

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for 14 CFR part 73 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.42 Michigan (MI) [Amended]

■ 2. § 73.42 is amended as follows:

R-4201A Camp Grayling, MI [Amended]

Boundaries. Beginning at lat. 44°56'00" N, long. 084°29'00" W; to lat. 44°47'00" N, long. 084°29'00" W; to lat. 44°47'00" N, long. 084°38'00" W; to lat. 44°47'00" N, long. 084°39'00" W; to lat. 44°56'00" N, long. 084°39'00" W; to the point of beginning.

Designated altitudes. Surface to 23,000 feet MSL.

Time of designation. 0800–1600 local time, Tuesday–Saturday; other times by NOTAM.

Controlling agency. FAA, Minneapolis ARTCC.

Using agency. U.S. Army, Commander, Camp Grayling, Grayling, MI.

R-4201B Camp Grayling, MI [Amended]

Boundaries. Beginning at lat. 44°47'00" N, long. 084°29'00" W; to lat. 44°41'00" N, long. 084°29'00" W; to lat. 44°41'00" N, long. 084°40'00" W; to lat. 44°43'00" N, long. 084°40'00" W; to lat. 44°43'00" N, long. 084°38'00" W; to lat. 44°47'00" N, long. 084°38'00" W; to the point of beginning.

Designated altitudes. Surface to 23,000 feet MSL.

Time of designation. 0000–2359 local time, Saturday–Sunday; other times by NOTAM.

Controlling agency. FAA, Minneapolis ARTCC.

Using agency. U.S. Army, Commander, Camp Grayling, Grayling, MI.

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Issued in Washington, DC, on June 12, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 91, 121, and 135**

[Docket No. FAA–2019–0360; Amdt. Nos. 91–375, 121–392 and 135–145]

RIN 2120–AL12

Removal of Check Pilot Medical Certificate Requirement

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action finalizes the substantive relief proposed in the notice of proposed rulemaking entitled *Removal of Check Pilot Medical Certificate Requirement*. It removes inconsistencies applicable to the qualification requirements for check pilots and flight instructors in domestic, flag, and supplemental operations and flight instructors in commuter and on-demand operations so that check pilots, check flight engineers, and flight instructors can continue to perform their functions in aircraft without a medical certificate unless they are serving as required flightcrew members. It also removes the medical certificate requirement for flight instructors in commuter and on-demand operations who perform their functions in aircraft and are not serving as required flightcrew members. Removing the conflicting medical certificate requirement enables the utilization of pilots who are otherwise qualified to function as check pilots, check flight engineers, and flight instructors in aircraft. Finally, this final rule updates related terminology.

DATES: This rule is effective July 18, 2024.

FOR FURTHER INFORMATION CONTACT: Joshua Jackson, Aviation Safety Inspector, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: 202–267–8166; email: joshua.jackson@faa.gov.

SUPPLEMENTARY INFORMATION:**I. Executive Summary**

As discussed in the notice of proposed rulemaking (NPRM),¹ the regulations establishing the requirements for flight instructors and check airmen in parts 121 and 135 are

¹ *Removal of Check Pilot Medical Certificate Requirement* notice of proposed rulemaking, 84 FR 25499 (Jun. 3, 2019).

unclear regarding the medical certificate requirements when flight instructors or check airmen perform their duties in aircraft. The regulations indicate that flight instructors conducting flight training and check airmen administering checks in aircraft must hold a third-class medical certificate when not serving as a required flightcrew member. Elsewhere, however, the regulations also state that no medical certificate is required unless the flight instructor or check airman is serving as a required crewmember. Additionally, part 135 check pilots (aircraft) were held to different medical certification standards than part 121 check pilots and flight instructors and part 135 flight instructors.² This final rule resolves the discrepancy in the pertinent regulations by clarifying that flight instructors, check pilots, and check flight engineers (FEs) must hold the appropriate medical certificate only when serving as required flightcrew members in an aircraft. The final rule also includes nonsubstantive nomenclature changes and reorganizes certain sections of parts 121 and 135.

II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). Subtitle I, section 106 describes the authority of the FAA Administrator to promulgate rules and regulations. Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the FAA's authority.

