

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 121 and 135**

[Docket No. 28471; Amendment No. 121-257, 135-64]

RIN 2120-AF08

Training and Qualification Requirements for Check Airmen and Flight Instructors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; opportunity for comment.

SUMMARY: Some experienced pilots who would otherwise qualify as flight instructors or check airmen but who are not medically eligible to hold the requisite medical certificates, cannot perform flight instructor or check airmen functions even in simulators. This rule establishes separate requirements for check airmen who check only in flight simulators and flight instructors who instruct only in flight simulators. To ensure an equivalent level of safety, the affected check airmen and flight instructors must accomplish the following: Recency of experience requirements; completion of an approved line observation program within each 12-month period; and required training, including recurrent ground and flight training. Additionally, this rule allows check airman and flight instructors to obtain all of their flight training in simulators, as opposed to the current scheme in which initial and transition flight training must include an in-flight element.

EFFECTIVE DATE: This final rule is effective June 17, 1996. See below in the "Modifications" section for the justification for making this rule effective on June 17, 1996 and for a discussion about 9-month compliance dates for two new requirements. Affected parties do not have to comply with the information collection requirements in §§ 121.411(d), 121.412(d), 135.337 (d), and 135.338(d) until the Federal Aviation Administration publishes in the Federal Register the control number assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control number notifies the public that OMB has approved these information requirements under the Paperwork Reduction Act of 1995.

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SUPPLEMENTARY INFORMATION:**Availability of Final Rules**

Any person may obtain a copy of this final rule by submitting 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. Communications must identify the notice number of this final rule.

Persons interested in being placed on the mailing list for future rules should request from the above office a copy of Advisory Circular No. 11-2A which describes the application procedure.

Background

The requirements for training, checking, and qualification of check airmen and flight instructors who perform training and checking for certificate holders operating under Title 14 of the Code of Federal Regulations parts 121 and 135 appear in §§ 121.411 and 135.337 (check airman and flight instructor qualification) and §§ 121.413 and 135.339 (check airman and flight instructor training and checking).

When parts 121 and 135 were implemented, the primary means of training was in an aircraft. Therefore there was a requirement for check airmen and flight instructors to hold appropriate medical certificates. Even after flight simulators came into use in the late 1970s, check airmen and flight instructors were likely to use both aircraft and flight simulators. Despite significant changes in methods of training, particularly an increased use of flight simulation in training, the sections of parts 121 and 135 mentioned above have not been significantly revised in over 20 years. These sections still focus primarily on check airmen and flight instructors who perform their functions in airplanes.

Today, flight simulators and flight training devices are so sophisticated that they are used to conduct most training and checking with significant benefits to safety. Training and checking in simulators and flight training devices have distinct advantages over training and checking in flight. Flight simulators provide a safe flight training environment, more comprehensive training, and may reduce the number of training and in-service accidents by allowing training for emergency situations that cannot be safely conducted in flight. The use of flight

simulators and flight training devices in lieu of aircraft has resulted in a reduction in air traffic congestion, energy use, noise, air pollution and training costs.

Some experienced pilots who would otherwise qualify as flight instructors or check airmen but who are not medically eligible to hold the requisite medical certificates, cannot perform check airmen functions or many flight instructor functions even in simulators. Thus the regulations do not establish separate categories of requirements for check airmen who check only in flight simulators or for flight instructors who instruct only in flight simulators. A number of highly experienced airmen who might serve as flight instructors or check airmen, including former military pilots, former air carrier pilots, and furloughed pilots, as well as other experienced pilots, currently are unable to perform those training and checking functions because they are unable to hold an airman medical certificate.

This rule allows experienced check airmen and flight instructors who are not able to hold a current medical certificate to check or instruct in flight simulators and flight training devices. Under this rule, affected check airmen and flight instructors must meet similar requirements that a pilot flying the line is required to meet, such as initial training, proficiency checks, and competency checks and could use flight simulators to meet these similar requirements. This rule also addresses check airmen in aircraft, check airmen in flight simulators or flight training devices, flight instructors in aircraft, and flight instructors in flight simulators or flight training devices.

The Air Carrier Training Working Group of the Aviation Rulemaking Advisory Committee (ARAC) recommended that the FAA amend its regulations so that airmen who were not eligible to hold medical certificates would nonetheless be eligible to instruct or check pilots and other airmen in simulators. On July 16, 1992, ARAC forwarded draft rule language for the FAA to review. The FAA used ARAC's draft as the basis for developing this rule.

Discussion of the Rule

This rule revises the following sections of parts 121 and 135: §§ 121.411, 121.413, 135.337, and 135.339; it adds the following four new sections: §§ 121.412, 121.414, 135.338, and 135.340.

The most significant changes between the current and new rules are as follows:

(1) The categories of check airman (simulator) and flight instructor

(simulator) are defined with separate requirements for each.

(2) The following requirements for flights instructors and check airmen who only perform check airmen and instructor functions in flight simulators and flight training devices are deleted:

- The requirement to hold at least a Class III medical certificate, in current § 121.411(a)(6).
- The requirement to hold a Class I, II, or III medical certificate, in current § 135.337(a).

(3) A flight instructor (simulator) or check airman (simulator) is required to meet recency of experience requirements, in the 12-month period preceding the performance of flight instruction or check airman functions, by flying two flight segments as a required crewmember for the type aircraft involved, if medically qualified and certificated, or by completing an approved line-observation program.

(4) Training requirements for check airmen and flight instructors who serve in training programs under parts 121 and 135 are in §§ 121.413, 121.414, 135.339, and 135.340. This rule changes these requirements in the following ways:

- A new requirement is imposed for check airmen and flight instructors in that they must satisfactorily complete, within the preceding 24 calendar months, an observation check of their check airman or flight instructor functions. This check may be accomplished in a flight simulator or in a flight training device as appropriate.
- Flight instructors are required to have much of the same ground training requirements as check airmen. As a practical matter, ground training for flight instructors and check airmen are the same; however, the current rules are not specific in this area. This change ensures that flight instructors and check airmen receive the same ground training.
- Currently, initial and transitional flight training for check airmen and flight instructors who perform their functions in-flight requires in-flight training and practice. This rule allows this training to take place in simulators or in flight training devices.

These changes allow certain experienced pilots who are unable to meet current medical certificate requirements to be able to check and instruct, but only in flight simulator and flight training devices. To allow this flexibility while maintaining safety, this rule requires flight instructors (simulator) and check airmen (simulator) to meet recency of experience requirements, take observation checks of their check

airmen/instructor abilities once every 2 years, complete the required recurrent training necessary to serve as a pilot-in-command under parts 121 and 135 or a flight engineer or flight navigator under part 121, and complete required proficiency or competency checks. A detailed section-by-section description of the rule follows.

