60.

#### **Good Cause for Immediate Adoption of This Final Rule**

Section 4 of the Administrative Procedure Act (APA) (5 U.S.C. section 553(b)(B)) authorizes agencies to dispense with notice and comment procedures for rules when the agency for “good cause” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

The FAA finds that notice and public comment to this final rule are unnecessary and contrary to the public interest. This final rule is a result of the Act. Because this rule implements Congressional mandates, good cause exists for the FAA to amend without notice its rules concerning pilot age limits. A legislative mandate of this nature makes it unnecessary to provide an opportunity for notice and comment. Further, good cause exists for making this rule effective upon publication to minimize any possible confusion. In addition, the FAA has determined good cause exists to amend without notice the part 61 and §§ 121.411 and 121.412 provisions regarding age limitations. If we do not correct the language in the CFR, we are likely to receive numerous petitions for exemption, because the published language is not consistent with the statute. Since the FAA would not have safety or policy reasons to deny the exemptions, we have included these amendments in the final rule.

#### **Discussion of Dates**

The Act was effective on December 13, 2007. However, pending publication of this rule, the FAA has not enforced the Age 60 rule since December 13, 2007, in a manner inconsistent with the Act. This final rule, which promulgates conforming amendments to the FAA’s regulations as well as other amendments deemed necessary as a result of

Congressional legislation, is effective upon publication in the **Federal Register**.

#### **International Compatibility**

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

#### **Paperwork Reduction Act**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted a copy of the information collection requirements in this final rule to the Office of Management and Budget for its review. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

This final rule requires all pilots over the age of 60 who serve in part 121 operations to hold an FAA first-class medical certificate, valid for 6 months. Some pilots who serve as second-in-command (or co-pilots) on certain part 121 operations may hold an FAA second-class medical certificate, valid for 12 months. Pursuant to this rulemaking, those pilots who serve as second-in-command must obtain an FAA first-class medical certificate every 6 months instead of the previously required annual second-class medical certificate. Also, all pilots serving in

part 121 operations over age 60 must be evaluated, through a line check, every 6 months. Current regulations only require pilots-in command to be evaluated, through a line check, every 12 months.

The FAA estimates that airlines, pilots, and the FAA will incur additional paperwork burdens (and hence an increase in paperwork costs). Over a 15-year period, total paperwork costs would be approximately \$11.7 million. Total paperwork costs are composed of record keeping costs and reporting costs.

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

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

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States.

In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final

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

In conducting these analyses, FAA has determined that the Act: (1) Has benefits that justify its costs; (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866; (3) is "significant" as defined in DOT's Regulatory Policies and Procedures because of Congressional and public interest. Accordingly, this final rule has been reviewed by the Office of the Secretary of Transportation and the Office of Management and Budget; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses are summarized below.

#### **Total Benefits and Costs of the Act**

The following table enumerates the total costs and benefits of the Act over a 15-year period and then summarizes net benefits as the discounted present value of the stream of benefits and costs. Both accounting costs and economic costs are shown. The accounting costs are relevant because they show the distributional effects of the Act—a net transfer from airlines and consumers to pilots. The economic net benefits of the Act suggest that society is better off with the Act than without it.

(BENEFITS) AND COSTS OF CHANGING PILOT MANDATORY RETIREMENT AGE TO 65  
 [Constant 2007 dollars]

	Sections 61.23, 121.383, 121.411 and 121.412						Sections 61.3(j) and 121.440					
	Salary	Pension contributions	Disability pay	Retirement	Training	Re-programming	Additional pilots scheduling and vacation	Medical certificate	Salary	Line check	Total constant dollar costs <sup>2</sup>	DPV total costs <sup>2</sup>
Total (Accounting Costs) .....	\$2,253,407,476	\$155,872,313	\$1,173,427,286	(\$39,887,500)	(\$621,985,624)	\$0	\$51,444,611	\$5,306,821	\$3,818,813	\$31,180,154	\$3,012,584,349	\$1,762,743,114
Total (Economic Costs) .....	0	0	0	(39,042,500)	(439,768,672)	0	35,917,440	5,060,459	3,818,813	31,180,154	(402,834,306)	(333,614,036)

**Notes:**

- (1) Results of the accounting and economic costs estimates use different unit costs and therefore show different results in each cost category.
- (2) Excludes paperwork costs, which are insignificant relative to the proposed rule's other costs. See section IV for more details on these costs.

