

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 61, 63, 121, 135, and 142**

[Docket No. FAA-2001-10797; SFAR 93]

RIN 2120-AH 51

Temporary Extension of Time Allowed for Certain Training and Testing**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action extends the time allowed to meet certain qualification requirements. The action is being taken because the affected persons may not have been able to timely fulfill requirements due to the circumstances in the wake of the September 11, 2001 terrorist attacks. The action will temporarily extend the time allowed to complete the requirements needed to remain qualified or to become qualified to perform certain functions.

DATES: This action is effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Kent Stephens, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9518.

SUPPLEMENTARY INFORMATION:**Availability of This Action**

You can get an electronic copy using the Internet by taking the following steps:

- (1) Go to search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>).
- (2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search".
- (3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through FAA's Web page at <http://www.faa.gov/avr/armhome.htm> or the **Federal Register's** Web page at http://www.access.gpo.gov/su_docs/aces/aces140html.

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 amendment number or docket number of this final rule.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information advice about compliance with statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's Web page at <http://www.faa.gov/avr/arm/sbrefa.htm> and send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.gov.

Background

In the wake of the September 11, 2001, terrorist attacks against four U.S. commercial aircraft resulting in the tragic loss of human life at the World Trade Center, the Pentagon, and southwest Pennsylvania, the U.S. airline transportation system was severely hampered in conducting normal operations.

Part 121 and 135 check airmen (simulator), part 121 and 135 flight instructors (simulator), part 121 aircraft dispatchers and part 142 training center instructors are required to successfully complete certain qualification requirements, inflight line observation programs, or operating familiarization, as part of their periodic qualifications. The FAA realizes that due to the critical circumstances and disruption of airline operations, it may have been impossible for some of these persons who needed to complete the necessary requirements during the month of September to do so. Accordingly, the FAA is issuing this SFAR to allow those persons additional time to complete the inflight requirements.

This action will not adversely affect aviation safety. It will only allow certain individuals, who do not directly operate the aircraft, additional time to complete the inflight requirements. This one-time 60-day extension does not change the 12-calendar month requirement for aircraft dispatchers or the anniversary month for check airmen, flight instructors, or training center instructors. Therefore, if you were due to complete one of the specified requirements in September 2000 you will be due again to meet that requirement in September 2002, regardless of this extension for 2001.

Certain applicants for a certificate or rating under parts 61 must pass a required knowledge test within the 24-

calendar-month period preceding the month the applicant completes the practical test, if a knowledge test is required. This action extends the validity of those aeronautical knowledge test results with an expiration date of September 30, 2001 to November 30, 2001.

Justification for Immediate Adoption

Because the circumstances described herein warrant immediate action, the Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, the Administrator finds that the urgent need for this relief is good cause under 5 U.S.C. 553(d) for making this rule effective upon publication.

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 determined that there are no ICAO Standards and Recommended Practices that relate to this SFAR.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has determined that there are no new requirements for information collection associated with this SFAR.

Regulatory Analyses

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. This rulemaking action is not a significant regulatory action under section 3(f) of Executive order 12866, Regulatory Planning and Review. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the Department of Transportation (DOT) Regulatory Policies and Procedures. The FAA expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601-612, directs the FAA to fit regulatory requirements to the scale of the business, organizations,

and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a "significant economic impact on a substantial number of small entities" as defined in the Act. If we find that the action will have a significant impact, we must do a "regulatory flexibility analysis."

This final rule temporarily extends the time certain training and testing requirements must be completed. Its economic impact is minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or 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 will not have an effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, 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 a \$100 million or more expenditure (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."

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we

determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j) this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of this SFAR has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this SFAR is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 61

Airmen, Reporting and recordkeeping requirements.

14 CFR Part 63

Airmen.

14 CFR Part 121

Airmen, Air carriers, Aviation safety.

14 CFR Part 135

Aircraft, Aviation safety.

14 CFR Part 142

Airmen, Schools, Educational facilities.

The Amendment

For the reasons stated in the preamble, the Federal Aviation Administration amends 14 CFR chapter I as follows:

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

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

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

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

PART 142—TRAINING CENTERS

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

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

3. 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, 46105.

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

Authority: 49 U.S.C. 106(g), 41706, 44113, 44701-44702, 44705, 44705, 44709, 44711-44713, 44715-44717, 44722.

5. The authority citation for part 142 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113m, 40119, 44101, 44701-44703, 44705, 44707, 44709-44711, 45102-45103, 45301-45302.

6. Add Special Federal Aviation Regulation (SFAR) No. 93 to parts 61, 63, 121, 135, and 142 to read as follows:

Special Federal Aviation Regulation No. 93—Temporary Extension of Time To Allow for Certain Training and Testing

1. *Applicability.* This SFAR applies to all part 121 and 135 check airmen (simulator) and flight instructors (simulator), part 121 aircraft dispatchers, and part 142 training center instructors who were required to complete qualification requirements, an inflight line observation program, or operating familiarization in September 2001 to become qualified, or remain qualified, to perform their assigned duties. It also applies to persons who have satisfactorily accomplished the part 61 aeronautical knowledge test or the part 63 written test, either one of which has an expiration date of September 2001 for pilot, flight instructor, or flight engineer certification.

2. *Special Qualification Requirements.* The sections of 14 CFR that prescribes these requirements are sections 61.39(a)(1); 63.35(d); 121.411(f); 121.412(f); 121.463(a)(2); 121.463(c); 135.337(f); 135.338(f); 142.53(b)(2) and (b)(3).

3. *Extension of Time to Fulfill Certain Qualification Requirements.* Persons identified in paragraph 1 of this SFAR who had until the end of September 2001 to complete the specified qualification requirements in September 2001 will be deemed to have completed those requirements in September 2001

provided they satisfactorily complete those requirements by November 30, 2001. For those persons identified in paragraph 1, who are qualifying for the first time to be a check airmen (simulator), flight instructor (simulator), aircraft dispatcher, or training center instructor, they must fulfill the applicable qualification requirements before they may serve as a check airmen (simulator), flight instructor (simulator),

aircraft dispatcher, or training center instructor, as appropriate. This extension does not change the 12-calendar-month requirement for aircraft dispatchers or the anniversary month for check airmen, flight instructors and training center instructors. Therefore, if you were due for qualification in September 2001 you will be due for qualification September 2002, regardless of this extension for 2001.

4. *Termination Date.* This Special Federal Aviation Regulation expires November 30, 2001.

Issued in Washington, DC, on October 5, 2001.

Jane F. Garvey,

Administrator.

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