

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 61, 63, 65, 121, and 135**

[Docket No. FAA-2005-20750; Notice No. 05-04]

RIN 2120-AI59

**Advanced Qualification Program****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA is proposing to codify the requirements of the Advanced Qualification Program (AQP). The AQP would continue as a regulatory alternative program to the traditional training program. AQP would continue to be an alternative for airlines that seek more flexibility in training than the traditional training program allows. Currently, the AQP requirements are in a Special Federal Aviation Regulation that expires on October 2, 2005. The intended effect of this proposal is to make AQP a permanent, alternative method of complying with FAA's training requirements for carriers.

**DATES:** Send your comments on or before April 29, 2005.

**ADDRESSES:** You may send comments [identified by Docket Number FAA-2005-20750] using any of the following methods:

- *DOT Docket Web Site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- *Government-wide Rulemaking Web Site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- *Fax:* 1-202-493-2251.
- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., 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://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read background documents or comments received, go to <http://dms.dot.gov>. You can also go to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

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**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 proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

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. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

*Privacy Act:* Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets. This includes the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this

proposal, include with your comments a preaddressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

**Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the Office of Rulemaking's Web page at <http://www.faa.gov/avr/arm/index.cfm>; or
- (3) Accessing the Government Printing Office's Web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

You can also get a copy 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) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

**Authority for the Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart III, section 44701, General requirements. Under that section, the FAA is charged with promoting the safe flight of civil aircraft in air commerce by prescribing, in addition to specified regulations, regulations and minimum standards for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security. This regulation is within the scope of that authority since it permanently codifies the current requirements and practices of a regulatory compliance option for the training and qualification of air crew personnel, and represents the FAA's continuing efforts to promote aviation safety.

**Background**

In 1975, the FAA began to address two issues in part 121 pilot training and checking. One issue was the hardware requirements needed for total simulation. The other issue was the redesign of training programs to deal with increasingly complex human

factors problems and to increase the safety benefits gained from the simulation. At the urging of the air transportation industry, the FAA addressed the hardware issue first. In 1980, this effort resulted in the FAA developing the Advanced Simulation Program, in 14 CFR part 121, appendix H.

Since then, the FAA has continued to pursue approaches for the redesign of training programs to increase the benefits of Advanced Simulation and to deal with the increasing complexity of cockpit human factors.

On August 27, 1987, FAA Administrator McArtor addressed the chief pilots and certain executives of many air carriers at a meeting held in Kansas City. One of the issues discussed at the meeting focused on flight crewmember performance issues. This meeting led to creating a Joint Government-Industry Task Force on flight crew performance (Joint Task Force). Representatives from major air carriers and air carrier associations, flight crewmember associations, commuter air carrier and regional airline associations, and government organizations took part. On September 10, 1987, the Joint Task Force met at the Air Transport Association's headquarters to identify and discuss flight crewmember performance issues. The Joint Task Force formed working groups in three major areas: (1) Man/machine interface; (2) flight crewmember training; and (3) operating environment. Each working group submitted a report and recommendations to the Joint Task Force. On June 8, 1988, the Joint Task Force presented its recommendations to Administrator McArtor.

The major recommendations to the Administrator from the flight crewmember training working group were the following:

- (1) Require 14 CFR part 135 commuters whose airplane operations require two pilots to comply with part 121 training, checking, qualification, and record keeping requirements;
- (2) Provide for a Special Federal Aviation Regulation (SFAR) and Advisory Circular to permit development of innovative training programs;
- (3) Establish a National Air Carrier Training Program Office that provides training program oversight at the national level;
- (4) Require seconds-in-command to satisfactorily perform their duties under the supervision of check airmen during operating experience;

(5) Require all training to be accomplished through a certificate holder's training program;

(6) Provide for approval of training programs based on course content and training aids rather than using specific programmed hours;

(7) Require Cockpit Resource Management (CRM) (now called Crew Resource Management) Training.

The working group listed specific recommendations for regulatory changes. They separated the recommendations into those changes that should be incorporated into an SFAR and those that should be incorporated into an accompanying Advisory Circular.

In June 1988, the National Transportation Safety Board (NTSB) issued a Safety Recommendation (A-88-71) on the subject of CRM. The recommendation stemmed from an NTSB accident investigation of a Northwest Airline crash on August 16, 1987, in which 148 passengers, 6 crewmembers, and 2 people on the ground were killed.

The NTSB noted that both crewmembers had received single-crewmember training during their last simulator training and proficiency checks. In addition, the last CRM training they had received was 3.5 hours of ground school (general) CRM training in 1983. Because of its investigation, the NTSB recommended that all part 121 carriers review initial and recurrent flight crew training programs to ensure that they include simulator or aircraft training exercises which involve cockpit resource management and active coordination of all crewmember trainees and which will permit evaluation of crew performance and adherence to those crew coordination procedures.

In response to the recommendations from the Joint Task Force and from the NTSB, in October 1990, the FAA published SFAR No. 58, Advanced Qualification Program (AQP), which addresses all of the recommendations discussed previously. The FAA also published an Advisory Circular on AQP that describes an acceptable method by which the terms of the SFAR may be achieved. Under SFAR No. 58, the FAA provides certificated air carriers, as well as training centers they employ, with a regulatory alternative for training, checking, qualifying, and certifying aircrew personnel subject to the requirements of 14 CFR parts 121 and 135.

Air carriers can choose to use a traditional training program or to participate in AQP. Carriers electing not to take part in AQP must continue to operate under the traditional FAA rules

for training and checking. AQP offers several long-range advantages to participation such as the flexibility to tailor training and certification activities to a carrier's particular needs and operational circumstances. AQP encourages innovation in developing training strategies. It includes wide latitude in choice of training methods and media. AQP allows the use of flight training devices for training and checking on many tasks that historically have been accomplished in airplane simulators. It provides an approved means for the applicant to replace FAA-mandated uniform qualification standards with carrier-proposed alternatives tailored to specific aircraft. It allows the applicant to set up an annual training and checking schedule for all personnel, including pilots-in-command, and provide a basis for extending that interval under certain circumstances.

From an FAA perspective, the overriding advantage of AQP is the quality of training. AQP provides a systematic basis for matching technology to training requirements and for approving training program content based on relevance to operational performance.

The main goal of the AQP SFAR was to improve flight crew performance by providing alternative means of complying with certain rules that may inhibit innovative use of modern technology for flight crewmember training. The SFAR has been successful in encouraging carriers to become innovative in their approach to training.

The FAA is now proposing to incorporate the requirements of SFAR No. 58 into 14 CFR part 121. The AQP would continue as an alternative to the traditional training program. AQP would continue to be an alternative for airlines that seek more flexibility in training than the traditional program allows. Thus, this NPRM proposes no new costs to affected operators.

#### **Section-by-Section Discussion of Subpart Y (§§ 121.901–121.925)**

This section by section discussion presents the proposed changes to the AQP. AQP is currently in SFAR No. 58 under part 121. Any significant, substantive change and the justification for that change is discussed under the appropriate proposed section below.

##### ***Section 121.901 Purpose and Eligibility***

The proposed section outlines the purpose and eligibility of the alternate method of training and qualification, known as "Advanced Qualification Program." The AQP is an alternative

method for qualifying, training, certifying, and otherwise ensuring competency of flight crewmembers, flight attendants, and dispatchers. Proposed paragraphs (a), (b) and (c) are based on existing language from SFAR No. 58, section 1.

#### *Section 121.903 General Requirements for Advanced Qualification Programs*

Proposed paragraph (b) states that certificate holders who get approval of an AQP must comply with its provisions. Proposed paragraph (b) clarifies that an AQP is an alternative to complying with the training and qualification requirements for crewmembers, aircraft dispatchers, instructors, and evaluators in parts 61, 63, 65, 121, and 135. Proposed paragraph (b) also states that each applicable requirement of parts 61, 63, 65, 121, or 135 that is not specifically addressed in an AQP curriculum would continue to apply to the certificate holder and to the individuals being trained and qualified by the certificate holder. The FAA may accept alternatives for the practical test requirements of parts 61, 63, and 65, but each applicable requirement of parts 61, 63, 65, 121, or 135, including but not limited to practical test requirements, that is not specifically addressed in an approved AQP curriculum would continue to apply to the certificate holder. This proposal is based on existing SFAR No. 58, section 1, paragraph (e), section 8, paragraph (a), and section 10, paragraph (b)(3). A new sentence in paragraph (b) would add that no person may be trained under an AQP unless the AQP is currently approved and the person complies with all of its provisions.

Proposed paragraph (c) states that no certificate holder that conducts its training program under an AQP may use any person, nor may any person serve in any duty position, as a required crewmember, an aircraft dispatcher, a flight instructor, or an evaluator (e.g., a check airman, check flight attendant, or aircrew program designee (APD)), unless that person has satisfactorily accomplished the training and evaluation of proficiency required by the AQP for that type airplane and duty position. The prohibition against using a person in operations under this part who has not accomplished the required training and evaluation would also apply to any person receiving "special tracking" training, whose schedule for training and evaluating may be different from others employed by that certificate holder.

Proposed paragraph (d) states that all documentation and data required under

this subpart must be submitted in a form and manner acceptable to the FAA. This proposal is based on existing SFAR No. 58, section 10, paragraph (b)(1).

Proposed paragraph (e) states that any training or evaluation required under an AQP that is satisfactorily completed in the calendar month before or the calendar month after the calendar month in which it is due is considered to have been completed in the calendar month it was due. This proposal provides some flexibility in complying with an AQP and is consistent with the practice of current AQP participants. It is based on existing SFAR No. 58, section 6, paragraph (b)(3)(ii)(A); however, in the current SFAR, the provision applies only to on-line evaluations of pilots-in-command (PIC). The FAA is proposing to broaden this provision to apply to any training and evaluation deadline for any duty position.

#### *Section 121.905 Confidential Commercial Information*

This proposed section is new and specifies the procedure for a certificate holder to make a claim that AQP information or data submitted to the FAA is entitled to confidential treatment under 5 U.S.C 552 (b)(4). The certificate holder must clearly identify its claim of confidentiality on each submission and must justify that claim. The FAA office of primary responsibility for the AQP will evaluate a submitter's claim for confidential treatment of information or data. The FAA office of primary responsibility for the AQP will make the determination whether the information submitted is entitled to protection under 5 U.S.C 552(b)(4), within a reasonable time, and with review by the Office of the Chief Counsel.

#### *Section 121.907 Definitions*

This proposed section contains definitions used throughout proposed subpart XXX. The proposed definitions of "evaluator" and "variant" contain language from the existing definition in SFAR No. 58, section 2. The following definitions are new: "Crew Resource Management (CRM)," "Curriculum outline," "Evaluation of proficiency," "First Look," "Instructional systems development," "Job task listing," "Line operational evaluation (LOE)," "Line operational simulation (LOS)," "Planned hours," "Qualification standard," "Qualification standards document," "Special tracking," and "Training session." "Line operational evaluation" is an evaluation conducted in a simulated line environment consisting of a complete scenario.

"Instructional systems development" is defined as "a systematic methodology for deriving and maintaining qualification standards and associated curriculum content based on a documented analysis of the job tasks, skills, and knowledge required for job proficiency." Under proposed § 121.909 AQP applicants must provide a description of the methodology they will use for instructional systems development. The FAA provides guidance in the AQP Advisory Circular.

#### *Section 121.909 Approval of Advanced Qualification Program*

Proposed paragraph (a), which outlines the approval process, is based on existing SFAR No. 58, section 10, paragraph (a). In the approval process, the certificate holder applies for approval of an AQP curriculum to the Manager of the Advanced Qualification Program, after going through the FAA office responsible for approval of the certificate holder's operations specifications. The existing rule states that the certificate holder applies for approval to the certificate holder's FAA Flight Standards District Office. The new wording reflects existing procedures for the review and approval of AQP documentation at both a local and a national level.

Proposed paragraph (b), which discusses the application process for approval of an AQP curriculum, is based on existing SFAR No. 58, section 3 and section 10, paragraph (b). The introductory text of paragraph (b) specifies the applicant must have separate curriculums for indoctrination, qualification, and continuing qualification (including upgrade, transition, and requalification). The FAA is proposing new language to describe current requirements concerning the instructional systems development methodology. This new language would not impose any additional costs on the operator as we are just codifying and clarifying the requirements of the AQP. This methodology would have to incorporate a thorough analysis of the certificate holder's operations, aircraft, line environment, and job functions. All AQP qualification and continuing qualification curriculums would have to integrate the training and evaluation of CRM and technical skills and knowledge.

Proposed paragraph (b)(1) states the AQP would have to meet all the requirements of proposed subpart Y. Proposed paragraph (b)(2) adds new language to describe current curriculum documentation requirements for indoctrination, qualification, and

continuing qualification (including upgrade, transition, and requalification). The documentation for each curriculum would have to include the initial application for AQP, the initial job task listing, a description of the instructional systems development methodology, a qualification standards document, the curriculum outline, and an implementation and operations plan. Applicants are not required to have all types of curriculums (e.g., indoctrination, qualification, continuing qualification). However, for each curriculum they propose, they must provide the documentation required in paragraphs (b)(2)(i)–(vi).

AQP participants may propose requirements in addition to, or in place of, the requirements in part 61, 63, 65, 121, or 135. An approved AQP serves as an alternative to the requirements in parts 61, 63, 65, 121, and 135. The applicant must justify any differences between parts 61, 63, 65, 121, and 135 and the AQP. The FAA must approve such differences for that AQP.

Proposed paragraph (b)(3) states that, subject to approval by the FAA, certificate holders could elect, where appropriate, to consolidate information about multiple programs within any of the documents referenced in proposed paragraph (b)(2). For example, if an applicant has more than one curriculum for different aircraft, the applicant could provide one document that addresses one or more curriculums.

Proposed paragraph (b)(4) is similar to existing SFAR No. 58, section 10, paragraph (b)(3). Under the proposed rule the certificate holder would have to establish an initial justification and a continuing process, approved by the FAA, to show how the AQP curriculum provides an equivalent level of safety for each requirement in parts 61, 63, 65, 121, or 135 that is replaced by an AQP curriculum. The continuing process is, in effect, a quality assurance process. For each certificate holder using an AQP, the FAA receives annual reports, data submissions, and information on the performance of flight instructors and evaluators. The FAA studies these to make sure the certificate holder continually evaluates itself to ensure that it continues to meet the AQP agreement. This expectation of self-monitoring on the part of certificate holders is not specifically addressed in the current SFAR, but certificate holders currently using AQPs are using quality assurance programs. This change would codify that practice.

Proposed paragraph (c) refers only to the requirement in existing SFAR No. 58, section 10, paragraph (c), for AQP applications to include a transition plan

for moving from an existing program to an AQP program. The reference in existing SFAR No. 58, section 10(c), to revisions of an AQP has been moved entirely to proposed paragraph (d).

Proposed paragraph (d) addresses rescissions of approval and requirements for revisions. It is the same as existing SFAR No. 58, section 10, paragraph (d) except that it deletes reference to § 135.325, to allow revisions to be approved in accordance with the applicant's approved AQP and proposed subpart Y. Proposed paragraph (d) adds to existing language, which states the FAA may require the certificate holder to submit revisions or to submit and obtain approval of a transition plan to part 121, subpart N, if the FAA finds the certificate holder is not meeting the provisions of the certificate holder's approved AQP. This requirement just codifies current practice therefore there is no additional costs imposed on the operator. The proposed paragraph (d) adds to that language the words, "or if otherwise warranted". This additional language would permit approval to be withdrawn for any reason that the FAA finds to be warranted. This could include, for example, a determination that compliance with the approved program is no longer consistent with safety. Also, a new sentence is added to paragraph (d) that would allow for the use of a transition plan, approved under proposed subpart Y, as a means for accomplishing voluntary withdrawal from the AQP, when such withdrawal is initiated by the certificate holder. The existing SFAR does not specifically address the use of a transition plan as a means for voluntary withdrawal.

Proposed paragraph (e) is new language stating that final approval of an AQP by the FAA would indicate that the FAA has accepted the justification provided under paragraph (b)(4) and that the applicant's initial justification and a continuing process establish an equivalent level of safety for each requirement of parts 61, 63, 65, 121 or 135 that is being replaced.

#### *Section 121.911 Indoctrination Curriculum*

The proposed section is based on existing language from SFAR No. 58, section 4. Proposed paragraphs (a), (b), (c), and (d) are the same as existing SFAR No. 58, section 4, paragraphs (a), (b), (c), and (d), respectively.

#### *Section 121.913 Qualification Curriculum*

The proposed section contains requirements for qualification curriculums and is based on existing

SFAR No. 58, section 5, paragraph (b). In the proposed § 121.913 introduction, "qualification" from existing SFAR No. 58, section 5, paragraph (b), is changed to "evaluation," because "evaluation" is the more specific term in this context.

Proposed paragraph (a) contains a requirement for documentation of the certificate holder's planned hours of training, evaluation, and supervised operating experience. The proposed paragraph is the same as existing SFAR No. 58, section 5, paragraph (a).

Proposed paragraph (b) contains qualification curriculum requirements for crewmembers, aircraft dispatchers, and other operations personnel. Proposed paragraph (b) is based on existing SFAR No. 58, section 5, paragraph (b)(1). In the proposed paragraph (b)(2) the term "qualification standards of each task" is used instead of "each maneuver and procedure." New language is also added in proposed (b)(4), stating that each qualification curriculum would have to include a list of and text describing evaluation/remediation strategies, provisions for special tracking, and how recency of experience requirements would be accomplished. This new language is codifying current practice and would not impose any additional costs on the operator.

Proposed paragraph (c) is new language and would require qualification to include an initial operating experience and line check for flight crewmembers. This new language is current practice and would not impose any additional costs on the operator as we are just codifying and clarifying the requirements of the AQP. The language of paragraph (c) is more specific than under the current SFAR, but this practice is currently followed by certificate holders under AQP.

Proposed paragraphs (d) and (e) outline qualification curriculum requirements for flight instructors and evaluators, respectively. Proposed paragraph (d) is based on existing SFAR No. 58, section 5, paragraph (b)(2). Proposed paragraph (e) is based on existing SFAR No. 58, section 5, paragraph (b)(3). New language is added to each, clarifying current requirements to include a list of and text describing the knowledge requirements, subject materials, job skills, and qualification standards of each procedure and task to be trained and evaluated, and a list of and text describing evaluation/remediation strategies, standardization policies and recency requirements. This new language would not impose any additional costs on the operator as we are just codifying and clarifying the requirements of the AQP.

### *Section 121.915 Continuing Qualification Curriculum*

The proposed section contains program requirements for continuing qualification curriculums. The introductory paragraph is based on existing SFAR No. 58, section 6 introduction.

Proposed paragraph (a) is based on existing SFAR No. 58, section 6, paragraphs (a)(1) and (b). The existing language states that each person qualified under AQP receives a balanced mix of training and evaluation to ensure that he or she "maintains at least the current minimum proficiency level of knowledge, skills, and attitudes required for original qualification." In the proposed paragraph the introductory language is changed to state that each person "maintains the proficiency level in knowledge, technical skills, and cognitive skills required for initial qualification." The proposed paragraph revises the current rule to state that this training and evaluation must be in accordance with: (1) The approved continuing qualification AQP; (2) evaluation/remediation strategies; and (3) provisions for special tracking.

Proposed paragraph (a)(1), which discusses continuing qualification cycle evaluation periods, is based on existing SFAR No. 58, section 6, paragraph (b)(1). New language is included that defines the continuing qualification cycle as initially consisting of two or more evaluation periods of equal duration. This new language would not impose any additional costs on the operator as we are just codifying current practice.

Proposed paragraph (a)(2), which outlines continuing qualification cycle training requirements, is based on existing SFAR No. 58, section 6, paragraph (b)(2). The proposed paragraph revises the requirements to state that continuing qualification training must be in accordance with the approved program documentation.

Proposed paragraph (a)(2)(i) is new language codifying current practice that states that for pilots in command, second in command, and flight engineers, continuing qualification training must include First Look in accordance with the certificate holder's FAA-approved program documentation. This new language would not impose any additional costs on the operator. "First Look" is defined in proposed § 121.907 as the assessment of performance to determine proficiency on designated flight tasks before any briefing, training, or practice on those tasks is given in the training session for a continuing qualification curriculum.

The FAA proposes that "First Look" be conducted during an AQP continuing qualification cycle to determine trends of degraded proficiency, if any, due in part to the length of the interval between training sessions.

Proposed paragraph (a)(2)(ii) addresses ground training requirements for continuing qualification and is the same as existing SFAR No. 58, section 6, paragraph (b)(2)(i).

Proposed paragraph (a)(2)(iii) outlines continuing qualification proficiency training requirements for crewmembers, flight instructors, evaluators, and other operational personnel who conduct their duties in flight. It is based on existing SFAR No. 58, section 6, paragraph (b)(2)(ii).

Proposed paragraph (a)(2)(iv) outlines continuing qualification ground training requirements for dispatchers and other operational personnel who do not conduct their duties in flight, and is based on existing SFAR No. 58, section 6, paragraph (b)(2)(i). The proposed paragraph adds a requirement for a line observation program, if applicable.

Proposed paragraph (a)(2)(v) is based on existing SFAR No. 58, section 6, paragraph (b)(2)(iii), but with clarifying language to separately address: (1) Flight instructors and evaluators, in general; and (2) flight instructors and evaluators who are limited to conducting their duties in flight simulators and flight training devices. Continuing qualification for each group must include training in the type flight training device or the type flight simulator, as appropriate, regarding training equipment operation and training in operational flight procedures and maneuvers (normal, abnormal, and emergency), respectively.

Proposed paragraph (b), which outlines continuing qualification cycle evaluation requirements, is based on existing SFAR No. 58, section 6, paragraph (b)(3). The existing language is revised to state that evaluation of performance for continuing qualification will be done "on a sample" of events and major subjects. Existing SFAR No. 58, section 6(b)(3) states that continuing qualification evaluations must include all events and major subjects required for original qualification, and online evaluations for pilots in command and other eligible flight crewmembers; however, current AQPs use a sample of events. Under the proposed paragraph (b) requirements, the sample of events and major subjects used in evaluation would be identified as diagnostic of competence and approved for that purpose by the FAA.

Instead of basing curriculums on prescribed generic maneuvers,

procedures and knowledge items, AQP curriculums are based on a detailed analysis of the specific job tasks, knowledge and skill requirements of each duty position for the individual airline. The analysis applies the following factors: Criticality, currency, need for training, applicable conditions, and applicable standards. The determination of criticality and currency guides when and how the objective is trained, validated, or evaluated. To make this determination the applicant and FAA answer a series of questions about each task to describe its performance requirements, both on the line and in the training setting. Criticality is a determination of the relative impact of substandard task performance on overall safety. It indicates an increased need for awareness, care, exactness, accuracy, or correctness during task performance. Critical tasks are proficiency objectives that are trained, validated, or evaluated more frequently during an AQP evaluation period. A currency task is a proficiency objective for which individuals or crews maintain proficiency by repeated performance of the item in normal line, duty or work operations. Most currency items are validated during line checks and may be sampled in the Continuing Qualification Cycle. Tasks that are determined to be critical and not current are trained, validated, or evaluated each evaluation period. Tasks that are determined to be neither critical nor current are trained, validated, or evaluated each continuing qualification cycle.

Proposed paragraph (b)(1), which contains requirements for evaluations of proficiency, is the same as existing SFAR No. 58, section 6, paragraph (b)(3)(i).

Proposed paragraph (b)(2), which discusses line checks, is based on existing SFAR No. 58, section 6, paragraph (b)(3)(ii) with a few revisions. The term "online evaluations" is changed to "line checks" in the proposed language. Further, proposed paragraph (b)(2)(i), which addresses line checks for pilots in command, begins with the qualifying statement "Except as provided in paragraph (b)(2)(ii) of this section \* \* \*"

Paragraph (b)(2)(ii) is new language that addresses "No-notice Line Checks." The proposed language states that with the FAA's approval, no-notice line checks could be used in place of line checks, although the certificate holder who elects to exercise this option would have to ensure that no advance notice of the evaluation is given. Further, the AQP certificate holder would be required to ensure that each pilot in

command receives at least one “no-notice” line check every 24 months. Also, the certificate holder would have to ensure that, at a minimum, the number of these checks given each calendar year equates to at least 50% of the certificate holder’s pilot-in-command workforce, in accordance with a strategy approved by the FAA for that purpose. Under this proposed requirement, the line checks would be conducted over all geographic areas flown by the certificate holder in accordance with a sampling methodology approved by the FAA for that purpose. This proposed language is consistent with existing exemptions that have been granted to some AQP certificate holders in order to allow a longer period between line checks in exchange for such no-notice line checks. The no-notice feature of the random line check procedure provides evaluators with an increased opportunity to observe typical behavior, and the requirement for conducting such checks over all geographic routes better assures that such information is representative of performance over the airline’s entire operation.

Proposed paragraph (b)(2)(iii), which further addresses line check requirements, is the same as existing SFAR No. 58, section 6, paragraph (b)(3)(ii)(B), except that it codifies the existing requirement in § 121.440(b)(1) and contains the additional requirement that the line check evaluator must hold the certificates and ratings required of the pilot in command for that aircraft.

Proposed paragraph (c), which discusses recency of experience requirements, is based on existing SFAR No. 58, section 6, paragraphs (a)(2) and (b)(4). The proposed paragraph expands the existing application of the recency of experience requirements to include flight engineers, flight attendants, aircraft dispatchers, instructors, and evaluators.

Proposed paragraph (d), which addresses duration of cycles and periods, is based on existing SFAR No. 58, section 6, paragraph (c), but includes revisions to the existing duration of periods, based on the FAA’s observations of program administration since the original inception of the AQP in 1990. The proposed changes decrease the maximum allowable duration of the initial continuing qualification cycle approved for an AQP from 26 to 24 calendar months. Also, the proposed requirements would decrease the duration ceiling for the subsequent continuing qualification cycles from 39 to 36 calendar months in order to accommodate evaluation period multiples based on 6, 12, or 18 months.

This new language would not impose any additional costs on the operator. The reductions above align the timeframes with current practice. An AQP participant has never requested the maximum durations. The language in the existing SFAR that the Administrator may approve extensions in 3-month increments has been deleted because the FAA has found this requirement cumbersome and difficult to implement. Regardless of the length of the continuing qualification cycle, the grace period allowed in proposed § 121.903(e) would apply.

Proposed paragraph (e), which discusses requalification requirements, is the same as existing SFAR No. 58, section 6, paragraph (d).

#### *Section 121.917 Other Requirements.*

Proposed § 121.917 is based on existing SFAR No. 58, section 7. These proposed paragraphs contain additional requirements that must be included in each AQP qualification and continuing qualification curriculum.

Proposed paragraph (a) requires each qualification curriculum to include integrated crew resource management (CRM) or Dispatcher Resource Management (DRM) ground and flight training applicable to each position for which training is provided under an AQP. Proposed paragraph (a) is the same as existing SFAR No. 58, section 7, paragraph (a), except that “Approved Cockpit Resource Management Training” is changed to “Integrated Crew Resource Management ground and flight training” in the proposed paragraph. Also, the requirement for DRM training is added to clarify that if dispatchers are included under an AQP, they must also receive DRM training.

Proposed paragraph (b) would require each qualification curriculum to include approved training on and evaluation of skills and proficiency of each person being trained under AQP to use their crew resource management skills and their technical skills in an actual or simulated operations scenario. Proposed paragraph (b) is the same as existing SFAR No. 58, section 7, paragraph (b), except that under the proposed rule, “aircraft” is added to the list of approved devices for flight crewmembers training and evaluation for certificate holders who have obtained approval for its use under subpart Y.

Proposed paragraph (c) outlines qualification curriculum data collection and analysis processes requirements. Proposed paragraph (c) is based on existing SFAR No. 58, section 7, paragraph (c), but proposed paragraph (c) is revised to address both data

collection and analysis processes. The FAA proposes to require that the certificate holder provide the FAA with information on its analysis process to ensure that the certificate holder is applying an effective methodology for data driven quality assurance purposes. Further, the proposed paragraph states that the data will enable both the certificate holder and the FAA to make determinations about the effectiveness of the curriculum. This new language would not impose any additional costs on the operator. This change is consistent with existing AQP practices, and is made in order to identify the requirement that the certificate holder employ its own AQP data for curriculum effectiveness determinations.

#### *Section 121.919 Certification*

The proposed introductory paragraph to this section is identical to existing SFAR No. 58, section 8 introduction.

Proposed paragraph (a) outlines the establishment of a certification requirement and is based on existing SFAR No. 58, section 8, paragraph (a). Existing SFAR No. 58, section 8, paragraph (a), states that for certification the Administrator may accept substitutes for the practical test requirements of parts 61, 63, and 65, as applicable. Proposed paragraph (a) replaces the word “substitutes” with “alternatives” to the certification and rating criteria of parts 61, 63, and 65 of this chapter. It also adds further qualifying language, to the effect that the FAA may approve such alternatives if it can be demonstrated that the newly established criteria represent an equivalent or better measure of airman competence, operational proficiency, and safety. This qualifying language is similar to the wording of existing SFAR No. 58, section 10(b)(3), to the effect that the certificate holder must show how the AQP curriculum provides an equivalent level of safety for each requirement that is replaced.

Proposed paragraph (b) contains the qualification curriculum completion requirement for certification and is the same as existing SFAR No. 58, section 8, paragraph (b).

Proposed paragraph (c) contains the knowledge and skill competency requirements for certification and is the same as existing SFAR No. 58, section 8, paragraph (c), except that “cockpit resource management knowledge and skills” is changed to “crew resource management knowledge and skills,” including either CRM or DRM, in the proposed paragraph. In addition, with regard to testing both piloting and CRM skills in scenarios that test both

together, proposed paragraph (c) identifies Line Operational Evaluation (LOE) as the scenario methodology. This new language would not impose any additional costs on the operator as we are just codifying current practice.

Proposed paragraph (d) is identical to existing SFAR No. 58, section 8, paragraph (d).

The FAA is adding paragraph (e) to require the certification applicant to be trained to proficiency on the certificate holder's approved AQP qualification standards, and to pass an LOE administered by an APD or the FAA. This new language should not impose any additional costs on the operator.

This is current practice and would make clear that the final evaluation event for certification purposes under an AQP must be administered by the same level of evaluator as is required for a traditional part 121 or 135 program.

#### *Section 121.921 Training Devices and Simulators*

Proposed paragraph (a) outlines the process for qualification and approval of flight training devices and simulators and is the same as existing SFAR No. 58, section 9, paragraph (a). Proposed paragraph (a) lists potential training device and simulator uses and is the same as existing SFAR No. 58, section 9, paragraph (a). Proposed paragraph (b), which contains requirements for the approval of other training devices, is the same as existing SFAR No. 58, section 9, paragraph (b).

#### *Section 121.923 Approval of Training, Qualification, or Evaluation by a Person Who Provides Training by Arrangement*

Proposed paragraph (a), which discusses AQP training given by an outside source, referred to as a "training provider," is based on existing SFAR No. 58, section 11, paragraph (a).

Proposed paragraph (a)(1) would require that a training provider be a part 119 or part 142 certificate holder.

Proposed paragraph (a)(2), which contains the requirements for provisional approval, is the same as existing SFAR No. 58, section 11, paragraph (a)(1), except that the application for provisional approval, under the proposed rule, would be made through the FAA office directly responsible for oversight of the training center, to the Manager of the Advanced Qualification Program. This change should not impose any additional costs on the operator. Proposed paragraphs (a)(3), (b), (b)(1), (b)(2), (b)(3), (c), (c)(1), and (c)(2), which contain requirements for the approval of training, qualification, or evaluation by a person who provides training by arrangement,

are the same as existing SFAR No. 58, section 11, paragraphs (a)(2), (b), (b)(1), (b)(2), (b)(3), (c), (c)(1), and (c)(2), respectively.

#### *Section 121.925 Recordkeeping requirements*

This proposed section, which contains recordkeeping requirements, is based on existing SFAR No. 58, section 12, with no substantive changes.

Individual recordkeeping by certificate holders is needed to show whether each crewmember, aircraft dispatcher, or other operations personnel is in compliance with the AQP and subpart Y. The recordkeeping requirement of § 121.925 is a separate function from the data collected and analyzed under the requirements of proposed § 121.917(c), which must be submitted to the FAA for analysis and validation without names or other elements that would identify an individual or group of individuals. The data collected under § 121.917 is analyzed to monitor the effectiveness of AQP training, to determine the validity of requests for extensions of training intervals and cycles, and to monitor the effectiveness of CRM training.

#### **Paperwork Reduction Act**

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted the information requirements associated with this proposal to the Office of Management and Budget for its review.

*Title:* Advanced Qualification Program.

*Summary:* AQP is an existing rule and the data currently required is being submitted. Data collection and analysis of data is a fundamental part of AQP. AQP is continuously validated through the collection and analysis of trainee performance. Data collection and analysis processes ensure that the certificate holder provides performance information on its crewmembers, flight instructors, and evaluators that will enable the certificate holder and the FAA to determine whether the form and content of training and evaluation activities are satisfactorily accomplishing the overall objectives of the curriculum.

*Use of:* The Voluntary Safety Programs Branch, AFS-230, receives the AQP data monthly in order to monitor program compliance, effectiveness, and efficiency. AFS-230 processes the information for errors and omissions then analyzes the data. The FAA principal operations inspector (POI) responsible for oversight of the

certificate holder reviews the analyzed data. The POI and his staff make use of this information to monitor training trends, to identify areas in need of corrective action, to plan targeted surveillance of curricula, and to verify that corrective action is effective. In general, this information is used to provide an improved basis for curriculum approval and monitoring, as well as agency decisions concerning air carrier training regulation and policy.

*Respondents (Including Number of):* The likely respondents to this proposed data collection requirement are 16 airlines and 2 manufacturers.

*Frequency:* The frequency of data collection is monthly.

*Annual Burden Estimate:* This proposal would result in an annual recordkeeping and reporting burden as follows:

- *Number of respondents with approved AQPs:* 18.
- *Frequency of response per respondent:* Monthly.
- *Estimated number of hours per respondent to prepare information to be submitted to the FAA:* 2.0.
- *Estimated annual hour burden per respondent:* 24.
- *Total estimated hours of industry burden:* 432.

The estimated 2-hour burden is the time required to transform the data already produced monthly by the certificate holder as part of an approved AQP into the appropriate form for use by the FAA.

Currently sixteen airlines and two manufacturers have established AQP programs. However, not all of the participants' aircraft fleet types (personnel) are covered by an AQP. Based on a cost benefit study from certificate holders with existing AQP programs, the average cost of an AQP analyst is \$60 per hour. Therefore, the maximum cost of this burden is:

- *Industry per annum (432 hours)* \$25,920.
- *Each participant per annum (24 hours)* \$1440.

The agency is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agency's estimate of the burden;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,



electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may submit comments on the information collection requirement by April 29, 2005, and should direct them to the address listed in the **ADDRESSES** section of this document.

According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

### **International Compatibility**

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

### **Executive Order 12866 and DOT Regulatory Policies and Procedures**

Proposed changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation).

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation.

This NPRM proposes to make permanent an existing temporary regulatory alternative for operators to comply with carrier training requirements. We have not prepared a “regulatory evaluation,” which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory Policies and Procedures, because such an evaluation is not required where the economic impact of a rule is minimal. The FAA requests comments with supporting justification regarding the FAA determination of minimal impact.

In conducting these analyses, the FAA has determined this rule (1) has minimal costs, is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, and is not “significant” as defined in DOT’s Regulatory Policies and Procedures; (2) will not have a significant economic impact on a substantial number of small entities; (3) will not reduce barriers to international trade; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.” To achieve that principle, the RFA requires agencies to solicit and consider regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

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

However, if the agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small

entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Because we are proposing to make permanent an existing temporary regulatory alternative for operators to comply with carrier training requirements, we certify that this action will not have a significant economic impact on a substantial number of small entities. We solicit comments on this determination.

### **International Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore no effect on any trade-sensitive activity.

### **Unfunded Mandates Assessment**

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This NPRM does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

### **Executive Order 13132, Federalism**

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or



on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

#### Environmental Analysis

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

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

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

#### List of Subjects

##### 14 CFR Part 61

Air safety, Air transportation, Aviation safety, Safety.

##### 14 CFR Part 63

Air safety, Air transportation, Airmen, Aviation safety, Safety, Transportation.

##### 14 CFR Part 65

Airmen, Aviation safety, Air transportation, Aircraft.

##### 14 CFR Part 121

Aircraft pilots, Airmen, Aviation safety, Pilots, Safety.

##### 14 CFR Part 135

Air carriers, Air transportation, Airmen, Aviation safety, Safety, Pilots.

#### The Proposed Amendment

The Federal Aviation Administration proposes to amend parts 61, 63, 65, 121, and 135 of Title 14, Code of Federal Regulations (14 CFR parts 61, 63, 65, 121 and 135) as follows:

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

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

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

#### SFAR No. 58 [Removed]

2. Remove SFAR No. 58 from part 61.
3. Amend 61.58(b) by removing "SFAR 58" and adding "subpart Y of part 121 of this chapter" in its place.

#### PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

4. The authority citation for part 63 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40108, 40113, 44701–44703, 44710, 44712, 44714, 44716, 44717, 44722, 45303.

#### SFAR No. 58 [Removed]

5. Remove SFAR No. 58 from part 63.

#### PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

6. The authority citation for part 65 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

#### SFAR No. 58 [Removed]

7. Remove SFAR No. 58 from part 65.

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

8.–9. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

#### SFAR No. 58 [Removed]

10. Remove Special Federal Aviation Regulation (SFAR) No. 58.—Advanced Qualification Program from part 121.

11. Add subpart Y to read as follows:

#### Subpart Y—Advanced Qualification Program

Sec.

- 121.901 Purpose and eligibility.
- 121.903 General requirements for Advanced Qualification Programs.
- 121.905 Confidential commercial information.
- 121.907 Definitions.
- 121.909 Approval of Advanced Qualification Program.
- 121.911 Indoctrination curriculum.
- 121.913 Qualification curriculum.
- 121.915 Continuing qualification curriculum.
- 121.917 Other requirements.
- 121.919 Certification.
- 121.921 Training devices and simulators.

121.923 Approval of training, qualification, or evaluation by a person who provides training by arrangement.

121.925 Recordkeeping requirements.

#### § 121.901 Purpose and eligibility.

(a) Notwithstanding the provisions of parts 61, 63, 65, 121, 135, and 142 of this chapter, this subpart provides for approval of an alternative method (known as "Advanced Qualification Program" or "AQP") for qualifying, training, certifying, and otherwise ensuring competency of crewmembers, aircraft dispatchers, other operations personnel, flight instructors, and evaluators who are required to be trained under parts 121 and 135 of this chapter.

(b) A certificate holder is eligible under this subpart if the certificate holder is required or elects to have an approved training program under §§ 121.401, 135.3(c), or 135.341 of this chapter.

(c) A certificate holder obtains approval of each proposed curriculum under this AQP as specified in § 121.909.

#### § 121.903 General requirements for Advanced Qualification Programs.

(a) A curriculum approved under an AQP may include elements of existing training programs under part 121 and part 135 of this chapter. Each curriculum must specify the make, model, series or variant of aircraft and each crewmember position or other positions to be covered by that curriculum. Positions to be covered by the AQP must include all flight crewmember positions, flight instructors, and evaluators and may include other positions, such as flight attendants, aircraft dispatchers, and other operations personnel.

(b) Each certificate holder that obtains approval of an AQP under this subpart must comply with all of the requirements of the AQP and this subpart instead of the corresponding provisions of parts 61, 63, 65, 121, or 135 of this chapter. However, each applicable requirement of parts 61, 63, 65, 121, or 135 of this chapter, including but not limited to practical test requirements, that is not specifically addressed in the AQP continues to apply to the certificate holder and to the individuals being trained and qualified by the certificate holder. No person may be trained under an AQP unless that AQP has been approved by the FAA and the person complies with all of the requirements of the AQP and this subpart.

(c) No certificate holder that conducts its training program under this subpart may use any person nor may any person

serve in any duty position as a required crewmember, an aircraft dispatcher, a flight instructor, or an evaluator, unless that person has satisfactorily accomplished, in a training program approved under this subpart for the certificate holder, the training and evaluation of proficiency required by the AQP for that type airplane and duty position.

(d) All documentation and data required under this subpart must be submitted in a form and manner acceptable to the FAA.

(e) Any training or evaluation required under an AQP that is satisfactorily completed in the calendar month before or the calendar month after the calendar month in which it is due is considered to have been completed in the calendar month it was due.

#### **§ 121.905 Confidential commercial information.**

(a) Each certificate holder that claims that AQP information or data it is submitting to the FAA is entitled to confidential treatment under 5 U.S.C. 552(b)(4) because it constitutes confidential commercial information as described in 5 U.S.C. 552(b)(4), and should be withheld from public disclosure, must include its request for confidentiality with each submission.

(b) When requesting confidentiality for submitted information or data, the certificate holder must:

(1) If the information or data is transmitted electronically, embed the claim of confidentiality within the electronic record so that the portions claimed to be confidential are readily apparent when received and reviewed.

(2) If the information or data is submitted in paper format, place the word "CONFIDENTIAL" on the top of each page containing information or data claimed to be confidential.

(3) Justify the basis for a claim of confidentiality under 5 U.S.C. 552(b)(4).

#### **§ 121.907 Definitions.**

The following definitions apply to this subpart:

*Crew Resource Management (CRM)* means the effective use of all of the resources available to crewmembers, including each other, in order to achieve a safe and efficient flight.

*Curriculum outline* means a listing of each segment, module, lesson, and lesson element in a curriculum, or an equivalent listing acceptable to the FAA.

*Evaluation of proficiency* means a Line Operational Evaluation (LOE) or an equivalent evaluation under an AQP acceptable to the FAA.

*Evaluator* means a person who assesses or judges the performance of crewmembers, flight instructors, other evaluators, aircraft dispatchers, or other operations personnel.

*First Look* means the assessment of performance to determine proficiency on designated flight tasks before any briefing, training, or practice on those tasks is given in the training session for a continuing qualification curriculum. First Look is conducted during an AQP continuing qualification cycle to determine trends of degraded proficiency, if any, due in part to the length of the interval between training sessions.

*Instructional systems development* means a systematic methodology for developing or modifying qualification standards and associated curriculum content based on a documented analysis of the job tasks, skills, and knowledge required for job proficiency.

*Job task listing* means a listing of all tasks, subtasks, knowledge, and skills required for the accomplishment of the operational job.

*Line Operational Evaluation (LOE)* means a simulated line environment, the scenario content of which is designed to test the integration of technical and CRM skills.

*Line Operational Simulation (LOS)* means a training or evaluation session, as applicable, that is conducted in a simulated line environment using equipment qualified and approved for its intended purpose in an AQP.

*Planned hours* means the estimated amount of time (as specified in a curriculum outline) that it takes a typical student to complete a segment of instruction (to include all instruction, demonstration, practice, and evaluation, as appropriate, to reach proficiency).

*Qualification standard* means a statement of a minimum required performance, applicable parameters, criteria, applicable flight conditions, evaluation strategy, evaluation media, and applicable document references.

*Qualification standards document* means a single document containing all of the qualification standards for an AQP together with a prologue that provides a detailed description of all facets of the evaluation process.

*Special tracking* means the assignment of a person to an augmented schedule of training, checking, or both.

*Training session* means a contiguously scheduled period devoted to training activities at a facility accepted by the FAA for that purpose.

*Variant* means a specifically configured aircraft for which the FAA has identified training and qualifications that are significantly

different from those applicable to other aircraft of the same make, model, and series.

#### **§ 121.909 Approval of Advanced Qualification Program.**

(a) *Approval process.* Application for approval of an AQP curriculum under this subpart is made, through the FAA office responsible for approval of the certificate holder's operations specifications, to the Manager of the Advanced Qualification Program.

(b) *Approval criteria.* Each AQP must have separate curriculums for indoctrination, qualification, and continuing qualification (including upgrade, transition, and requalification), as specified in §§ 121.911, 121.913, and 121.915. All AQP curriculums must be based on an instructional systems development methodology. This methodology must incorporate a thorough analysis of the certificate holder's operations, aircraft, line environment and job functions. All AQP qualification and continuing qualification curriculums must integrate the training and evaluation of CRM and technical skills and knowledge. An application for approval of an AQP curriculum may be approved if the program meets the following requirements:

- (1) The program must meet all of the requirements of this subpart.
- (2) Each indoctrination, qualification, and continuing qualification AQP, and derivatives must include the following documentation:
  - (i) Initial application for AQP.
  - (ii) Initial job task listing.
  - (iii) Instructional systems development methodology.
  - (iv) Qualification standards document.
  - (v) Curriculum outline.
  - (vi) Implementation and operations plan.

(3) Subject to approval by the FAA, certificate holders may elect, where appropriate, to consolidate information regarding multiple programs within any of the documents referenced in paragraph (b)(2) of this section.

(4) The Qualification Standards Document must indicate specifically the requirements of the parts 61, 63, 65, 121, or 135 of this chapter, as applicable, that would be replaced by an AQP curriculum. If a practical test requirement of parts 61, 63, 65, 121, or 135 of this chapter is replaced by an AQP curriculum, the certificate holder must establish an initial justification and a continuing process approved by the FAA to show how the AQP curriculum provides an equivalent level of safety for each requirement that is to be replaced.

(c) *Application and transition.* Each certificate holder that applies for one or more advanced qualification curriculums must include as part of its application a proposed transition plan (containing a calendar of events) for moving from its present approved training to the advanced qualification program training.

(d) *Advanced Qualification Program revisions or rescissions of approval.* If after a certificate holder begins training and qualification under an AQP, the FAA finds that the certificate holder is not meeting the provisions of its approved AQP, the FAA may require the certificate holder, pursuant to § 121.405(e), to make revisions. Or if otherwise warranted, the FAA may withdraw AQP approval and require the certificate holder to submit and obtain approval for a plan (containing a schedule of events) that the certificate holder must comply with and use to transition to an approved training program under subpart N of this part or under subpart H of part 135 of this chapter, as appropriate. The certificate holder may also voluntarily submit and obtain approval for a plan (containing a schedule of events) to transition to an approved training program under subpart N of this part or under subpart H of part 135 of this chapter, as appropriate.

(e) *Approval by the FAA.* Final approval of an AQP by the FAA indicates that the FAA has accepted the justification provided under paragraph (b)(4) of this section and that the applicant's initial justification and continuing process establish an equivalent level of safety for each requirement of parts 61, 63, 65, 121, and 135 of this chapter that is being replaced.

#### **§ 121.911 Indoctrination curriculum.**

Each indoctrination curriculum must include the following:

(a) For newly hired persons being trained under an AQP: The certificate holder's policies and operating practices and general operational knowledge.

(b) For newly hired crewmembers and aircraft dispatchers: General aeronautical knowledge appropriate to the duty position.

(c) For flight instructors: The fundamental principles of the teaching and learning process; methods and theories of instruction; and the knowledge necessary to use aircraft, flight training devices, flight simulators, and other training equipment in advanced qualification curriculums.

(d) For evaluators: General evaluation requirements of the AQP; methods of evaluating crewmembers and aircraft

dispatchers and other operations personnel; and policies and practices used to conduct the kinds of evaluations particular to an AQP (e.g., LOE).

#### **§ 121.913 Qualification curriculum.**

Each qualification curriculum must contain training, evaluation, and certification activities, as applicable for specific positions subject to the AQP, as follows:

(a) The certificate holder's planned hours of training, evaluation, and supervised operating experience.

(b) For crewmembers, aircraft dispatchers, and other operations personnel, the following:

(1) Training, evaluation, and certification activities that are aircraft- and equipment-specific to qualify a person for a particular duty position on, or duties related to the operation of, a specific make, model, series, or variant aircraft.

(2) A list of and text describing the knowledge requirements, subject materials, job skills, and qualification standards of each task to be trained and evaluated.

(3) The requirements of the certificate holder's approved AQP program that are in addition to or in place of, the requirements of parts 61, 63, 65, 121 or 135 of this chapter, including any applicable practical test requirements.

(4) A list of and text describing operating experience, evaluation/ remediation strategies, provisions for special tracking, and how recency of experience requirements will be accomplished.

(c) For flight crewmembers: initial operating experience and line check.

(d) For flight instructors, the following:

(1) Training and evaluation activities to qualify a person to conduct instruction on how to operate, or on how to ensure the safe operation of a particular make, model, and series aircraft (or variant).

(2) A list of and text describing the knowledge requirements, subject materials, job skills, and qualification standards of each procedure and task to be trained and evaluated.

(3) A list of and text describing evaluation/remediation strategies, standardization policies and recency requirements.

(e) For evaluators: The requirements of paragraph (d)(1) of this section plus the following:

(1) Training and evaluation activities that are aircraft and equipment specific to qualify a person to assess the performance of persons who operate or who ensure the safe operation of, a particular make, model, and series aircraft (or variant).

(2) A list of and text describing the knowledge requirements, subject materials, job skills, and qualification standards of each procedure and task to be trained and evaluated.

(3) A list of and text describing evaluation/remediation strategies, standardization policies and recency requirements.

#### **§ 121.915 Continuing qualification curriculum.**

Each continuing qualification curriculum must contain training and evaluation activities, as applicable for specific positions subject to the AQP, as follows:

(a) *Continuing qualification cycle.* A continuing qualification cycle that ensures that during each cycle each person qualified under an AQP, including flight instructors and evaluators, will receive a mix that will ensure training and evaluation on all events and subjects necessary to ensure that each person maintains proficiency in knowledge, technical skills, and cognitive skills required for initial qualification in accordance with the approved continuing qualification AQP, evaluation/remediation strategies, and provisions for special tracking. Each continuing qualification cycle must include at least the following:

(1) *Evaluation period.* Initially the continuing qualification cycle is comprised of two or more evaluation periods of equal duration. Each person qualified under an AQP must receive ground training and flight training and an evaluation of proficiency during each evaluation period at a training facility. The number and frequency of training sessions must be approved by the FAA.

(2) *Training.* Continuing qualification must include training in all tasks, procedures and subjects required in accordance with the approved program documentation, as follows:

(i) For pilots in command, seconds in command, and flight engineers, First Look in accordance with the certificate holder's FAA-approved program documentation.

(ii) For pilots in command, seconds in command, flight engineers, flight attendants, flight instructors and evaluators: Ground training including a general review of knowledge and skills covered in qualification training, updated information on newly developed procedures, and safety information.

(iii) For crewmembers, flight instructors, evaluators, and other operational personnel who conduct their duties in flight: proficiency training in an aircraft, flight training device, flight simulator, or other

equipment, as appropriate, on normal, abnormal, and emergency flight procedures and maneuvers.

(iv) For dispatchers and other operational personnel who do not conduct their duties in flight: ground training including a general review of knowledge and skills covered in qualification training, updated information on newly developed procedures, safety related information, and, if applicable, a line observation program.

(v) For flight instructors and evaluators: Proficiency training in the type flight training device or the type flight simulator, as appropriate, regarding training equipment operation. For flight instructors and evaluators who are limited to conducting their duties in flight simulators or flight training devices: training in operational flight procedures and maneuvers (normal, abnormal, and emergency).

(b) *Evaluation of performance.* Continuing qualification must include evaluation of performance on a sample of those events and major subjects identified as diagnostic of competence and approved for that purpose by the FAA. The following evaluation requirements apply:

(1) Evaluation of proficiency as follows:

(i) For pilots in command, seconds in command, and flight engineers: An evaluation of proficiency, portions of which may be conducted in an aircraft, flight simulator, or flight training device as approved in the certificate holder's curriculum that must be completed during each evaluation period.

(ii) For any other persons covered by an AQP, a means to evaluate their proficiency in the performance of their duties in their assigned tasks in an operational setting.

(2) Line checks as follows:

(i) Except as provided in paragraph (b)(2)(ii) of this section, for pilots in command: A line check conducted in an aircraft during actual flight operations under part 121 or part 135 of this chapter or during operationally (line) oriented flights, such as ferry flights or proving flights. A line check must be completed in the calendar month at the mid-point of the evaluation period.

(ii) With the FAA's approval, a no-notice line check strategy may be used in lieu of the line check required by paragraph (b)(2)(i) of this section. The certificate holder who elects to exercise this option must ensure that the "no-notice" line checks are administered so that the flight crewmembers are not notified in advance of the evaluation. In addition, the AQP certificate holder must ensure that each pilot in command

receives at least one "no-notice" line check every 24 months. As a minimum, the number of "no-notice" line checks administered each calendar year must equal at least 50% of the certificate holder's pilot-in-command workforce in accordance with a strategy approved by the FAA for that purpose. In addition, the line checks to be conducted under this paragraph must be conducted over all geographic areas flown by the certificate holder in accordance with a sampling methodology approved by the FAA for that purpose.

(iii) During the line checks required under paragraph (b)(2)(i) and (ii) of this section, each person performing duties as a pilot in command, second in command, or flight engineer for that flight, must be individually evaluated to determine whether the person remains adequately trained and currently proficient with respect to the particular aircraft, crew position, and type of operation in which he or she serves; and that the person has sufficient knowledge and skills to operate effectively as part of a crew. The evaluator must be a check airman, an APD, or an FAA inspector and must hold the certificates and ratings required of the pilot in command.

(c) *Recency of experience.* For pilots in command, seconds in command, flight engineers, aircraft dispatchers, flight instructors, evaluators, and flight attendants, approved recency of experience requirements appropriate to the duty position.

(d) *Duration of cycles and periods.* Initially, the continuing qualification cycle approved for an AQP must not exceed 24 calendar months in duration, and must include two or more evaluation periods of equal duration. Thereafter, upon demonstration by a certificate holder that an extension is warranted, the FAA may approve an extension of the continuing qualification cycle to a maximum of 36 calendar months in duration.

(e) *Requalification.* Each continuing qualification curriculum must include a curriculum segment that covers the requirements for requalifying a crewmember, aircraft dispatcher, other operations personnel, flight instructor, or evaluator who has not maintained continuing qualification.

#### **§ 121.917 Other requirements.**

In addition to the requirements of §§ 121.913 and 121.915, each AQP qualification and continuing curriculum must include the following requirements:

(a) Integrated Crew Resource Management (CRM) or Dispatcher Resource Management (DRM) ground

and flight training applicable to each position for which training is provided under an AQP.

(b) Approved training on and evaluation of skills and proficiency of each person being trained under AQP to use his or her crew resource management skills and his or her technical (piloting or other) skills in an actual or simulated operations scenario. For flight crewmembers this training and evaluation must be conducted in an approved flight training device, flight simulator, or, if approved under this subpart, in an aircraft.

(c) Data collection and analysis processes acceptable to the FAA that will ensure that the certificate holder provides performance information on its crewmembers, flight instructors, and evaluators that will enable the certificate holder and the FAA to determine whether the form and content of training and evaluation activities are satisfactorily accomplishing the overall objectives of the curriculum.

#### **§ 121.919 Certification.**

A person subject to an AQP is eligible to receive a commercial or airline transport pilot, flight engineer, or aircraft dispatcher certificate or appropriate rating based on the successful completion of training and evaluation events accomplished under that program if the following requirements are met:

(a) Training and evaluation of required knowledge and skills under the AQP must meet minimum certification and rating criteria established by the FAA in parts 61, 63, or 65 of this chapter. The FAA may approve alternatives to the certification and rating criteria of parts 61, 63, or 65 of this chapter, including practical test requirements, if it can be demonstrated that the newly established criteria or requirements represent an equivalent or better measure of airman competence, operational proficiency, and safety.

(b) The applicant satisfactorily completes the appropriate qualification curriculum.

(c) The applicant shows competence in required technical knowledge and skills (e.g., piloting) and crew resource management (e.g., CRM or DRM) knowledge and skills in scenarios (i.e., LOE) that test both types of knowledge and skills together.

(d) The applicant is otherwise eligible under the applicable requirements of part 61, 63, or 65 of this chapter.

(e) The applicant has been trained to proficiency on the certificate holder's approved AQP Qualification Standards as witnessed by a flight instructor, check airman, or APD and has passed a

LOE administered by an APD or the FAA.

**§ 121.921 Training devices and simulators.**

(a) Each flight training device or airplane simulator that will be used in an AQP for one of the following purposes must be evaluated by the FAA for assignment of a flight training device or flight simulator qualification level:

(1) Required evaluation of individual or crew proficiency.

(2) Training to proficiency or training activities that determine if an individual or crew is ready for an evaluation of proficiency.

(3) Activities used to meet recency of experience requirements.

(4) Line Operational Simulations (LOS).

(b) Approval of other training equipment.

(1) Any training equipment that is intended to be used in an AQP for purposes other than those set forth in paragraph (a) of this section must be approved by the FAA for its intended use.

(2) An applicant for approval of training equipment under this paragraph must identify the device by its nomenclature and describe its intended use.

(3) Each training device approved for use in an AQP must be part of a continuing program to provide for its serviceability and fitness to perform its intended function as approved by the FAA.

**§ 121.923 Approval of training, qualification, or evaluation by a person who provides training by arrangement.**

(a) A certificate holder operating under part 121 or part 135 of this chapter may arrange to have AQP training, qualification, evaluation, or certification functions performed by another person (a "training provider") if the following requirements are met:

(1) The training provider is certificated under part 119 or 142 of this chapter.

(2) The training provider's AQP training and qualification curriculums, curriculum segments, or portions of curriculum segments must be provisionally approved by the FAA. A training provider may apply for provisional approval independently or in conjunction with a certificate holder's application for AQP approval. Application for provisional approval must be made, through the FAA office directly responsible for oversight of the training provider, to the Manager of the Advanced Qualification Program.

(3) The specific use of provisionally approved curriculums, curriculum segments, or portions of curriculum segments in a certificate holder's AQP must be approved by the FAA as set forth in § 121.909.

(b) An applicant for provisional approval of a curriculum, curriculum segment, or portion of a curriculum segment under this paragraph must show that the following requirements are met:

(1) The applicant must have a curriculum for the qualification and continuing qualification of each flight instructor and evaluator used by the applicant.

(2) The applicant's facilities must be found by the FAA to be adequate for any planned training, qualification, or evaluation for a certificate holder operating under part 121 or part 135 of this chapter.

(3) Except for indoctrination curriculums, the curriculum, curriculum segment, or portion of a curriculum segment must identify the specific make, model, and series aircraft (or variant) and crewmember or other positions for which it is designed.

(c) A certificate holder who wants approval to use a training provider's provisionally approved curriculum, curriculum segment, or portion of a curriculum segment in its AQP, must show that the following requirements are met:

(1) Each flight instructor or evaluator used by the training provider must meet

all of the qualification and continuing qualification requirements that apply to employees of the certificate holder that has arranged for the training, including knowledge of the certificate holder's operations.

(2) Each provisionally-approved curriculum, curriculum segment, or portion of a curriculum segment must be approved by the FAA for use in the certificate holder's AQP. The FAA will either provide approval or require modifications to ensure that each curriculum, curriculum segment, or portion of a curriculum segment is applicable to the certificate holder's AQP.

**§ 121.925 Recordkeeping requirements.**

Each certificate holder conducting an approved AQP must establish and maintain records in sufficient detail to demonstrate that the certificate holder is in compliance with all of the requirements of the AQP and this subpart.

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

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

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

**SFAR No. 58 [Removed]**

13. Remove SFAR No. 58 from part 135.

14. Amend § 135.1(a)(4) by removing "SFAR No. 58" and adding "subpart Y of part 121 of this chapter" in its place each place it appears.

Issued in Washington, DC on March 23, 2005.

**John M. Allen,**

*Director, Flight Standards Service.*

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