It is important to note that negative figures in the above table are benefits of the Act. Because the mandatory retirement age has been increased to age 65, airlines and consumers will incur “real costs” and “transfer payments” totaling \$1.8 billion (present value) over 15 years, but society will have a cost savings or net benefit of \$334 million in terms of real resource use (real costs reflect real resource use, whereas transfer payments are monetary payments from one group to another that do not affect total resources available to society).

In addition to the above quantified benefits, the FAA estimates that the Act will result in an increase in the supply of pilots of approximately 12 percent over 5 years. In particular, there may be a public interest in taking advantage of the experience of pilots aged 60 to 65. In addition, the Act makes FAA regulations consistent with ICAO Amendment 167 by increasing the “upper age limit” for pilots operating in “international commercial air transport operations” up to age 65. Previously,

pilots certificated outside the United States and flying for a foreign air carrier on a non-U.S. registered aircraft, who were over age 60, were permitted to fly into the United States under ICAO standards through operation specifications. FAA has not estimated the value of these benefits because they are unquantifiable.

**Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.” To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. 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 proposed or final rule would have a significant economic impact on a substantial number of small entities. If the agency determines that it would, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 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 basis for such determination follows.

The Small Business Administration suggests that “small” represent the impacted entities with 1,500 or fewer employees. FAA identified a total of 48 air carriers that meet this definition, as shown below.

**Small Business Exposure to Act**

**CLASSIFICATION OF BUSINESSES**

Operator FAR	Large	Small	Unknown	Grand total
121 .....	55	32	5	92
121/135 .....	1	16	2	19
<b>Grand Total</b> .....	<b>56</b>	<b>48</b>	<b>7</b>	<b>111</b>
<b>Percentage</b> .....	<b>50%</b>	<b>43%</b>	<b>6%</b>	<b>100%</b>

Small = 1,500 employees or less

For each of these entities, FAA attempted to retrieve revenue data published in Form 41. The Form 41 financial reports contain financial information on certificated U.S. air carriers. This data is collected by the Office of Airline Information of the Bureau of Transportation Statistics. Consideration was made for the most recent quarterly data available, such that no data is for years prior to fiscal 2005. If data was not available in any quarter, the FAA assigned the last quarterly figures available. FAA also employed sources such as Dun & Bradstreet, Yahoo Finance (<http://finance.yahoo.com/>), Reuters (<http://www.reuters.com/investing>) and the 2006 edition of the World Airspace Database to estimate annual revenues. FAA then compared the annualized accounting costs with annual revenues. Of the 36 entities that FAA found data for, it expects that the projected annualized accounting costs of the Act will be higher than one percent of the

annual revenue for three of them. For the group as a whole, the annualized cost is estimated as 0.17% of annual revenue.

Therefore, as the FAA Administrator, I certify that this Act will not have a significant economic impact on any small entities.

**International Trade Impact Statement**

The Trade Agreements Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. 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 the Act and determined that it will impose no additional costs on foreign firms, and will make FAA’s upper age limit for

pilots consistent with international standards.

**Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 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 (adjusted annually for inflation) 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 \$136.1 million in lieu of \$100 million.

The requirements of Title II do not apply because the Act is not a mandate, rather it is permissive.