This rulemaking is promulgated under the authority described in section 44701, General Requirements; section 44702, Issuance of Certificates; and section 44703, Airman Certificates. Under these sections, the FAA prescribes regulations and minimum standards for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. In addition, section 44701(d)(1)(A) specifically states the Administrator, when prescribing safety regulations, must consider the duty of an air carrier to provide service with the highest possible degree of safety in the public interest.

² Specifically, § 135.337(b)(5) states that a check airman (aircraft) must hold at least a third-class medical certificate unless serving as a required crewmember and the exception in § 135.337(e) that a check airman who does not hold the appropriate medical certificate may serve as a check airman, but not a required flightcrew member, applies only to check airmen (simulators). This differs from how the regulations treat part 121 check airmen and flight instructors and part 135 flight instructors.

III. Background

As discussed in the NPRM, all pilots serving in title 14 CFR part 121 and part 135 operations are required to complete certain flight training³ and checking⁴ on a regular basis to ensure each pilot's competency in operating the specific aircraft. The checks are conducted by check pilots:⁵ airmen approved by the FAA who have the appropriate knowledge, training, experience, and demonstrated ability to evaluate and to certify the knowledge and skills of other pilots. The role of the check pilot is to ensure that the flightcrew member has met competency standards in a particular aircraft before the check pilot releases the flightcrew member from training and that the flightcrew member maintains those standards while remaining in line service. Similar responsibilities and objectives exist for check FEs in part 121.⁶ Check pilot qualifications are set forth in §§ 121.411 and 135.337, as applicable. Check FE qualifications are set forth in § 121.411.

The flight training is conducted by a flight instructor who is designated by a part 121 or part 135 certificate holder and has the appropriate knowledge, training, experience, and demonstrated ability to instruct flightcrew members in a flight training segment of that certificate holder's training program. Flight instructor qualifications are set forth in §§ 121.412 and 135.338.

Under parts 121 and 135, flight training and checking can be accomplished in an aircraft or in a flight simulation training device (FSTD). As such, the qualification requirements for flight instructors, check pilots, and check FEs correspond to whether the training and checking is conducted in an aircraft or an FSTD. In an FSTD, flight instructors, check pilots, and check FEs typically do not occupy a flightcrew member station during training or checking. Rather, they typically occupy an instructor station from which they can oversee the simulation. Even when flight instructors, check pilots, or check FEs occupy a flightcrew member station in an FSTD, they are not subject to flightcrew member requirements that

apply to operations conducted in the national airspace.⁷

When performing flight instructor, check pilot, or check FE duties in an aircraft, that person may serve as a required flightcrew member. Specifically, a flight instructor, check pilot, or check FE is a required flightcrew member if (1) required by the regulations under which the flight is being conducted (e.g., when a safety pilot is required under part 91 or when a person receiving instruction is not qualified to act as pilot-in-command (PIC) and, therefore, the flight instructor acts as the PIC) or (2) required by the type certificate of the aircraft.⁸ In these scenarios, the person may serve as a required flightcrew member only if, in addition to meeting the requirements to hold the respective position of flight instructor, check airman, or check FE, the person is also qualified to serve in the flightcrew member position, which includes medical certificate requirements.

Prior to 1996, the FAA required medical certificates for flight instructors and check airmen⁹ performing such functions, even if they were not serving as required flightcrew members.¹⁰ This was largely because the primary means of training occurred in an aircraft until the implementation of significant changes in training methods (i.e., increased use of flight simulation) beginning in the late 1970s. With the increase in FSTD use, in 1996, the FAA, acknowledging that some experienced part 121 and part 135 airmen, who would otherwise qualify as flight instructors or check airmen but were not medically eligible to hold a medical certificate, were foreclosed by regulation from performing their functions even in FSTDs, revised the regulations.¹¹ Specifically, the final rule removed the medical certificate requirement altogether for flight instructors and check pilots in parts 135 and 121 who

perform their functions in FSTDs.¹² However, as noted earlier, the regulatory text ultimately introduced confusion as to the medical certificate requirement for flight instructors and check airmen who perform their functions in aircraft in parts 121 and 135 when not serving as required flightcrew members. Specifically, §§ 121.411, 121.412, 135.337, and 135.338 apply internally inconsistent medical certificate requirements to check airmen and flight instructors when performing their duties in an aircraft.

Recognizing the contradiction in the regulations, the FAA gave force and effect to the most relieving provision by not requiring flight instructors and check airmen performing their respective duties in aircraft to hold any medical certificate when not serving as a required flightcrew member.