Section-by-Section Analysis

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

Current § 121.411(a)(1) requires that a flight instructor or check airman who serves in a training program under part 121, for the particular airplane type involved, hold the airman certificates and ratings that must be held in order to serve as a pilot in command (PIC), a flight engineer, or a flight navigator, as appropriate, in operations under part 121. Current § 121.411 (a)(6) requires that a check airman or flight instructor who serves in a training program under part 121 must hold at least a Class III medical certificate. Under current § 121.411(b)(1) a simulator instructor, instructing for a course of training in an airplane simulator as provided in § 121.409(b), must hold an airline transport pilot (ATP) certificate but need not hold an airman medical certificate if only giving proficiency checks as specified in § 121.441 and § 121.409(b). Under the current rules, if a simulator instructor is providing instruction for anything other than a proficiency check (e.g., upgrade training), then he or she must have a medical certificate. (See current § 121.411(a).)

Section 121.411 is revised to change the applicability from check airmen and flight instructors to check airmen (airplane) and check airmen (simulator). Flight instructors are covered under new § 121.412. New paragraph (a) of § 121.411 states that a check airman (airplane) is a person who is qualified and permitted to conduct flight checks and instruction in an airplane, in a flight simulator, or in a flight training device for a particular type airplane. A check airman (simulator) is a person who is qualified to conduct flight checks only in a flight simulator or in a flight training device for a particular type aircraft.

New paragraph (b) contains the eligibility requirements to serve as a check airman (airplane). With some editorial revisions and an additional requirement to satisfy the recency of experience requirement of § 121.439, the eligibility requirements remain the same as the current requirements. The

recency provision is added to ensure equivalent recency of experience for those check airmen who may not be flying line operations.

New paragraph (c) of § 121.411 establishes the eligibility requirements for check airmen (simulator). These requirements are the same as those for check airmen (airplane) in paragraph (b) with two exceptions. There is no requirement to hold a Class III medical certificate and the recency of experience requirements of § 121.411(b)(6) are not required of part 121 check airmen (simulator). Check airmen (simulator) instead are allowed to meet proposed recency of experience requirements in new paragraph (f), discussed later in this section. Because check airmen (airplane) are able to perform their functions in an airplane as a required flightcrew member, they may meet recency of experience requirements either in an airplane or in a qualified simulator. In addition, current § 121.411(c), which grants training relief to check airmen, flight instructors, and simulator instructors who were designated before December 22, 1969, is deleted since the FAA believes that this provision is obsolete.

New paragraph (d) is added to clarify that the completion of the requirements of (b)(2), (3), and (4) or (c)(2), (3), and (4), whichever is applicable, must be entered into the operator's records for each individual check airman.

New paragraph (e) is added to restate the portion of current § 121.411(a)(6) allowing airmen who have passed their 60th birthday or who do not hold a medical certificate to perform check airman functions, but, under this paragraph, these airmen may not serve as crewmembers under part 121 operations.

New paragraph (f) is added to offer an alternate method for maintaining recency of experience requirements for check airmen (simulator). Under this rule, check airmen (simulator) must, within the 12-month period preceding the performance of check airman duties, either fly two segments as a required crewmember for the type airplane or satisfactorily complete an approved line-observation program.

New paragraph (g) is added to provide that the recency of experience requirements of paragraph (f) may be completed in the calendar month before or the calendar month after the month in which it is due.

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

The requirements for this section are virtually identical to those in § 121.411

for check airmen. Additionally, this section specifies that an individual who does not hold a medical certificate may not function as a flight instructor in an airplane.

Section 121.413 Initial and transition training and checking requirements: Check airmen (airplane) and check airmen (simulator)

Paragraph (a)(1) maintains the current requirement that, in order to serve as a check airman, a person must have completed initial or transition check airman training. Additionally, paragraph (a)(2) requires an observation check of check airman functions within the preceding 24 calendar months. The observation check may be done in part or in full in an airplane, in a flight simulator, or in a flight training device as appropriate. An FAA inspector or an aircrew designated examiner employed by the operator may administer this observation check. The FAA believes that the observation check requirement better ensures that check airmen maintain their qualifications and their abilities to perform all other duties as appropriate for check airmen.

In paragraph (b) the observation check requirement of paragraph (a)(2) could be accomplished in the month before or the month after the month in which it is due.

Paragraph (c) of this section covers initial ground training requirements for check airmen. Most of the requirements are in current paragraphs (a)(1) through (a)(6) of § 121.413; however, some editorial revisions have been made.

Paragraph (d) covers transition ground training for check airmen. This paragraph separates transition ground training requirements from initial ground training requirements, but imposes no new requirements since transition and ground training are currently required in § 121.413 (a)(6).

Paragraph (e) is added to cover initial and transition flight training for pilot check airmen (airplane), flight engineer check airmen (airplane), and flight navigator check airmen (airplane). Paragraph (e) contains requirements equivalent to those contained in current § 121.413(c) and (d), but places greater emphasis on the safety issues required during checking that takes place under actual flight. Additionally, it broadens the scope of current § 121.413(c) to include flight engineers (airplane) and flight navigators (airplane). The FAA believes that the flight engineer (airplane) and flight navigator (airplane) safety functions are as important to the safe conduct of a flight as that of the check airman (airplane).

Paragraph (f) is added to allow all the flight training provisions of paragraph (e) to be accomplished in full or in part in flight, in flight simulators, or flight training devices as appropriate. Because of technological advances in simulation, the FAA believes that the requirements in current § 121.413(c)(1) may be conducted in a simulator. Current paragraph (c) allows the initial and transition flight training in safety measures for emergency situations (current paragraph (c)(2)) and the results of improper or untimely safety measures (current paragraph (c)(3)) to be accomplished in an approved flight simulator, but requires the training requirements of current paragraph (c)(1) to be conducted in flight. In the new rule, the requirements of current paragraph (c)(1) are to be codified in § 121.413(e)(3); however, under new paragraph (f), those requirements need not be accomplished in flight. Those requirements can be accomplished in flight, in a flight simulator, or in a flight training device. The FAA believes that this is appropriate because of the proven effectiveness of flight simulator training. Flight training devices can be used to fulfill the training requirements for the same reasons.

Paragraph (g) is added to establish initial and transition flight training for check airmen (simulator). The requirements include training and practice in the required normal, abnormal, and emergency procedures and training in the operation of flight simulators or flight training devices. Under this paragraph, the training may be conducted in flight training devices or flight simulators as appropriate. The requirements are necessary to establish flight training requirements specifically for check airmen (simulator) who are qualified to conduct flight checks or instruction only in a flight simulator or in a flight training device.

Section 121.414 Initial and transition training and checking requirements: Flight instructors (airplane) and flight instructors (simulator)

The requirements for this section are identical to the provisions in § 121.413 except that the terms and references apply to flight instructors. The required observation check is an observation check of instructor functions, and includes the current requirement for training in teaching methods and procedures except for the holders of a flight instructor certificate.