**Executive Order 13132, Federalism**

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We

determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

**Environmental Analysis**

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

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

The FAA has analyzed this rulemaking under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

**List of Subjects**

14 CFR Part 61

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(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 2. Amend § 61.3 by revising paragraph (j) to read as follows:

**§ 61.3 Requirement for certificates, ratings, and authorizations.**

\* \* \* \* \*

(j) *Age limitation for certain operations* (1) *Age limitation.* No person who holds a pilot certificate issued under this part may serve as a pilot on a civil airplane of U.S. registry in the following operations if the person has reached his or her 65th birthday:

(i) Scheduled international air services carrying passengers in turbojet-powered airplanes;

(ii) Scheduled international air services carrying passengers in airplanes having a passenger-seat configuration of more than nine passenger seats, excluding each crewmember seat;

(iii) Nonscheduled international air transportation for compensation or hire in airplanes having a passenger-seat configuration of more than 30 passenger seats, excluding each crewmember seat; or

(iv) Scheduled international air services, or nonscheduled international air transportation for compensation or hire, in airplanes having a payload capacity of more than 7,500 pounds.

(2) *Age Pairing Requirement.* No person who has attained the age of 60 but who has not attained the age of 65 may serve as a pilot in command in any of the operations described in paragraphs (j)(1)(i) through (iv) of this section unless there is another pilot in the flight deck crew who has not yet attained 60 years of age.

(3) *Definitions.* (i) "International air service," as used in this paragraph (j), means scheduled air service performed in airplanes for the public transport of passengers, mail, or cargo, in which the service passes through the airspace over the territory of more than one country.

(ii) "International air transportation," as used in this paragraph (j), means air transportation performed in airplanes for the public transport of passengers, mail, or cargo, in which the service passes through the airspace over the territory of more than one country.

\* \* \* \* \*

■ 3. Amend § 61.23 to revise paragraph (a)(1) to read as follows:

**§ 61.23 Medical certificates: Requirement and duration.**

(a) \* \* \*

(1) Must hold a first-class medical certificate:

(i) When exercising the privileges of an airline transport pilot certificate; or

(ii) If that person has reached his or her 60th birthday and serves as a pilot in 14 CFR part 121 operations. Notwithstanding the provisions of § 61.23(d)(1)(iii), that person's first-class medical certificate expires, for 14 CFR part 121 operations, at the end of the last day of the 6th month after the

month of the date of examination shown on the medical certificate.

\* \* \* \* \*

■ 4. Amend § 61.77 to revise paragraphs (b)(3), (e) introductory text, and (g) to read as follows:

**§ 61.77 Special purpose pilot authorization: Operation of U.S.-registered civil aircraft leased by a person who is not a U.S. citizen.**

\* \* \* \* \*

(b) \* \* \*

(3) Documentation showing when the applicant will reach the age of 65 years (an official copy of the applicant's birth certificate or other official documentation);

\* \* \* \* \*

(e) *Age limitation.* No person who holds a special purpose pilot authorization issued under this part, may serve as a pilot on a civil airplane of U.S. registry if the person has reached his or her 65th birthday, in the following operations:

\* \* \* \* \*

(g) *Age Pairing Requirement.* No person who has attained the age of 60 but who has not attained the age of 65 may serve as a pilot in command in any of the operations described in § 61.3(j)(1)(i) through (iv) unless there is another pilot in the flight deck crew who has not yet attained 60 years of age.

\* \* \* \* \*

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

■ 5. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 41721, 44105, 44106, 44111, 44701–44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

**§ 121.2 [Amended]**

■ 6. Amend § 121.2 by removing paragraph (i) and redesignating paragraph (j) as paragraph (i).

■ 7. Amend § 121.383 by removing and reserving paragraph (c) and adding paragraphs (d) and (e) to read as follows:

**§ 121.383 Airman: Limitations on use of services.**

\* \* \* \* \*

(d) No certificate holder may:

(1) Use the services of any person as a pilot on an airplane engaged in operations under this part if that person has reached his or her 65th birthday.

(2) Use the services of any person as a pilot in command in operations under this part between the United States and another country, or in operations

between other countries, if that person has reached his or her 60th birthday unless there is another pilot in the flight deck crew who has not yet attained 60 years of age.

(e) No pilot may:

(1) Serve as a pilot in operations under this part if that person has reached his or her 65th birthday.