IV. Discussion of Final Rule and Public Comments

A. Final Rule and Changes

On June 3, 2019, the FAA published an NPRM that proposed to update regulatory text to remove the inconsistencies applicable to check pilots and flight instructors in parts 121 and 135 to provide clarity to check pilots, check FEs, and flight instructors on the applicable medical certificate requirements when performing their functions in aircraft. Specifically, the NPRM proposed to keep and revise paragraph (b)(5) of §§ 121.411, 121.412, 135.337, and 135.338 to mandate medical certificate requirements only for those check pilots, check FEs, and flight instructors considered required flightcrew members. Thus, the proposal removed explicit requirements for check pilots, check FEs, and flight instructors who are not also serving as required flightcrew members. However, as proposed, the FAA would have kept language set forth in §§ 121.411(e), 121.412(e), 135.337(e), and 135.338(e) that specifically stated a person who did not hold a medical certificate may function as a check pilot, check FE, or flight instructor (as applicable), but could not serve as a required flightcrew member.

In response to comments received and additional analysis during the pendency of the rulemaking, the FAA recognizes

⁷ Under § 1.1, a flightcrew member is "a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time."

⁸ Letter of Interpretation to Willmot White from Carl Schellenberg, Assistant Chief Counsel, Regulations and Enforcement Division (Oct 5, 1978). Letter of Interpretation to Ivan Grau from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Oct. 1, 2010); Letter of Interpretation to Louis Glenn from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Dec. 1, 2009).

⁹ See footnote 5 of this preamble.

¹⁰ See e.g., Air Taxi Operators and Commercial Operators, 42 FR 43490 (Aug. 29, 1977) and Air Taxi Operators and Commercial Operators, 43 FR 46742, 46777 (Oct. 10, 1978).

¹¹ *Training and Qualification Requirements for Check Pilots and Flight Instructors* final rule, 61 FR 30734 (Jun. 17, 1996).

¹² *Id.* at 30735. Specifically for check airmen, the rule removed, first, the requirement to hold at least a Class III (third class) medical certificate in then-§ 121.411(a)(6) and, second, the requirements to hold a Class I, II, or III (first, second, or third class) medical certificate in then-§ 135.337(a). Additionally, the rule added §§ 121.412 and 135.338 to specifically speak to flight instructors and excepted those persons instructing in a simulator from holding a medical certificate.

³ See 14 CFR 121.433, 135.347, 135.351.

⁴ See 14 CFR 121.441, 135.293, 135.297.

⁵ The FAA notes that the NPRM proposed only to change verbiage in part 135 from "check airman" to "check pilot," as well as their plural forms. As discussed in section IV.D.1. of this preamble, the FAA is expanding this terminology change to include part 121. Therefore, for purposes of this preamble, the FAA uses the terms "check pilot" and "check flight engineer," as applicable, rather than "check airman" unless referring to past regulations that use "airman."

⁶ 14 CFR 121.419, 121.425.

that the proposed revisions to the regulations were insufficient to achieve the goal of the rulemaking: elimination of medical certificate requirement confusion. Specifically, paragraph (b)(1) in each section (§§ 121.411, 121.412, 135.337, and 135.338) still would have required a person to hold all the “airman” certificates and ratings required to serve as a PIC in operations under that part, which would include the requisite medical certificate in exercising the privileges of a commercial or ATP certificate.¹³ Therefore, the FAA is adopting different language than proposed in the 2019 NPRM, accompanied by reorganization of the affected sections to reduce redundancy. To note, the substantive relief remains unchanged from that proposed in the 2019 NPRM and historical practice (*i.e.*, elimination of medical certificate requirements if not serving as a required flightcrew member).

Specifically, as it pertains to part 121, §§ 121.411(b)(1) and 121.412(b)(2) require a check pilot, check FE, and flight instructor to hold the airman certificates and ratings required to serve as a PIC or FE, as applicable, under part 121 operations. As written, “airman certificates” would include a medical certificate. Instead of relying on paragraph (b)(5) as an exception to paragraph (b)(1) in each section, as previously explained, this final rule revises each paragraph (b)(1) to specify that the requisite pilot or FE certificate and/or ratings are required. This revision, therefore, conveys that a medical certificate is not generally included in the required certificates to serve as a check pilot, check FE, or flight instructor. Therefore, while the NPRM proposed to revise §§ 121.411(b)(5) and 121.412(b)(5) from the regulations, this final rule would remove both paragraphs.¹⁴ Additionally, this final rule would remove existing §§ 121.411(e) and 121.412(e) and adopt a new paragraph (f) that concisely sets forth that a person who serves as a required flightcrew member while performing check pilot or check FE duties must meet all requirements for the duty position in which they are serving. This would include the requisite medical certificate for that duty position.