Section 135.337 Qualifications: Check airmen (aircraft) and check airmen (simulator)

Section 135.337(a)(1) currently requires that a flight instructor or check airman serving in a training program under part 135, for the particular aircraft type involved, must hold the airman certificate and ratings that must be held to serve as a PIC in operations under part 135. Section 135.337(a)(5) currently requires that such a flight instructor or check airman hold a Class I or Class II medical certificate required to serve as a PIC in operations under part 135. Under current § 135.337(a)(7), a check airman who serves in an aircraft simulator only must hold a Class III medical certificate. Section 135.337(b) currently requires that a person who serves as a simulator instructor for a course of training in an aircraft simulator must hold at least a commercial pilot certificate.

This rule changes the applicability of this section from check airmen and flight instructors to check airmen (aircraft) and check airmen (simulator). Flight instructors are covered under new § 135.338. Paragraph (a) of § 135.337 states that a check airman (aircraft) is a person who is qualified and permitted to conduct flight checks and instruction in an airplane, in a flight simulator, or in a flight training device for a particular type, class, or category aircraft. A check airman (simulator) is qualified to conduct flight checks only in a flight simulator or in a flight training device for a particular type, class, or category aircraft.

Paragraph (b) contains the eligibility requirements to serve as a check airman (aircraft). With some editorial revisions and an additional requirement to satisfy the recency of experience requirement of § 135.247, the eligibility requirements remain the same as current requirements. The recency provision is added to ensure equivalent recency of experience for those check airmen who may not be flying line operations.

Paragraph (c) of § 135.337 is added to establish the eligibility requirements for check airmen (simulator). These requirements are the same as those for check airmen (aircraft) paragraph (b) with two exceptions. There is no requirement to hold a medical certificate and the recency of experience requirements of new § 135.337(b)(3) are not required of part 135 check airmen (simulator). Check airmen (simulator) instead are allowed to meet the recency of experience requirements of paragraph (f), discussed later in this section.

Paragraph (d) is added to clarify that the completion of the requirements of

(b)(2), (3), and (4) or (c)(2), (3), (4), whichever is applicable, must be entered into the individual check airmen's training record.

Paragraph (e) is added to clarify that an airman who does not hold a medical certificate may perform check airmen functions, but may not serve as a crewmember under part 135 operations.

Paragraph (f) is added to offer an alternate method for maintaining recency of experience requirements for check airmen (simulator). Check airmen (simulator) must, within the 12-month period preceding the performance of check airman duties, either fly two segments as a required crewmember for the type, class, or category aircraft or satisfactorily complete an approved line-observation program.

Paragraph (g) is added to provide that the recency of experience requirements of paragraph (f) may be completed in the calendar month before or in the calendar month after the month in which it is due.

Section 135.338 Qualifications: Flight instructors (aircraft) and flight instructors (simulator)

The requirements for this section are virtually identical to those in § 135.337 for check airmen. Additionally, this section clarifies that an individual who does not hold a medical certificate may not function as a flight instructor in an aircraft.

Section 135.339 Initial and transition training and checking requirements: Check airmen (aircraft) and check airmen (simulator)

Paragraph (a)(1) continues the current requirement that, in order to serve as a check airman, a person must have completed initial or transition check airman training. Additionally, paragraph (a)(2) requires an observation check of check airman functions within the preceding 24 calendar months. The observation check may be done in part or in full in an airplane, flight simulator, or flight training device as appropriate. An FAA inspector or an aircrew designated examiner employed by the operator may administer the observation check. The FAA believes that the observation check requirement better ensures that check airmen maintain their qualifications and their abilities to perform all other duties as appropriate for check airmen.

In paragraph (b) the observation check requirement of paragraph (a)(2) may be accomplished in the month before or the month after the month in which it is due.

Paragraph (c) of this section covers initial ground training requirements for

check airmen. Most of the requirements are in current paragraphs (a)(1) through (a)(6) of § 135.339. Some editorial revisions are made in this rule.

Paragraph (d) is added to cover transition ground training for check airmen. This paragraph separates transition ground training requirements from initial ground training requirements, but imposes no new requirements since transition and ground training are currently required in § 135.339(a)(6).

Paragraph (e) is added to cover initial and transition flight training for pilot check airmen (aircraft). Paragraph (e) contains requirements equivalent to those contained in current § 135.339(c), but places greater emphasis on the safety issues required during checking that would take place under actual flight.

Paragraph (f) is added to allow all the flight training provisions of paragraph (e) to be accomplished in full or in part in flight, in flight simulators, or in flight training devices as appropriate. This makes the requirements in current § 135.339(c)(1) less burdensome. Current § 135.339(c) allows the initial and transition flight training in safety measures for emergency situations (current paragraph (c)(2)) and the results of improper or untimely safety measures (current paragraph (c)(3)) to be accomplished in an approved flight simulator, but requires the training requirements of (c)(1) to be conducted in flight. In the new rule, the requirements of current (c)(1) are to be codified in § 135.339(e); however, under new paragraph (f), those requirements need not be accomplished in flight. Those requirements can be accomplished in flight, in a flight simulator, or in a flight training device. The FAA believes that this is appropriate because of the proven effectiveness of flight simulator training. Flight training devices also can be used to fulfill the training requirements for the same reasons.

Paragraph (g) is added to establish initial and transition flight training for check airmen (simulator). The requirements include training and practice in the required normal, abnormal, and emergency procedures and training in the operation of flight simulators or flight training devices. Under this paragraph, the training may be conducted in flight training devices or flight simulators as appropriate. The requirements are necessary to establish flight training requirements specifically for check airmen (simulator) who are qualified to conduct flight checks or instruction only in a flight simulator or in a flight training device.

Section 135.340 Initial and transition training and checking requirements: Flight instructors (aircraft) and flight instructors (simulator)

The requirements of this section are identical to the provisions of § 135.339 except that the terms and references apply to flight instructors. The required observation check is an observation check of instructor functions, and paragraph (c)(7) is added to include the current requirement for training in teaching methods and procedures except for the holders of a flight instructor certificate.

Discussion of Comments

On February 22, 1996, the FAA published notice proposing to allow experienced check airmen and flight instructors who are not able to hold a current medical certificate to check or instruct in flight simulators and flight training devices (61 FR 6903). Eleven commenters responded to the proposal. Commenters from FlightSafety International, the National Air Transportation Association, Executive Air Fleet, Inc., Million Air, and McDonnell Douglas support this final rule. Commenters from Petroleum Helicopters, Inc., (PHI), the Allied Pilots Association (APA), the Air Line Pilots Association (ALPA), the Air Transport Association (ATA), Federal Express (FedEx), and Kitty Hawk AirCargo, Inc., (KHAI) made several recommendations, discussed and responded to below.

