

**[4910-13]**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 61 and 121**

**[Docket No. FAA-2010-0100; Notice No. 10-02]**

**RIN 2120-AJ67**

**New Pilot Certification Requirements for Air Carrier Operations**

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

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** This advance notice of proposed rulemaking requests public comment on possible changes to regulations relating to the certification of pilots conducting domestic, flag, and supplemental operations. The purpose of this notice is to gather information on whether current eligibility, training, and qualification requirements for commercial pilot certification are adequate for engaging in such operations. The FAA may use this information to determine the necessity of establishing additional pilot certification requirements and to determine what those new requirements might include.

**DATES:** Send your comments on or before [Insert date 60 days after date of publication in the Federal Register.]

**ADDRESSES:** You may send comments identified by Docket Number FAA-2010-0100 using any of the following methods:

Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Send comments to Docket Operations, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC 20590.
- Fax: Fax comments to Docket Operations at 202-493-2251.
- Hand Delivery: Bring comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time or to Docket Operations in Room W12-140 of the

West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Craig Holmes, Certification and General Aviation Operations Branch, AFS-810, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 493-5385; e-mail to [craig.holmes@faa.gov](mailto:craig.holmes@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the initiatives in this document. The most helpful comments reference a specific question number, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this initiative, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this initiative in light of the comments we receive.

## **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 docket number or notice number of this rulemaking.

## **Authority for this Rulemaking**

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

## **Background**

The Federal Aviation Administration is initiating this rulemaking project to request recommendations from the public to improve pilot performance and professionalism, issues which were also highlighted in the Colgan Air (dba Continental Airlines Express) DHC-8 accident that occurred on February 12, 2009, outside of Buffalo, New York. The accident focused attention on whether a commercially-rated copilot in part 121 operations receives adequate training. Specifically, does a copilot's training include enough hours of training in various weather conditions to be able to recognize a potentially dangerous situation and respond in a safe and timely manner. The FAA requests recommendations on whether the existing flightcrew eligibility, training, and qualification requirements should be increased for commercial pilots engaged in part 121 operations.

In issuing this ANPRM, the FAA notes that we are currently considering public comments to a notice of proposed rulemaking on the Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers (74 FR 1280; January 12, 2009). . It proposed to enhance traditional training programs for air carrier crewmember and dispatcher training by requiring the use of flight simulation training devices for flight crewmembers and including additional training requirements in areas that are critical to safety. That NPRM did not address basic 14 CFR part 61 pilot certification. This ANPRM is seeking comments on issues relating to basic part 61 pilot certification, not air carrier hiring or training requirements. Additionally, we are not seeking comment on other existing part 121 requirements such as Pilot Record Improvement Act (PRIA), drug and alcohol testing, mentoring, or crew pairing.

## **General Discussion and Request for Information**

In this ANPRM, the FAA requests comments and recommendations on the following concepts for the purpose of reviewing current pilot certification regulations. The sequence of these proposals does not reflect any specific FAA preference. When submitting comments on any of these concepts, please refer to the specific question number.

1. *Requirement for all pilots employed in part 121 air carrier operations to hold an Airline Transport Pilot (ATP) certificate with the appropriate aircraft category, class, and type rating, or meet the aeronautical experience requirements of an ATP certificate.*

Section 61.155 describes the aeronautical knowledge required to qualify for an ATP certificate. Section 61.159 describes the aeronautical experience requirements, which specify a minimum of 1,500 flight hours. Currently, a pilot who serves as a Second-in-Command (SIC) pilot crewmember is required to hold an instrument rating and commercial pilot certificate. We request comments and recommendations on the following issues relating to the option of requiring ATP certificates for all pilot crewmembers in part 121 air carrier operations:

1A. Should the FAA require all pilot crewmembers engaged in part 121 air carrier operations to hold an ATP certificate? Why or why not?

1B. If a part 121 air carrier pilot does not hold an ATP certificate, should he or she nevertheless be required to meet the ATP certificate aeronautical knowledge and experience requirements of § 61.159, even if he or she is serving as SIC? Why or why not?

## *2. Academic Training as a Substitute for Flight Hours Experience.*

The FAA seeks public comment on the concept of permitting academic credit in lieu of required flight hours or experience<sup>1</sup>. In particular, we request comments on the following issues:

2A. Are aviation/pilot graduates from accredited aviation university degree programs likely to have a more solid academic knowledge base than other pilots hired for air carrier operations? Why or why not?

2B. Should the FAA consider crediting specific academic study in lieu of flight hour requirements? If so, what kind of academic study should the FAA accept, and to what extent should academic study (e.g., possession of an aviation degree from an accredited four-year aviation program) substitute for flight hours or types of operating experience?

2C. If the FAA were to credit academic study (e.g., possession of an aviation degree from an accredited four-year aviation program and/or completion of specific courses), should the agency still require a minimum number of flight hours for part 121 air carrier operations? Some have suggested that, regardless of academic training, the FAA should require a minimum of 750 hours for a commercial pilot to serve as SIC in part 121 operations. Is this number too high, or too low, and why?

