

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 61 and 142**

[Docket No. 26933; Notice No. 92-10A; and Special Federal Aviation Regulation No. 58]

RIN 2120-AA93

Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); Correction.

SUMMARY: On August 11, 1992, the Department of Transportation published a Notice of Proposed Rulemaking (NPRM) (Notice 92-10; 57 FR 35838) on the use of aircraft flight simulation. This SNPRM revises the NPRM by clarifying or eliminating certain provisions found to be unclear or inappropriate for consideration at this time.

DATES: Comments on this SNPRM must be received on or before March 22, 1993.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26933, 800 Independence Avenue SW., Washington, DC 20591. All comments must be marked: "Docket No. 26933." Comments may be examined in room 915G on weekdays except on Federal holidays between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Warren Robbins or Ron Myres, Regulations Branch, (AFS-850), General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267-8150.

SUPPLEMENTARY INFORMATION:

Comments Invited

Because the proposals in this SNPRM differ in some respects from the NPRM, Notice 92-10, the FAA encourages interested persons to file comments in response to this SNPRM even if they have already commented on the NPRM. The SNPRM supersedes four sections only of the NPRM; therefore, any comments previously received on those sections of the NPRM that are not being superseded will remain under consideration, while comments already received on the four sections being revised by this SNPRM will be considered but only if they relate to the

revised sections. The comment period on the SNPRM will close March 22, 1993.

Interested persons are invited to comment on the proposed rule by submitting such written data, views, or arguments as they may desire. Comments should identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket at the address specified above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with their comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26933." When the comment is received, the postcard will be dated, time-stamped, and mailed to the commenter.

Availability of SNPRM

Any person may obtain a copy of this SNPRM and the NPRM, Notice No. 92-10, by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3434. Communications must identify Notice No. 92-10 for the NPRM and Notice No. 92-10A for the SNPRM. Persons interested in being placed on a mailing list for future proposed rules should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On August 11, 1992, the Department of Transportation published an NPRM on the use of aircraft flight simulation. The regulatory language contained in four sections of the NPRM (Notice No. 92-10) is in need of revision. These revisions are explained more fully under the section-by-section analysis set forth below.

Section-by-Section Analysis

Section 61.187 Flight Proficiency

In the NPRM, the FAA proposed to revise paragraph (a) of § 61.187 to permit an applicant for a flight instructor certificate to receive the required instruction for the certificate in an aircraft, a flight simulator, or a flight training device. This proposed revision to paragraph (a) was inadvertent, for the FAA did not intend to revise any portion of that paragraph. Rather, it intended to add an additional provision that would permit an applicant to receive the required training in any one of the three ways described above. To accomplish this purpose, this SNPRM would restore paragraph (a) of § 61.187 without any change and would add a new paragraph (c) to § 61.187. The new paragraph would contain the proposed change that was set forth in § 61.187(a) of the NPRM, with the additional correction described below.

The NPRM incorrectly proposed that the flight instruction could be received in an aircraft, in a flight simulator, or in a flight training device used in accordance with an approved course at a training center certificated under part 142. The proposal is incorrect insofar as it fails to recognize that some or all of the training may be received in any of the following ways: (1) In an aircraft pursuant to a course given under part 61, part 121, part 135, part 141, or part 142; (2) in a flight simulator pursuant to a course approved under part 121 or part 142; or (3) in a flight training device pursuant to a course approved under part 142. This SNPRM amends the NPRM to clarify that the above options would be available to an applicant.

Section 61.197 Renewal of flight instructor certificates

The FAA inadvertently included in proposed § 61.197 certain new provisions. These provisions involve medical qualifications for the renewal of a flight instructor certificate (§ 61.197(a)(1) and (a)(2)), renewal of the certificate and its ratings without accomplishing a practical test (§ 61.197(b)(1)(i) and (ii), and (b)(2)(iv)(A) and (B)), and the use of a graduation certificate from a refresher course as a method of renewal (§ 61.197(c)). The FAA has initiated a program to review and update current part 61. The agency believes that the provisions inadvertently included in proposed § 61.197 are more appropriate for consideration in connection with its part 61 review. Accordingly, this SNPRM would withdraw the proposals described above. The FAA anticipates that these proposals, or others like them

will be part of a future rulemaking to revise part 61.

As stated in the NPRM, the purpose of proposed § 61.197 is to propose that the practical test for renewal of a flight instructor certificate be conducted, in whole or in part, in a flight simulator or flight training device. The above revisions would not affect this proposed change to § 61.197.

The other proposed changes to § 61.197 are for editorial purposes only.

Section 142.49 Training center instructor privileges and limitations

Proposed § 142.49(a) provides that a part 142 certificate holder may not allow an instructor to provide instruction "for which that instructor is qualified unless that instructor is qualified under the requirements of this subpart." On further consideration, the FAA believes that the phrase "for which that instructor is qualified" is confusing and does not add anything of substance to proposed § 142.49(a). Accordingly, this SNPRM deletes the above phrase from the proposal.

Section 142.53 Training center instructor training and testing requirements

Under proposed § 142.53(b)(2), an instructor who does not hold a medical certificate could not instruct in certain flight simulators. On reconsideration, the FAA believes that this restriction was inappropriate. The FAA has issued exemptions permitting instruction under these circumstances. It does not believe that a medical certificate is necessary provided that the instruction is conducted in a flight simulator rather than in an aircraft. Therefore, the restriction contained in the above paragraph is deleted from the proposal by this SNPRM.

Economic Evaluation

Executive Order 12291, dated February 17, 1981, directs Federal Agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each proposed change outweigh potential costs.

There are no costs associated with this SNPRM. It merely clarifies the intent of the NPRM by removing unintended restrictions, therefore, the FAA finds that further regulatory evaluation is not required. A copy of the regulatory evaluation to support the NPRM is filed in FAA Rules Docket 26933.

International Trade Impact Statement

This rule will not impose a competitive disadvantage to either U.S.

air carriers doing business abroad or foreign air carriers doing business in the United States. This assessment is based on the fact that this rule will not impose additional costs on either U.S. or foreign air carriers.

Regulatory Flexibility Determination

In accordance with the Regulatory Flexibility Act of 1980, the FAA has determined that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. This assessment is based on the regulatory evaluation of the NPRM published on August 11, 1992, and on the fact that this SNPRM will not impose any additional costs.

Federalism Implications

The regulations adopted herein will not have any direct effects 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. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The reporting and recordkeeping requirements associated with Notice 92-10 are being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. chapter 35 under DOT NO: New; OMB NO: New; Title: Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers. Need for Information: To adhere to the requirements for records that would need to be generated and maintained under proposed part 142. Proposed Use of Information: To provide surveillance capability over proposed training centers to insure compliance with airman training, testing, and certification requirements. Frequency: Records would have to be kept of the training center initial application, of each student, of each instructor or evaluator, and of all air carrier certificate holder clients. These records would have to be annotated subsequent to any training, testing, or checking. Burden Estimate: 5450 hours for total annual burden. Respondents: Part 142 certificate holders and certificate holder applicants. Form(s): To be determined. Average Burden Hours per Respondent: The FAA estimates that there will be 32 certificate applicants during the first year. The average burden hours are estimated as follows:

(1) To file an application—50 hours per application.

(2) To maintain a record for each student and provide that record once per student—1 hour per record.

(3) To maintain a record for instructor and evaluator and provide that record once per instructor or evaluator, excluding the initial certificate application—1 hour per record.

(4) To provide a record to each POI for each course being instructed and the instructor's name—.25 hour per record.

For further information contact: The Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington DC 20590, (202) 366-4735. Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3228, Washington DC 20503, (202) 395-7340, Attention: Desk Officer for FAA. A copy of comments submitted to OMB also should be sent to the FAA Rules Docket listed under ADDRESSES.

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, because this SNPRM makes minor technical changes that are mainly editorial in nature, it is not major under Executive Order 12291. Although this proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the technical changes that it proposes would result in an impact so minimal that the proposal does not warrant a full evaluation. Further, the proposal would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. An initial regulatory evaluation of the NPRM, which includes a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the regulatory docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT.

List of Subjects in 14 CFR Parts 61 and 142

Administrative practice and procedure, Aircraft, Airmen, Drug testing, Educational facilities, Reporting and recordkeeping requirements.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend parts 61 and 142 as follows:

PART 61—[AMENDED]

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

Authority: 49 U.S.C. App. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983).

2. Section 61.187 is amended by adding a new paragraph (c) to read as follows:

§ 61.187 Flight proficiency.

(c) An applicant for a flight instructor certificate may receive flight instruction—

(1) In an aircraft, in a flight simulator, or in a flight training device used in accordance with an approved course at a training center certificated under part 142 of this chapter;

(2) In an aircraft or in a flight simulator used in accordance with a course approved under part 121 of this chapter;

(3) In an aircraft used in accordance with subpart G of part 61 of this chapter if the flight instruction—

(i) Covers the subject listed in paragraph (a) of this section; and
(ii) Is given by a person authorized by the Administrator to instruct flight instructors; or

(4) In an aircraft used in accordance with a course approved under part 135 or part 141 of this chapter.

3. Section 61.197 is revised to read as follows:

§ 61.197 Renewal of flight instructor certificates.

(a) Except as provided in paragraph (b) of this section, the holder of a flight instructor certificate may renew that certificate for an additional period of 24

calendar months if that individual satisfactorily completes a practical test for—

(1) Renewal of the flight instructor certificate and rating sought; or

(2) An additional flight instructor rating.

(b) The holder of a flight instructor certificate may renew that certificate and its ratings without accomplishing a practical test, by presenting to an FAA Flight Standards District Office evidence of one of the following:

(1) A record showing that, during the preceding 24 calendar months, the instructor has served—

(i) As a company check pilot;
(ii) As a chief flight instructor;
(iii) As a company check airman or flight instructor in a part 121 or part 135 operation; or

(iv) In a comparable position involving the regular evaluation of pilots.

(2) A graduation certificate from an approved flight instructor refresher course, provided that—

(i) The course was completed prior to the expiration date of the flight instructor certificate; and

(ii) The course consists of not less than 24 hours of—

(A) Ground training;
(B) Flight training; or
(C) A combination of ground training and flight training.

(c) If an instructor satisfactorily completes the requirements of this section within 90 days prior to the expiration date of the flight instructor certificate, the instructor is considered to have completed the requirements of this section just prior to the expiration date, and the certificate will be renewed for an additional 24 calendar months beyond the expiration date.

(d) Except as allowed by paragraph (e) of this section, the practical test

required by paragraph (a) of this section must be conducted in an aircraft.

(e) The practical test required by paragraph (a) of this section may be accomplished in an aircraft, in a flight simulator, or in a flight training device if it is accomplished in an approved course conducted by a training center certificated under part 142 of this chapter.

PART 142—[AMENDED]

Proposed part 142 is amended to read as follows:

4. Section 142.49(a) is revised to read as follows:

§ 142.49 Training center instructor privileges and limitations.

(a) A part 142 certificate holder may not allow an instructor to provide instruction in any course of training, testing, or checking unless that instructor is qualified under the requirements of this subpart.

* * * * *

5. Section 142.53(b)(2) is revised to read as follows:

§ 142.53 Training center instructor training and testing requirements.

* * * * *

(b) * * *
(2) An instructor may not instruct in a qualified and approved flight simulator that represents an airplane requiring two or more flight crewmembers unless that instructor has—

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Issued in Washington, DC, on February 12, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

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