PHI

PHI states that it generally supports the proposal to change § 135.339(a)(2) to require an observation check of check airmen functions within the preceding 24 calendar months. However, it requests that a statement be added to the rule language that would further clarify who may conduct this observation check other than an FAA inspector. It suggests that this check should be allowed to be conducted by other "designated check airmen."

PHI also generally supports proposed § 135.340 which requires flight instructors to have the same training as check airmen. It suggests adding language to the rule, however, to enable operators to designate limited instructor capability for the purpose of training specific modules, for example, navigation equipment, air data computers, or other specialized equipment or operations.

FAA Response: The FAA agrees, in part, with PHI's comment regarding clarification of who, other than an FAA inspector, may conduct an observation check. To clarify this matter, the FAA

has changed "aircrew designated examiner" to "aircrew designated examiner employed by the operator" under §§ 121.413(a)(2) and 135.339(a)(2). This clarifies that such examiners are associated with a particular operator. The FAA does not recognize the term "designated check airmen" as suggested by the commenter. The FAA does not agree that check airmen should conduct observation checks of other check airmen. The FAA has determined that such authority should be exercised only by FAA inspectors or an FAA designated aircrew examiner employed by the operator.

In reference to PHI's comment regarding proposed § 135.340, this rule was not intended to create limited categories of instructors. To create categories of instructors with limited authority is beyond the scope of the NPRM.

APA

APA's comments are described as follows:

The proposal does not address any experience requirements other than the requirement to hold the appropriate airmen certificates and ratings that are required to serve as PIC for the type aircraft involved. Check airmen under the current regulations are usually operationally experienced line pilots who bring extensive line flying background to the training environment. Under the proposed rule, any individual with the proposed airmen certificates and ratings, with some classroom and simulator training, could be a designated check airman. In today's cost conscious training environment, with extensive use of single visit training cycles, the need to use operationally experienced individuals as check airmen is essential to maintain an effective training environment and operational evaluation standard. Operational experience requirements should include a defined number of PIC hours in the type aircraft and regulatory environment (i.e., part 121 or 135) involved and/or prior qualification as a former military, air carrier, or furloughed pilot.

FAA Response: It is possible that, under this rule, any individual with airmen certificates and ratings, with the appropriate classroom and simulator training, could become a designated check airman. Check airmen (simulator), however, must accomplish the following: Complete the operator's course of instruction (initial, transition, or upgrade, as appropriate) to include the proficiency check using company procedures; regularly participate in an

approved line-observation program; maintain recency of experience in the simulator; and accomplish the normal recurring training, line-oriented flight training program, and periodic proficiency checks required of a line-qualified PIC. These requirements are similar to those that line-qualified PIC's must meet. The FAA has determined that certain simulators (Levels C and D) are so advanced that experience gained using these simulators, coupled with the line observation (e.g. § 121.411(f)), recurrency requirements (e.g., § 121.411(c)(2)) and (3)), and observation check (e.g., § 121.413(a)(2)) are adequate substitutes for actual flight experience in order to be check airmen. Further, the airman checked by the check airman (simulator) must accomplish operational experience (e.g., § 121.434 (c)(1)(i) and (ii)) under the supervision of a fully qualified PIC check airman (airplane) occupying a pilot station. Thus, even a check airman (simulator's) approval of an airman is indirectly reviewed by a check airman (airplane) during the acquisition of operating experience.

APA also comments that, while the preamble indicates that the recency of experience requirements for check airmen (simulator) and flight instructor (simulator) can be met by flying two flight segments as a required crewmember for the aircraft type involved, the proposed rule language of §§ 121.411(f) and 135.337(f) states that the recency of experience flying requirements of two flight segments can be accomplished in a simulator. APA believes that recency of experience requirements can be met only by operational line flying. The requirements for these flights should include participation/observation in all aspects of the flight, including flight planning, preflight, and post flight functions. ALPA echoed APA's comment regarding § 121.411(f) and FedEx commented that, if proposed §§ 121.411(f) and 121.412(f) are adopted, then similar requirements in appendix H should be deleted.

FAA Response: The FAA has revised the preamble and also proposed §§ 121.411(f), 121.412(f), 135.337(f), and 135.338(f) to clarify that recency of experience requirements can be met either in an airplane or in a simulator (that is, by accomplishing two flight segments or an approved line-observation program). The FAA also has revised all of these sections to clarify the time period in which these flight segments or line-observation programs must be accomplished. For the reasons stated in the FAA's response to APA's comment above, all experience

requirements, both initial and recurrent, can be met in an appropriately qualified simulator.

APA also proposes that the new requirement for check airmen and flight instructors to complete an observation check of their performance functions within the preceding 24 months should be increased in frequency to within the preceding 12 months. Flightcrew members are being evaluated at a minimum of at least every 12 months. ALPA echoes APA on this matter. In line with the "one level of safety" concept, according to APA, the rule ultimately adopted should be identical for both part 121 and part 135 operators.

FAA Response: The evaluation timeframe for check airmen and flight instructors will not be less than that required for the individuals they will check or instruct. Check airmen and flight instructors continue to be required to complete appropriate proficiency and competency checks at least once every 12 months. The new requirement that check airmen and flight instructors be observed in the performance of their functions will serve to increase the quality assurance of check airmen and flight instructors.

ALPA

As discussed above, ALPA agrees with APA that the observation checks proposed under §§ 121.413(a)(2) and 121.414(a)(2) should be conducted within 12, rather than 24, months. ALPA and APA further agree that 121.411(f), as proposed, would require the accomplishment of flying or line observation in a flight simulator. The FAA has responded to these comments above under the discussion of APA's comments.

In addition, ALPA feels that line observation should be required in the airplane on a more frequent basis than proposed. According to ALPA, the requirement in §§ 121.411(f) and 121.412(f) for 12 months should be changed to 3 months. Lastly, ALPA indicates that its comments regarding the proposed part 121 sections are also valid for the proposed part 135 sections.

FAA Response: The FAA agrees that any individual will maintain greater line familiarity with more frequent line observations. Current guidance indicates that two line observations per year are adequate to maintain line familiarity. There is no evidence that safety has been compromised using this current guidance. The FAA believes that annual proficiency or competency checks, and the new 24-month observation requirement coupled with the new annual line observation requirement, exceed the current

guidance of two line observations per year.

The FAA acknowledges that ALPA's comments regarding pertinent part 121 sections are intended to apply to parallel part 135 sections and has responded appropriately. As discussed above under APA's comments, the FAA has revised proposed §§ 121.411(f) and 121.412(f) to parallel proposed § 135.337(f).

ATA

ATA suggests that the preamble language of proposed § 121.411(b)(6) be made more clear. As drafted, it is unclear to ATA whether the FAA intends that the check airmen must complete the three takeoffs and landings in an airplane or whether a simulator may be used to satisfy this requirement as allowed under existing § 121.439.