(2) Serve as a pilot in command in operations under this part between the United States and another country, or in operations between other countries, if that person has reached his or her 60th birthday unless there is another pilot in the flight deck crew who has not yet attained 60 years of age.

■ 8. Amend § 121.411 by revising paragraph (e) to read as follows:

**§ 121.411 Qualifications: Check airmen (airplane) and check airmen (simulator).**

\* \* \* \* \*

(e) Check airmen who have reached their 65th birthday or who do not hold an appropriate medical certificate may function as check airmen, but may not serve as pilot flightcrew members in operations under this part.

\* \* \* \* \*

9. Amend § 121.412 by revising paragraph (e) to read as follows:

**§ 121.412 Qualifications: Flight instructors (airplane) and flight instructors (simulator).**

\* \* \* \* \*

(e) Flight instructors who have reached their 65th birthday or who do not hold an appropriate medical certificate may function as flight instructors, but may not serve as pilot flightcrew members in operations under this part.

\* \* \* \* \*

■ 10. Amend § 121.440 by adding paragraphs (d), (e), and (f) to read as follows:

**§ 121.440 Line checks.**

\* \* \*

(d) No certificate holder may use the services of any person as a pilot in operations under this part unless the certificate holder evaluates every 6 months the performance, through a line check, of each pilot of the certificate holder who has attained 60 years of age. Notwithstanding the foregoing, a certificate holder is not required to conduct for a 6-month period a line check under this paragraph of a pilot serving as a second-in-command if the pilot has undergone a regularly scheduled simulator evaluation during that period.

(e) No pilot who has attained 60 years of age may serve as a pilot in operations under this part unless the certificate holder has evaluated the pilot's

performance every 6 months, through a line check. Notwithstanding the foregoing, a certificate holder is not required to conduct for a 6-month period a line check under this paragraph of a pilot serving as a second-in-command if the pilot has undergone a regularly scheduled simulator evaluation during that period.

(f) The training program provisions of § 121.401(b) do not apply to pilots who have attained 60 years of age and serve in operations under this part.

Issued in Washington, DC, on July 8, 2009.

**J. Randolph Babbitt,**

*Administrator.*

[FR Doc. E9-16777 Filed 7-14-09; 8:45 am]

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Parts 510 and 522**

[Docket No. FDA-2009-N-0665]

**New Animal Drugs; Ceftiofur Sodium**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original abbreviated new animal drug application (ANADA) filed by Cephazone Pharma, LLC. The ANADA provides for the use of ceftiofur sodium powder for injection as a solution in dogs, horses, cattle, swine, day old chickens, turkey poults, sheep, and goats as therapy for various bacterial infections.

**DATES:** This rule is effective July 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** John K. Harshman, Center for Veterinary Medicine (HFV-104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8197, e-mail: [john.harshman@fda.hhs.gov](mailto:john.harshman@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Cephazone Pharma, LLC, 250 East Bonita Ave., Pomona, CA 91767, filed ANADA 200-420 that provides for use of Ceftiofur Sodium Sterile Powder, as an injectable solution, in dogs, horses, cattle, swine, day-old chickens, turkey poults, sheep, and goats as therapy for various bacterial infections. Cephazone Pharma, LLC's Ceftiofur Sodium Sterile Powder is approved as a generic copy of NAXCEL (ceftiofur sodium) Sterile Powder for Injection, sponsored by

Pharmacia & Upjohn Co., a Division of Pfizer, Inc., under NADA 140-338. The ANADA is approved as of May 27, 2009, and the regulations are amended in 21 CFR 522.313c to reflect the approval.

In addition, Cephazone Pharma, LLC, has not been previously listed in the animal drug regulations as a sponsor of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to add entries for this firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

**List of Subjects**

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

*21 CFR Part 522*

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

**PART 510—NEW ANIMAL DRUGS**

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1) alphabetically add an entry for "Cephazone Pharma, LLC"; and in the table in paragraph (c)(2) numerically add an entry for "068330" to read as follows: