

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 61**

[Docket No. FAA-2004-19630; Notice No. 04-14]

RIN 2120-AI38

Second-in-Command Pilot Type Rating**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to establish a second-in-command (SIC) pilot type rating for those persons who complete the required SIC training. The purpose of this proposal is to conform the FAA pilot type rating requirements to the International Civil Aviation Organization (ICAO) pilot type rating standards and alleviate the difference that the FAA currently has on file with ICAO. The intended effect of this proposal is to allow U.S. flight crews to continue to operate in international airspace without the threat of being grounded for not holding the appropriate pilot type rating.

DATES: Send your comments to reach us by December 16, 2004.

ADDRESSES: You may send comments identified by Docket Number FAA-2004—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 Facility; 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> at any time or 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: John Lynch, Certification Branch, AFS-840, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3844.

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.

All comments received will be filed in the docket. The FAA will develop a report that summarizes 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.

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 based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard that identifies the docket number. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy of these rulemaking documents using the Internet through the Office of Rulemaking's Web page at <http://www.faa.gov/avr/armhome.htm> or the GPO's Web page at http://www.access.gpo.gov/su_docs/aces/aces140/html.

You can get a printed copy by sending a request to: Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591; or by telephoning 202/267-9680. Please identify the docket number of this rulemaking in your request.

SUPPLEMENTARY INFORMATION:**Background**

The Convention on International Civil Aviation (61 Stat. 1180), which was signed at Chicago, Illinois, on December 7, 1944, is an international treaty about aviation that establishes certain principles and arrangements to ensure that international civil aviation develops in a safe and orderly manner and operates soundly and economically. The Member States that have signed the Convention, including the United States, agree to keep their regulations governing civil aviation, to the greatest possible extent, consistent with those established under the Convention (article 12). Concerning pilots and flight crew members, the signatory Member States agree to recognize as valid certificates of competency and licenses issued by other signatories if the requirements for the certificates or licenses are equal to or above the minimum standards established under the Convention (article 33). If a signatory Member State finds it impracticable to comply with an international standard or bring its regulations into full accord with an international standard, or adopts regulations differing from an international standard, it must notify ICAO of the difference (article 38).

Currently, the United States has a difference filed with ICAO concerning our SIC qualification requirements vs. ICAO's type ratings standards for the SIC pilot flight crewmember position (See ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A). During recent meetings between FAA and ICAO officials, the FAA has explained that our SIC qualifications (14 CFR 61.55) require initial and annual recurrent knowledge and flight training for pilots who serve in the SIC pilot crewmember position, whereas the ICAO type rating standard does not. Although ICAO officials understand our difference, they stated that the § 61.55 SIC pilot familiarization training requirements do not conform to ICAO pilot type ratings standards for the SIC pilot flight crewmember position because the SIC pilot does not actually receive a pilot type rating under the existing § 61.55 provisions. As a result, foreign civil aviation authorities have put the FAA and U.S. flight crews on

notice that they intend to enforce the ICAO type rating standards for SIC pilot crewmembers when U.S. flight crews operate in European airspace and in some Caribbean countries

Discussion of NPRM

The FAA is proposing to revise 14 CFR § 61.5(b)(5) by adding a new subparagraph (iv) that provides for the SIC type rating. The FAA is proposing to revise 14 CFR § 61.55 by adding new paragraphs (a)(3) and (d) that would provide for the issuance of an aircraft type rating for SIC privileges when a person completes the SIC pilot familiarization training set forth in paragraph (b) of 14 CFR § 61.55. This NPRM proposes to conform our 14 CFR § 61.55 SIC qualification requirements with the ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A type rating standards and would eliminate our difference on file with ICAO. By issuing an aircraft type rating for SIC privileges only, the FAA would conform its pilot type rating requirements to the ICAO type rating standards and allow U.S. flight crews to operate internationally unimpeded.

However, the FAA wants it understood that as long as the person operates within the airspace of the United States (as defined in 14 CFR 91.1), a person needn't hold this proposed SIC pilot type rating. Only when a person operates in international airspace or the airspace of a foreign country where compliance with the pilot type rating standards of ICAO (*i.e.*, ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A) or a foreign civil aviation authority's rule is it mandatory that U.S. pilot flightcrews hold the appropriate pilot type rating. As long as a person operates within the airspace of the United States (as defined in 14 CFR 91.1), that person only needs to comply the SIC qualifications and training of 14 CFR 61.55.

In addition, the FAA is proposing to revise 14 CFR 61.55 by adding new paragraph (e). This proposal would provide for the issuance of a pilot type rating for SIC privileges when a person satisfactorily completes an approved second-in-command training program under parts 121, 125, or 135 in an aircraft that is certificated for operations with a minimum crew of at least two pilots and the aircraft's type certificate requires a pilot type rating. The FAA believes that the pilot community and aircraft operators will support this NPRM because it would impose only minor additional costs on some pilots and operators.

The FAA intends to issue the SIC pilot type rating according to the following process:

1. The SIC applicant must receive the familiarization training of § 61.55(b) from a qualified pilot in command [See § 61.31(a)] or an authorized flight instructor who holds the aircraft type rating on his/her pilot certificate [See § 61.31(a) and § 61.195(b)]. The ground training of § 61.55(b)(1) may be given by an authorized advanced ground instructor [See § 61.215(b)], authorized flight instructor, or qualified pilot in command.

2. The person who provides the SIC familiarization training must sign the applicant's logbook or training record to verify that the training was given. The verification of the training must be in accordance with § 61.51(h)(2), and be documented in the SIC applicant's logbook or training record with the kind of ground and flight training and amount of training given [See § 61.51(h)(2)]. The person who provided the training must sign the SIC applicant's logbook/training record after completion of each lesson.

3. The SIC applicant must complete and sign an Airman Certificate and/or Rating Application, FAA Form 8710-1, and submit the application to an FAA Flight Standards District Office or to an Examiner. The Examiner must have the authority to conduct practical tests for pilot certification.

4. The person(s) who provides the ground and flight familiarization training to the SIC applicant must sign the area of the FAA Form 8710-1 identified as the "Instructor's Recommendation." This signoff is required in this area of the form even if a pilot in command who does not hold a flight instructor certificate provided the training.

5. The SIC applicant must appear in person at an FAA Flight Standards District Office or to an Examiner with his/her logbook/training records and a completed and signed FAA Form 8710-1.

6. The FAA Flight Standards District Office or Examiner reviews the SIC applicant's logbook/training record to ensure completion of the required training and endorsements. The Aviation Safety Inspector, Aviation Safety Technician, or Examiner would review the applicant's logbook/training record and inform the applicant that the SIC Privileges Only limitation may only be removed if that applicant completes the appropriate type rating practical test for pilot-in-command qualification. There is no practical test required for the issuance of the SIC Privileges Only type rating.

7. The FAA Flight Standards District Office or Examiner completes the application and issues the applicant a temporary pilot certificate for a SIC type rating with the appropriate aircraft type rating with the limitation "SIC Privileges Only." For example, an applicant who accomplishes the § 61.55(b) SIC familiarization training in a Cessna 500 would receive a temporary pilot certificate that reads as follows:

Commercial Pilot Certificate, Airplane Single Engine Land, Airplane Multiengine Land, Instrument Airplane, CE500 SIC Privileges Only.

8. The FAA Flight Standards District Office forwards the application and newly issued temporary pilot certificate to the FAA Airman Certification Branch, AFS-760. If the application is made through an Examiner, the Examiner forwards the application and newly issued temporary pilot certificate to the Examiner's jurisdictional FAA Flight Standards District Office who sends the application and file to the FAA Airman Certification Branch, AFS-760.

9. The FAA Airman Certification Branch processes the SIC applicant's application and temporary pilot certificate and issues the applicant a permanent pilot certificate.

In addition, a person who satisfactorily completes an approved second-in-command training program under parts 121, 125, or 135 in an aircraft that is certificated for operations with a minimum crew of at least two pilots and the aircraft's type certificate requires a pilot type rating is entitled to receive that aircraft type rating for second-in-command privileges. The procedure for issuing a SIC type rating would be as follows:

1. The SIC applicant must complete an approved second-in-command training program under parts 121, 125, or 135 in an aircraft that is certificated for operations with a minimum crew of at least two pilots and the aircraft's type certificate requires a pilot type rating.

2. The person who provides the SIC training must sign the applicant's logbook or training record to verify the training was given. The verification of the training must be in accordance with § 61.51(h)(2), and be documented in the SIC applicant's logbook or training record with the kind of ground and flight training and amount of training given [See § 61.51(h)(2)]. The person who provided the training must sign the SIC applicant's logbook/training record after completion of each lesson.

3. The SIC applicant must complete and sign an Airman Certificate and/or Rating Application, FAA Form 8710-1, and submit the application to an FAA Flight Standards District Office or to an

Examiner. The Examiner must have authority to conduct practical tests for pilot certification. A part 121 or part 135 Check Airman cannot review and approve the application unless that person also has examiner authority to conduct practical tests for pilot certification and holds an FAA Letter of Authority.

4. The person(s) who provided the ground and flight training to the SIC applicant must sign the area of the FAA Form 8710-1 identified as the "Instructor's Recommendation." This signoff is required in this area of FAA Form 8710-1 even if a pilot in command who does not hold a flight instructor certificate provided the training.

5. The SIC applicant must appear in person at an FAA Flight Standards District Office or to an Examiner with his/her logbook/training records and a completed and signed FAA Form 8710-1.

6. The FAA Flight Standards District Office or Examiner reviews the SIC applicant's logbook and/or training record for ensuring completion of the required training and endorsements. An Aviation Safety Inspector, Aviation Safety Technician, or Examiner reviews the applicant's logbook/training record and informs the applicant that the SIC Privileges Only limitation may only be removed if that applicant completes the appropriate type rating practical test for pilot-in-command qualification. There is no practical test required for the issuance of the SIC Privileges Only type rating.

7. The FAA Flight Standards District Office completes the application and issues the applicant a temporary pilot certificate for an SIC type rating with the appropriate aircraft type rating with the limitation "SIC Privileges Only." For example, an applicant who accomplishes SIC training in a Boeing 737 would receive a temporary pilot certificate that reads as follows:

Commercial Pilot Certificate, Airplane Single Engine Land, Airplane Multiengine Land, Instrument Airplane, B-737 SIC Privileges Only.

8. The FAA Flight Standards District Office forwards the application and newly issued temporary pilot certificate to the FAA Airman Certification Branch, AFS-760. If the application is made through an Examiner, the Examiner forwards the application and newly issued temporary pilot certificate to the Examiner's jurisdictional FAA Flight Standards District Office who sends the application and file to the FAA Airman Certification Branch, AFS-760.

9. The FAA Airman Certification Branch processes the SIC applicant's

application and temporary pilot certificate and issues the applicant a permanent pilot certificate.

The FAA anticipates that many pilots have already completed their SIC training, whether it was § 61.55(b) SIC familiarization training or an approved SIC training program under parts 121, 125, or 135, and would be making application for an SIC pilot type rating based on past completion of SIC pilot training or a part 125 proficiency check. The procedures for making application for an SIC pilot type rating would basically be the same as previously stated in this document. The only difference would be that applicants who have completed their SIC training prior to the FAA issuing its final rule for SIC pilot type ratings would be required to show compliance with either the initial or recurrent SIC training within the preceding 12 calendar months prior to the month of application for an SIC pilot type rating. The following examples illustrate how the rule would apply to pilots who have already completed their SIC training:

Example No. 1: The date is January 30, 2005, and the final rule for issuing SIC pilot type ratings is now in effect. An airman completed initial § 61.55(b) SIC pilot familiarization training in a Cessna 500 on August 6, 1998. The airman last completed recurrent § 61.55(b) SIC pilot familiarization training in a Cessna 500 on August 6, 2000. This airman could not apply for a SIC pilot type rating for the CE500 until completing recurrent SIC familiarization training within the 12 calendar months before the month of application.

Example No. 2: The date is January 30, 2005, and the final rule for issuing SIC pilot type ratings is now in effect. An airman completed initial part 121 SIC pilot training in a Boeing 737 on August 6, 1998. The airman has completed recurrent part 121 SIC pilot training in a Boeing 737 every 12 calendar months, including on August 13, 2004. This airman could apply for a SIC pilot type rating for the B737 because the recurrent training was completed within the 12 calendar months before January 2005.

Example No. 3: The date is January 5, 2005, and the final rule for issuing SIC pilot type ratings is now in effect. An airman completed a part 125 SIC proficiency check in a Gulfstream IV on August 6, 1990. The airman next shows completion of a part 125 SIC proficiency check in a Gulfstream IV on January 23, 2004. This airman could apply for an SIC pilot type rating for the Gulfstream IV because part 125 SIC proficiency check was completed within the 12 calendar months before January 2005.

Example No. 4: The date is January 5, 2005, and the final rule for issuing SIC pilot type ratings is now in effect. An airman completed initial § 61.55(b) SIC familiarization in a Lear 60 on August 6, 1990. The airman next shows completion of § 61.55(b) SIC familiarization training in a Lear 60 on January 23, 2004. This airman

could apply for an SIC pilot type rating for the Lear 60 because the recurrent SIC familiarization training was completed within the 12 calendar months before January 2005.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. This proposal contains the following additional information collection requirement for pilots who apply for an SIC pilot type rating. As previously stated in this document, the primary purpose for this additional information collection requirement is to allow U.S. flight crews to continue to operate in international airspace without the threat of being grounded for not holding the appropriate pilot type rating.

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

Title: Second-in-Command Pilot Type Rating.

Summary: This proposal would establish an application process using the existing Airman Certificate and/or Rating Application, FAA Form 8710-1, for pilots who apply for an SIC pilot type rating for the reasons previously stated. This proposal would generate a need for the FAA's Civil Aviation Registry and Flight Standards District Offices to support the processing of the FAA Form 8710-1 application and issuing the SIC pilot type rating.

Respondents: The likely respondents to this proposal are the pilots who will be required to complete and submit the FAA Form 8710-1 application when applying for an SIC pilot type rating. However, as it was previously stated in this document, the FAA wants it understood that as long as the person operates within the airspace of the United States (as defined in 14 CFR 91.1), a person won't be required to hold this proposed SIC pilot type rating. Only when a person operates in international airspace or the airspace of a foreign country where compliance with the pilot type rating standards of ICAO (*i.e.*, ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A) or a foreign civil aviation authority's rule is it mandatory that U.S. pilot flightcrews hold the appropriate pilot type rating. As long as a person operates within the airspace of the United States (as defined in 14 CFR 91.1), that person only needs to comply

the SIC qualifications and training of 14 CFR 61.55.

Frequency: Each pilot who needs to obtain the SIC pilot type rating will do so only once.

Annual Burden Estimate: The FAA has no estimate of the annual recordkeeping and reporting burden.

The FAA is requesting information from the public on the following questions:

How many pilots will apply for an SIC pilot type rating on an annual basis?

What are the annual burden hours to the public?

What are the annual costs to pilot who will be applying for an SIC pilot type rating?

What will be the total impact of this proposal?

According to the regulations implementing the Paperwork Reduction Act of 1995, [5 CFR 1320.8(b)(2)(vi)], an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number issued by the Office of Management and Budget (OMB). If approved by OMB, the information collection requirement contained in this NPRM will be incorporated into the current approval of the Airman Certificate and/or Rating Application, FAA Form 8710–1. The approved OMB control number for the Airman Certificate and/or Rating Application, FAA Form 8710–1, is 2120–0021.

Economic Assessment, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 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).

For proposals with an expected minimal cost impact, a formal assessment of costs and benefits is not required. The Department of Transportation Order 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 is included in the NPRM stating that the FAA has determined that the expected outcome will have a minimal impact with positive net benefits.

The FAA's assessment of this NPRM indicates that its economic impact will be minimal because it does not propose to significantly change the SIC qualification requirements. The purpose of this NPRM is to conform FAA pilot type rating rules with our international obligations to ICAO, so as to remove an outstanding difference between our 14 CFR 61.55 SIC qualification requirements with the ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A type rating standards.

Accordingly, the FAA has determined that there may be minor costs to those pilots who will need the SIC pilot type rating for international flight operations. These costs could include the time required to complete the FAA Form 8710–1 and the time and expense of traveling to an examiner or FAA Flight Standards District Office to file the application. The FAA has determined there may be some benefits to U.S. operators and pilots when conducting flight operations in foreign airspace where a foreign country's civilian aviation authority may enforce ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A type rating standards. The FAA has thus determined that this NPRM would have minimal impact with positive net benefits. We specifically request comments from the public on this issue.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.” To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals

and to explain the rationale for their actions. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule 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 an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 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.

This NPRM imposes minor costs on individuals by requiring U.S. pilots who fly overseas to obtain the SIC pilot type rating. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from the public regarding this determination.

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 rulemaking and has determined that it would reduce trade barriers by narrowing the difference between the U.S. and ICAO regulations. The FAA has determined there may be some benefits to U.S. operators and pilots when conducting flight operations in foreign airspace where a foreign country's civilian aviation authority may enforce ICAO Annex 1, paragraphs 2.1.3.2 and 2.1.4.1.A type rating standards.

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," dated August 4, 1999 (64 FR 43255). We have 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 307(k) and involves no extraordinary circumstances. This NPRM proposes to allow for the issuance of pilot type ratings to SIC pilot crewmembers in order to conform the FAA pilot type rating requirements to the ICAO pilot type ratings standards.

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 in 14 CFR Part 61

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

The Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter H of Title 14 Code of Federal Regulations as follows:

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

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

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

2. Amend § 61.5 by adding new paragraph (b)(5)(iv) to read as follows:

§ 61.5 Certificates and ratings issued under this part.

* * * * *

(b) * * *

(5) * * *

(iv) Second-in-command type rating for aircraft that is certificated for operations with a minimum crew of at least two pilots.

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3. Amend § 61.55 by revising the introductory language of paragraph (a), revising paragraph (a)(2), adding new

paragraph (a)(3); redesignating existing paragraphs (d) through (h) as paragraphs (f) through (j) and adding new paragraphs (d) and (e) to read as follows:

§ 61.55 Second-in-command qualifications.

(a) Except as provided in paragraph (e) of this section, no person may serve as a second-in-command of an aircraft type certificated for more than one required pilot flight crewmember or in operations requiring a second-in-command unless that person holds:

(1) * * *

(2) An instrument rating that applies to the aircraft being flown if the flight is under IFR; and

(3) An aircraft type rating for aircraft that is certificated for operations with a minimum crew of at least two pilots.

* * * * *

(d) If a person complies with the second-in-command familiarization training requirements in paragraph (b) of this section in an aircraft that is certificated for operations with a minimum crew of at least two pilots and the aircraft's type certificate requires a pilot type rating, then that person is entitled to receive that aircraft type rating for second-in-command privileges.

(e) A person who has satisfactorily completed an approved second-in-command training program under 14 CFR parts 121, 125, or 135 in an aircraft that is certificated for operations with a minimum crew of at least two pilots and the aircraft's type certificate requires a pilot type rating, then that person is entitled to receive that aircraft type rating for second-in-command privileges.

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Issued in Washington, DC, on November 9, 2004.

John M. Allen,

Acting Director, Flight Standards Service.

[FR Doc. 04–25415 Filed 11–15–04; 8:45 am]

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