FAA Response: Because check airmen (airplane) are able to perform their functions in an airplane as a required flightcrew member, they may meet recency of experience requirements either in an airplane or in a qualified simulator. However, if a check airman (airplane) is a required flightcrew member, actual in-flight recency experience is required pursuant to § 121.439(c).

ATA also believes that proposed § 121.412(c)(1) contains a significant change because it requires simulator-only instructors to hold an ATP with a type rating in the airplane in which they will instruct. This change is not explained in the preamble. In a second set of comments which were filed after the comment period closed, ATA stated that many of its member airlines employ hundreds of "simulator only" instructors who do not hold type ratings on the airplane on which they instruct. ATA feels that the impact of this rule would be "severe" on its members. Therefore, ATA recommends the following:

- Allow current "simulator only" instructors to continue instructing without a type rating but require a type rating when an instructor is trained on another airplane type;
- Allow sufficient time (i.e., 3 years) for an operator's instructor to obtain a type rating and make it clear that a medical certificate is not required to take a flight test in a simulator; or
- Allow a "simulator only" instructor to be issued a type rating upon successful completion of the next recurrent training so that additional training would not have to be provided in preparation for a type rating flight test.

FAA Response: Current § 121.411(b) references simulator instructors.

Simulator instructors were individuals who could instruct flightcrew members maintaining airplane qualification but who were unable to instruct those flightcrew members training under an initial, upgrade, or transition training program. These simulator instructors were required to hold an ATP but not a type rating in the type airplane in which they instructed so long as they were only giving proficiency instruction. ATA states that simulator instructors holding an ATP but not a type rating for the airplane in which they instructed could not obtain the required type rating in a level C simulator.

Under this final rule, simulator instructors are included under the category of flight instructors (simulator). Flight instructors (simulator) are required to obtain a type rating for the airplane in which they instruct. Any individual may use an approved simulator to satisfy the practical test requirements for an ATP and associated type rating in accordance with current § 61.157(e). Those individuals who hold an ATP but not the type rating in the airplane in which they provide proficiency instruction will have 9 months to come into compliance with the new requirement by obtaining the aircraft type rating. (See new 121.412(c)(1)). The new part 121 rule recodifies the existing part 121 requirement that if a simulator instructor is providing initial training, upgrade training, or transitional training, then he or she must have a type rating for the aircraft. Because this is a recodification of the part 121 existing requirement, ongoing compliance is required. In other words, any part 121 flight instructor (simulator) who provides initial, upgrade, or transitional training must continue to have the appropriate type rating for the aircraft involved. In contrast, current § 135.337(b) does not require that a simulator instructor have the appropriate type ratings. Therefore new § 135.338(c)(1) allows flight instructors (simulator) 9 months to come into compliance with the new type rating requirements.

Despite ATA's assertion, in its untimely comment, that it would take two of its members several years to type rate all of their "simulator only" instructors, ATA did not provide any data to support its claim (e.g., number of persons affected, availability of simulators, etc.) Furthermore, ATA states in its April 19 comment that these instructors have completed aircraft qualification courses and recurrent training. Thus, the time required for

these individuals to obtain type ratings will be minimal.

FedEx and ATA

FedEx and ATA recommend deleting current § 121.411(a)(6) and proposed §§ 121.411(b)(5), 121.412(b)(5), 121.411(e) and 121.412(e). According to these commenters, existing part 61 and § 121.383 adequately address medical certificate and age requirements and the FAA should merely reference these existing requirements in the preamble of this final rule. Regarding §§ 121.411(e) and 121.412(e), the KHA1 commenter agrees with ATA and FedEx that these sections should be deleted due to redundancy with existing § 121.383. ATA and FedEx further request that the FAA make it clear that the requirement for a Class III medical certificate in § 61.39 does not apply if the applicant for a type rating uses a flight simulator.

FAA response: The FAA concurs with ATA that proposed §§ 121.411(b)(5), 121.412(b)(5), 121.411(e) and 121.412(e) may echo provisions contained elsewhere in the regulations; however, the intent of these proposed sections is to clarify medical requirements for the airplane and simulator categories of check airmen and flight instructors.

The provisions of § 61.39, which cover flight tests, do not apply to this rulemaking. The medical requirement provision of § 61.39(a)(3) was adopted to ensure that applicants who would take their flight tests in an aircraft hold appropriate medical certificates. There is no requirement for applicants to hold a medical certificate for practical tests conducted in a simulator. Section 61.157 provides for adding type ratings to existing ATP's. The addition of a type rating is accomplished under § 61.157 by a practical test for which no medical certificate is required.

KHA1

KHA1's comments are described as follows:

The recordkeeping requirements of proposed § 121.411(c) and (d), requiring that records for a check airman be maintained as for any other pilot, are redundant and not necessary unless the check airman is not employed as a pilot for the certificate holder.

FAA Response: The FAA agrees with the commenter to the extent that check airmen and flight instructors who are line qualified flightcrew members for the operator need not duplicate the recordkeeping requirements of § 121.411. This final rule recognizes check airmen and instructors who may not be line qualified and requires such individuals to maintain similar training

records as those individuals who are line qualified.

Further, according to KHAI, the observation check requirement in proposed § 121.413(a)(2) is burdensome. Since it is now very difficult to schedule an FAA inspector to conduct checks, KHAI believes that this proposed observation check requirement will add an unnecessary burden of additional tracking and scheduling and accomplishes little in the way of verifying the competency of a check airman.

FAA Response: The FAA places importance on the role of check airmen and flight instructors. The 24-month observation is a new requirement and will serve to increase the quality assurance of check airmen and flight instructors. This final rule permits qualified aircrew designated examiners employed by the operator to conduct the observation. The addition of aircrew designated examiners employed by the operator to conduct the observation check should relieve any unnecessary burden for tracking and scheduling.

The commenter from KHAI states that there is an apparent discrepancy in the initial and transition training requirements for flight instructors as proposed in § 121.414 (c)(7) and for check airmen as proposed in § 121.413 (c)(6).

FAA Response: Generally, before an individual becomes a check airman, those individuals are first qualified as flight instructors. The training requirements for flight instructors are prerequisite to the training requirements for check airmen.

KHAI comments that, unlike the new § 121.434 regulation, this regulation does not specifically address line check airmen.

FAA Response: This final rule addresses check airmen as a broad category. Other specific categories of check airmen (i.e., line check airmen, proficiency check airmen, etc.) also were not mentioned. It was not the intent of this rule to address specific categories of check airmen beyond check airmen (airplane) and check airmen (simulator).

Lastly, KHAI states that, in the future, more input is needed from part 121 operators before this type of rule is issued, that comment periods should be longer, and that a review of FAA Order 8400.10 should be conducted.

FAA Response: As indicated in the preamble discussion above, the FAA used draft rule language developed by the Air Carrier Training Working Group of ARAC as the basis for developing this proposal. This working group was comprised of many part 121 operators.

In allotting the 30-day comment period, the FAA was responding to requests for relief from the aviation industry.

Because FAA Orders are guidance material and not regulatory, they are reviewed and updated to coincide with regulatory requirements, when warranted.

Modifications

The following modifications have been made to the final rule:

- “Aircrew designated examiner” has been expanded to “aircrew designated examiner employed by the operator” under proposed §§ 121.413(a)(2) and 135.339(a)(2), to further clarify who, other than an FAA inspector, may conduct an observation check.
- Proposed §§ 121.411(f), 121.412(f), 135.337(f), and 135.338(f) have been revised to make them clear and parallel. These proposed sections contain the qualification requirements for check airmen/simulator and check airmen/airplane.
- Proposed paragraphs (f)(2)(i), (ii), and (iii) have been withdrawn from the qualifications sections for flight instructors (simulator) and check airmen (simulator)—§§ 121.411, 121.412, 135.337, and 135.338. The FAA has decided to maintain the existing regulatory scheme under which operators can seek FAA approval for line observation programs. See Advisory Circular 120–35 as amended.
- Proposed paragraphs (a)(2) of §§ 121.413, 121.414, 135.339, and 135.340 (simulator) have been revised to allow operators until March 1997 (9 months after the publication date of this rule) to come into compliance with the new requirement for operators to conduct observation checks of check airmen and flight instructors once every 24 months.
- Proposed § 121.412(c)(1) has been revised to give part 121 operators and flight instructors (simulator) who currently only provide proficiency instruction, until March 1997 to obtain a type rating if they do not already have one.
- Proposed § 135.338(c)(1) has been revised to give part 135 operators and flight instructors (simulator) until March 1997 to obtain a type rating for the type, class, or category of aircraft in which they instruct if they do not already have one.

Although not in response to comments, the FAA has also added the word “pilot” in front of “flightcrew members” under proposed paragraphs (e) of §§ 121.411 and 121.412. This

clarification is necessary because 121.383(c) (the so-called “Age 60 rule”) only applies to pilot flightcrew members.

With the above modifications being incorporated, this rule is adopted as proposed.

The FAA is making this rule effective on the date of its publication in the Federal Register pursuant to 5 U.S.C. Sections 553(d)(1) and 553(d)(3). Because this new rule eliminates certain medical certification requirements, it relieves a restriction that used to exist and thus justifies an immediate change. (See 5 U.S.C. Section 553(d)(1)). Because much of the rest of these rules are merely a recodification of long-standing rules, good cause exists for making this recodification effective immediately. (See 5 U.S.C. Section 553(d)(3)). Although these rules are effective immediately, the FAA is allowing operators and other affected individuals 9 months to come into compliance with two new requirements: the 24-month observation check and the type rating requirements. (See earlier discussion.)

Paperwork Reduction Act

As stated in the NPRM, the paperwork burden associated with this rule is negligible. The FAA estimated the average burden hour per respondent at 15 seconds per individual every 2 years. As discussed above under “Effective Date,” OMB is reviewing the information collection requirements associated with this rule and will publish a notice informing the public when these information requirements become effective.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA is not aware of any differences that this rule presents, nor were any differences indicated in any of the comments received.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes

on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule is not "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This rule will not have a significant impact on a substantial number of small entities and will have no impact on international trade. These analyses, available in the docket, are summarized below.

Benefits and Costs

The requirements of this rule will not impose any additional cost on air carriers or other training entities currently providing simulator training. These additional requirements can be incorporated into current industry practice.

In the past, the FAA has issued exemptions to air carriers and to training entities (FlightSafety, Simuflite, etc.), which permit them to use simulators to conduct training and checking for air carrier pilots. However, the FAA imposed certain conditions and limitations in these exemptions. The Agency required that the check airmen and instructors of these entities hold the same airman certificates and ratings and complete the same proficiency checks as required to serve as PIC in air carrier operations. In addition, check airmen and flight instructors that conduct Line-Oriented Flight Training and Line Operational Evaluation in simulators had to be line qualified or line familiar and had to participate in a line observation program. This line observation program has the same requirements as the one that is being adopted for check airmen (simulators) and flight instructors (simulator). Therefore, this program will not impose any additional burden on the aviation industry.

In addition, current FAA policy, as part of Flight Standards Work Program Functions, requires aviation safety inspectors to observe, at least once annually, half of the check airmen and instructors while they perform their duties. A portion of the current observation practice and policy is incorporated into the Code of Federal Regulations by this rulemaking. Since the above policy and practice exceed the requirements, this rulemaking will not impose any additional burden on the airline industry.

The rule affords cost savings to air carriers by allowing them to hire experienced pilots who are not able to

hold a current medical certificate to check or instruct in flight simulators and flight training devices if they satisfy the above requirements. These pilots, many of whom are retired, would probably offer their services at lower cost to the airlines than the full-time pilots that currently are performing these functions. Air carriers also will be able to reduce disruption to their operations by contracting with part-time pilots to provide training and checking services, thereby eliminating the need to pull line pilots from their routine duties. The rule also will reduce costs to the industry because it allows all initial and transition flight training for check airmen and instructors to be conducted in simulators or in flight training devices as opposed to the current in-flight requirement. Accordingly, the FAA finds this rule to be cost-beneficial because it does not impose any additional costs on the aviation industry and allows for less costly training of future pilots.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule is expected to have a "significant (positive or negative) economic impact on a substantial number of small entities." Based on the standards and thresholds specified in implementing the FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, the FAA has determined that the rule will not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

This rule is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. The cost savings that would be realized from the rule are not likely to be significant enough to affect the competitive position of domestic concerns vis-a-vis foreign concerns.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, it is certified that this rule will not have a significant economic impact, positive or negative, on a substantial number of

small entities under the criteria of the Regulatory Flexibility Act. This rule is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects

14 CFR Part 121

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

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Parts 121 and 135 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, and 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44901–44904, 44912, 46105.

2. Section 121.411 is revised to read as follows:

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

(a) For the purposes of this section and § 121.413:

(1) A check airman (airplane) is a person who is qualified, and permitted, to conduct flight checks or instruction in an airplane, in a flight simulator, or in a flight training device for a particular type airplane.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks or instruction, but only in a flight simulator or in a flight training device for a particular type airplane.

(3) Check airmen (airplane) and check airmen (simulator) are those check airmen who perform the functions described in § 121.401(a)(4).

(b) No certificate holder may use a person, nor may any person serve as a check airman (airplane) in a training program established under this subpart unless, with respect to the airplane type involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the

airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.413 including in-flight training and practice for initial and transition training;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate;

(6) Has satisfied the recency of experience requirements of § 121.439; and

(7) Has been approved by the Administrator for the check airman duties involved.

(c) No certificate holder may use a person nor may any person serve as a check airman (simulator) in a training program established under this subpart unless, with respect to the airplane type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.413; and

(5) Has been approved by the Administrator for the check airman (simulator) duties involved.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) Check airmen who have reached their 60th 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.

(f) A check airman (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type airplane involved within the 12-month period preceding the performance of any check airman duty in a flight simulator; or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered to be completed in the month required if completed in the calendar month before or in the calendar month after the month in which it is due.

3. Section 121.412 is added to read as follows:

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

(a) For the purposes of this section and § 121.412:

(1) A flight instructor (airplane) is a person who is qualified to instruct in an airplane, in a flight simulator, or in a flight training device for a particular type airplane.

(2) A flight instructor (simulator) is a person who is qualified to instruct, but only in a flight simulator, in a flight training device, or both, for a particular type airplane.

(3) Flight instructors (airplane) and flight instructors (simulator) are those instructors who perform the functions described in § 121.401(a)(4).

(b) No certificate holder may use a person nor may any person serve as a flight instructor (airplane) in a training program established under this subpart unless, with respect to the airplane type involved, that person—

(1) Holds the airman certificates and rating required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 121.414, including in-flight training and practice for initial and transition training;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or a Class II medical certificate as appropriate.

(6) Has satisfied the recency of experience requirements of § 121.439.

(c) No certificate holder may use a person, nor may any person serve as a flight instructor (simulator) in a training program established under this subpart, unless, with respect to the airplane type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command, a flight engineer, or a flight navigator, as applicable, in operations under this part except before February 19, 1997 that person need not hold a type rating for the airplane type involved provided that he or she only provides the instruction described in §§ 121.409(b) and 121.441;

(2) Has satisfactorily completed the appropriate training phases for the airplane, including recurrent training, that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command, flight engineer, or flight navigator, as applicable, in operations under this part; and

(4) Has satisfactorily completed the applicable training requirements of § 121.414.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section as applicable shall be entered in the individual's training record maintained by the certificate holder.

(e) Airmen who have reached their 60th birthday, or who do not hold an appropriate medical certificate, may not function as a flight instructor (airplane), nor may they serve as pilot flightcrew members in operations under this part.

(f) A flight instructor (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type of airplane within the 12-month period preceding the performance of any flight instructor duty in a flight simulator (and must hold a Class I or Class II medical certificate as appropriate); or

(2) Satisfactorily complete an approved line-observation program

within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section is considered completed in the month required if completed in the calendar month before, or the calendar month after the month in which it is due.

4. Section 121.413 is revised to read as follows:

§ 121.413 Initial and transition training and checking requirements: Check airmen (airplane), check airmen (simulator).

(a) No certificate holder may use a person nor may any person serve as a check airman unless—

(1) That person has satisfactorily completed initial or transition check airman training; and

(2) Within the preceding 24 calendar months that person satisfactorily conducts a proficiency or competency check under the observation of an FAA inspector or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an airplane, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.

(c) The initial ground training for check airmen must include the following:

(1) Check airman duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The appropriate methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The appropriate corrective action in the case of unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the airplane.

(d) The transition ground training for check airmen must include the

approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the airplane to which the check airman is in transaction.

(e) The initial and transition flight training for pilot check airmen (airplane), flight engineer check airmen (airplane), and flight navigator check airmen (airplane) must include the following:

(1) The safety measures for emergency situations that are likely to develop during a check.

(2) The potential results of improper, untimely, or non-execution of safety measures during a check.

(3) For pilot check airman (airplane)—

(i) Training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence to conduct the pilot flight checks required by this part; and

(ii) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during a check.

(4) For flight engineer check airmen (airplane) and flight navigator check airmen (airplane), training to ensure competence to perform assigned duties.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for check airmen (simulator) must include the following:

(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by this part. This training and practice must be accomplished in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators or flight training devices, or both, to ensure competence to conduct the flight checks required by this part.

5. Section 121.414 is added to read as follows:

§ 121.414 Initial and transition training and checking requirements: flight instructors (airplane), flight instructors (simulator).

(a) No certificate holder may use a person nor may any person serve as a flight instructor unless—

(1) That person has satisfactorily completed initial or transition flight instructor training; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts instruction under the

observation of an FAA inspector, an operator check airman, or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an airplane, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.

(c) The initial ground training for flight instructors must include the following:

(1) Flight instructor duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The appropriate methods, procedures, and techniques for conducting flight instruction.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory training progress.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the airplane.

(7) Except for holders of a flight instructor certificate—

(i) The fundamental principles of the teaching-learning process;

(ii) Teaching methods and procedures; and

(iii) The instructor-student relationship.

(d) The transition ground training for flight instructors must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the airplane to which the flight instructor is in transition.

(e) The initial and transition flight training for flight instructors (airplane), flight engineer instructors (airplane), and flight navigator instructors (airplane) must include the following:

(1) The safety measures for emergency situations that are likely to develop during instruction.

(2) The potential results of improper, untimely, or non-execution of safety measures during instruction.

(3) For pilot flight instructor (airplane)—

(i) In-flight training and practice in conducting flight instruction from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence as an instructor; and

(ii) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during instruction.

(4) For flight engineer instructors (airplane) and flight navigator instructors (airplane), in-flight training to ensure competence to perform assigned duties.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for flight instructors (simulator) must include the following:

(1) Training and practice in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight instruction required by this part. This training and practice must be accomplished in full or in part in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators or flight training devices, or both, to ensure competence to conduct the flight instruction required by this part.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS.

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

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

7. Section 135.337 is revised to read as follows:

§ 135.337 Qualifications: Check airmen (aircraft) and check airmen (simulator).

(a) For the purposes of this section and § 135.339:

(1) A check airman (aircraft) is a person who is qualified to conduct flight checks in an aircraft, in a flight simulator, or in a flight training device for a particular type aircraft.

(2) A check airman (simulator) is a person who is qualified to conduct flight checks, but only in a flight simulator, in a flight training device, or both, for a particular type aircraft.

(3) Check airmen (aircraft) and check airmen (simulator) are those check airmen who perform the functions described in §§ 135.321 (a) and 135.323(a)(4) and (c).

(b) No certificate holder may use a person, nor may any person serve as a check airman (aircraft) in a training program established under this subpart unless, with respect to the aircraft type involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.339;

(5) Holds at least a Class III medical certificate unless serving as a required crewmember, in which case holds a Class I or Class II medical certificate as appropriate.

(6) Has satisfied the recency of experience requirements of § 135.247; and

(7) Has been approved by the Administrator for the check airman duties involved.