## *3. Endorsement for Air Carrier Operations*

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<sup>1</sup> On October 14, 2009, the U.S. House of Representatives passed bill H.R. 3371, the Airline Safety and Pilot Training and Improvement Act of 2009. The bill is currently being considered by the Senate Committee on Commerce, Science, and Transportation. Under this bill, all flight crewmembers who are engaged in part 121 air carrier operations would be required to hold an ATP certificate. The bill includes a provision that would allow credit toward flight hours for an ATP certificate for specific academic training courses, if the Administrator determines that the academic training courses will enhance safety more than requiring full compliance with the flight hours requirement.

The FAA believes that, although the flight hours required to qualify for an ATP certificate can benefit pilots, experience is not measured in flight time alone. Other factors, such as certain types of academic training, practical training/experience, and experience in a crew environment, are also important. A pilot's skills and abilities may also be enhanced by exposure to specific operational conditions, including icing, high altitude operations, and other areas common to part 121 air carrier operations.

An endorsement on a commercial pilot certificate may be an option for addressing concerns about the operational experience of newly-hired pilots engaged in air carrier/commercial operations. Under this concept, a commercial pilot would not be able to serve as a required pilot in part 121 air carrier operations without having obtained an endorsement attesting to successful completion of additional training and qualified operating experience.

The FAA is therefore considering the creation of a 14 CFR 61.31 endorsement for a commercial pilot certificate that would require specific ground and flight training, as well as additional experience in specific areas, in order to receive part 121 air carrier operating privileges. The additional training for the endorsement could include operating experience in a crew environment, training and exposure to icing, and flight experience in high altitude operations. The current § 61.31(g) endorsement for additional training for operating pressurized aircraft capable of operating at high altitudes might serve as a model. Additionally, the FAA may consider the type-specific aircraft training endorsement in § 61.31(h) as a model. The FAA believes that an endorsement approach would target specific skill sets needed for part 121 operations, and establish the associated standards for content and quality of training. The FAA notes that the



endorsement option would also eliminate the time-based requirements that aviation universities argue is not a reasonable requirement for graduates of their four-year aviation degree programs.

We request comments on the following issues regarding the possibility of establishing an endorsement for SIC privileges in part 121:

3A. Should the FAA propose a new commercial pilot certificate endorsement that would be required for a pilot to serve as a required pilot in part 121 air carrier operations? Why or why not?

3B. If so, what kinds of specific ground and flight training should the endorsement include?

3C. The FAA expects that a new endorsement would include additional flight hour requirements. At a minimum, the FAA requests comments on how many hours should be required beyond the minimum hours needed to qualify for a commercial pilot certificate. Some have suggested that the FAA require a minimum of 750 hours for a commercial pilot to serve as SIC in part 121 operations. Is this number too high, or too low, and why?

3D. The FAA is considering proposing to require operating experience in a crew environment, in icing conditions, and at high altitude operations. What additional types of operating experience should an endorsement require?

3E. Should the FAA credit academic training (e.g., a university-awarded aviation degree) toward such an endorsement and, if so, how might the credit be awarded against flight time or operating experience? We are especially interested in comments on how to balance credit for academic training against the need for practical operating experience in

certain meteorological conditions (e.g., icing), in high-altitude operations, and in the multi-crew environment.

4. *New additional authorization on an existing pilot certificate.*

The FAA may also consider proposing a new authorization on a commercial pilot certificate for any pilot employed as a required flight crewmember for part 121 operations. This new authorization would be limited to a specific part 121 operator, and would be issued only after the pilot successfully completed that part 121 operator's approved training and qualification program. The pilot would surrender this authorization upon leaving the employ of the specific part 121 operator. The purpose of such an authorization would be to ensure that each air carrier has provided its pilot employees with the training and qualifications specific to its operating environment (e.g., aircraft, routes, meteorological conditions). The FAA seeks comments on the following question:

4A. Would a carrier-specific additional authorization on an existing pilot certificate improve the safety of part 121 operations? Why or why not?

4B. Should the authorization apply only to a pilot who holds a commercial certificate, or should it also apply to the holder of an ATP certificate?

4C. Should such an authorization require a minimum number of flight hours? If so, how many hours should be required?

5. *Other actions.*

The FAA is seeking comment on whether existing monitoring, evaluation, information collection requirements, and enforcement associated with current pilot performance could be modified to achieve improved pilot performance.

5A. Can existing monitoring, evaluation, information collection requirements, and enforcement associated with pilot performance be modified to improve pilot performance?

5B. If so, what specific modifications should be considered?

## **Regulatory Notices**

### **A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures.**

We are soliciting comments on the potential costs and benefits on the initiatives in this ANPRM. This ANPRM has been reviewed by the Office of Management and Budget and is considered “significant” under the Department of Transportation’s Regulatory Policies and Procedures.

### **B. Executive Order 13132 (Federalism)**

This ANPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). Any rulemaking proposal resulting from this notice would not propose any regulations that would (1) have a substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, (2) impose substantial direct compliance costs on State and local governments, or (3) preempt state law.

Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

### **C. Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review rulemakings to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. We invite comment to facilitate our assessment of the potential impact that these initiatives may have on small entities.

Issued in Washington, DC, on February 2, 2010.

John M. Allen

Director, Flight Standards Service

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