(c) No certificate holder may use a person, nor may any person serve as a check airman (simulator) in a training program established under this subpart unless, with respect to the aircraft type involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the applicable airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.339; and

(5) Has been approved by the Administrator for the check airman (simulator) duties involved.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) Check airmen who do not hold an appropriate medical certificate may function as check airmen (simulator),

but may not serve as flightcrew members in operations under this part.

(f) A check airman (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved within the 12-month preceding the performance of any check airman duty in a flight simulator; or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered to be completed in the month required if completed in the calendar month before or the calendar month after the month in which they are due.

8. Section 135.338 is added to read as follows:

§ 135.338 Qualifications: Flight instructors (aircraft) and flight instructors (simulator).

(a) For the purposes of this section and § 135.340:

(1) A flight instructor (aircraft) is a person who is qualified to instruct in an aircraft, in a flight simulator, or in a flight training device for a particular type, class, or category aircraft.

(2) A flight instructor (simulator) is a person who is qualified to instruct in a flight simulator, in a flight training device, or in both, for a particular type, class, or category aircraft.

(3) Flight instructors (aircraft) and flight instructors (simulator) are those instructors who perform the functions described in § 135.321(a) and 135.323 (a)(4) and (c).

(b) No certificate holder may use a person, nor may any person serve as a flight instructor (aircraft) in a training program established under this subpart unless, with respect to the type, class, or category aircraft involved, that person—

(1) Holds the airman certificates and ratings required to serve as a pilot in command in operations under this part;

(2) Has satisfactorily completed the training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the proficiency or competency checks that are required to serve as a pilot in command in operations under this part;

(4) Has satisfactorily completed the applicable training requirements of § 135.340;

(5) Holds at least a Class III medical certificate; and

(6) Has satisfied the recency of experience requirements of § 135.247.

(c) No certificate holder may use a person, nor may any person serve as a flight instructor (simulator) in a training program established under this subpart, unless, with respect to the type, class, or category aircraft involved, that person meets the provisions of paragraph (b) of this section, or—

(1) Holds the airman certificates and ratings, except medical certificate, required to serve as a pilot in command in operations under this part except before February 19, 1997 that person need not hold a type rating for the type, class, or category of aircraft involved.

(2) Has satisfactorily completed the appropriate training phases for the aircraft, including recurrent training, that are required to serve as a pilot in command in operations under this part;

(3) Has satisfactorily completed the appropriate proficiency or competency checks that are required to serve as a pilot in command in operations under this part; and

(4) Has satisfactorily completed the applicable training requirements of § 135.340.

(d) Completion of the requirements in paragraphs (b) (2), (3), and (4) or (c) (2), (3), and (4) of this section, as applicable, shall be entered in the individual's training record maintained by the certificate holder.

(e) An airman who does not hold a medical certificate may function as a flight instructor in an aircraft if functioning as a non-required crewmember, but may not serve as a flightcrew member in operations under this part.

(f) A flight instructor (simulator) must accomplish the following—

(1) Fly at least two flight segments as a required crewmember for the type, class, or category aircraft involved within the 12-month period preceding the performance of any flight instructor duty in a flight simulator; or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program and that must precede the performance of any check airman duty in a flight simulator.

(g) The flight segments or line-observation program required in paragraph (f) of this section are considered completed in the month required if completed in the calendar month before, or in the calendar month after, the month in which they are due.

9. Section 135.339 is added to read as follows:

§ 135.339 Initial and transition training and checking: Check airmen (aircraft), check airmen (simulator).

(a) No certificate holder may use a person nor may any person serve as a check airman unless—

(1) That person has satisfactorily completed initial or transition check airman training; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts a proficiency or competency check under the observation of an FAA inspector or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before or the calendar month after the month in which it is due.

(c) The initial ground training for check airmen must include the following:

(1) Check airman duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The applicable methods, procedures, and techniques for conducting the required checks.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory checks.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(d) The transition ground training for check airmen must include the approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the aircraft to which the check airman is in transition.

(e) The initial and transition flight training for check airmen (aircraft) must include the following—

(1) The safety measures for emergency situations that are likely to develop during a check;

(2) The potential results of improper, untimely, or nonexecution of safety measures during a check;

(3) Training and practice in conducting flight checks from the left and right pilot seats in the required normal, abnormal, and emergency procedures to ensure competence to conduct the pilot flight checks required by this part; and

(4) The safety measures to be taken from either pilot seat for emergency situations that are likely to develop during checking.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for check airmen (simulator) must include the following:

(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by this part. This training and practice must be accomplished in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators, flight training devices, or both, to ensure competence to conduct the flight checks required by this part.

10. Section 135.340 is added to read as follows:

§ 135.340 Initial and transition training and checking: Flight instructors (aircraft), flight instructors (simulator).

(a) No certificate holder may use a person nor may any person serve as a flight instructor unless—

(1) That person has satisfactorily completed initial or transition flight instructor training; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts instruction under the observation of an FAA inspector, as operator check airman, or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an aircraft, in a flight simulator, or in a flight training device. This paragraph applies after February 19, 1997.

(b) The observation check required by paragraph (a)(2) of this section is considered to have been completed in the month required if completed in the calendar month before, or the calendar month after, the month in which it is due.

(c) The initial ground training for flight instructors must include the following:

(1) Flight instructor duties, functions, and responsibilities.

(2) The applicable Code of Federal Regulations and the certificate holder's policies and procedures.

(3) The applicable methods, procedures, and techniques for conducting flight instruction.

(4) Proper evaluation of student performance including the detection of—

(i) Improper and insufficient training; and

(ii) Personal characteristics of an applicant that could adversely affect safety.

(5) The corrective action in the case of unsatisfactory training progress.

(6) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures in the aircraft.

(7) Except for holders of a flight instructor certificate—

(i) The fundamental principles of the teaching-learning process;

(ii) Teaching methods and procedures; and

(iii) The instructor-student relationship.

(d) The transition ground training for flight instructors must include the

approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the type, class, or category aircraft to which the flight instructor is in transition.

(e) The initial and transition flight training for flight instructors (aircraft) must include the following—

(1) The safety measures for emergency situations that are likely to develop during instruction;

(2) The potential results of improper or untimely safety measures during instruction;

(3) Training and practice from the left and right pilot seats in the required normal, abnormal, and emergency maneuvers to ensure competence to conduct the flight instruction required by this part; and

(4) The safety measures to be taken from either the left or right pilot seat for emergency situations that are likely to develop during instruction.

(f) The requirements of paragraph (e) of this section may be accomplished in

full or in part in flight, in a flight simulator, or in a flight training device, as appropriate.

(g) The initial and transition flight training for a flight instructor (simulator) must include the following:

(1) Training and practice in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight instruction required by this part. These maneuvers and procedures must be accomplished in full or in part in a flight simulator or in a flight training device.

(2) Training in the operation of flight simulators, flight training devices, or both, to ensure competence to conduct the flight instruction required by this part.

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David R. Hinson,

Administrator.

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