In summary, when not serving as a required flightcrew member, the check pilot, check FE, or flight instructor would be required to hold all certificates and ratings required to serve as PIC or FE under part 121, pursuant to §§ 121.411(b)(1) and 121.412(b)(1) except a medical certificate. Pursuant to new §§ 121.411(f) and 121.412(f), if the check pilot, check FE, or flight instructor was serving as a required flightcrew member, the person must also meet the requirements for the duty position in which they are serving.¹⁵

Additionally, while the FAA did not propose a reorganization of §§ 121.411 and 121.412 in the NPRM as it did in part 135, this final rule will revise certain provisions to eliminate redundancy in the regulations. First, § 121.411(b)(4) requires an airplane check pilot or check FE to satisfactorily complete the applicable training requirements of § 121.413, including inflight training and practice for initial and transition training. Similarly, § 121.412(b)(4) requires an airplane flight instructor to satisfactorily complete the applicable training requirements of § 121.414, including inflight training and practice for initial and transition training. The FAA finds these concluding phrases to be redundant because §§ 121.413 and 121.414 set forth the initial, transition, and recurrent training and checking requirements for check pilots, check FEs, and flight instructors, as applicable, and would control the scenarios under which the inflight training and practice for initial and transition training is required. Therefore, the FAA is removing the language in §§ 121.411(b)(4) and 121.412(b)(4) as redundant.

Second, § 121.411(b)(6) requires a check airman to satisfy the recency of experience requirements of § 121.439, as applicable. Section 121.439 sets forth the recent experience requirements for pilot qualification and applies specifically to required pilot flightcrew members in paragraph (a). In other words, § 121.439 would be rendered applicable only when a check pilot serves as a required flightcrew member. The recency of experience requirements of § 121.439 would, therefore, be required regardless of the specification of § 121.411(b)(6). The same principle

applies in § 121.412. Therefore, §§ 121.411(b)(6) and 121.412(b)(6) are removed in this final rule; however, the FAA emphasizes that this does not change the existing substantive recency of experience requirements. Additionally, §§ 121.411(f) and 121.412(f) would act as an umbrella provision for check pilots, check FEs, and flight instructors who serve as required flightcrew members, thereby subjecting a check pilot serving as a required flightcrew member to meet § 121.439.

In removing these revisions for redundancy (as well as §§ 121.411(b)(5) and 121.412(b)(5) as previously discussed), the requirements of § 121.411(b) for check pilot and check FE (airplane) are largely mirrored in § 121.411(c) for check pilot and check FE (FSTD). Similarly, the requirements of § 121.412(b) for flight instructor (airplane) are largely mirrored in § 121.412(c) for flight instructor (FSTD). Therefore, the FAA finds that the provisions in each paragraph, respectively, can be combined without losing any clarity or substantive requirements. Subsequently, the introductory language is revised to include both airplane and FSTD check pilots and check FEs, and paragraphs (b) and (c) are merged.¹⁶ Additionally, the reference to paragraphs (c)(2) through (4) in §§ 121.411(d) and 121.412(d) are removed, as those previous provisions will be covered under the reference to paragraphs (b)(2) through (4), which remain.

The same general revisions are made in part 135; however, part 135 does not contemplate FEs as part 121 does. Therefore, §§ 135.337(b)(1) and 135.338(b)(1) are revised to state that check pilots must hold the pilot certificates and ratings required to serve as a PIC in operations under part 135. Additionally, for the same reasons previously discussed for part 121, this final rule removes paragraphs (b)(5) and (b)(6)¹⁷ in each section, removes paragraph (e) in each section, and adds new paragraph (f), explicitly stating that each person who serves as a required flightcrew member while performing check pilot duties must meet the requirements for the duty position in

¹⁶ See section IV.B. of this preamble for section redesignation as an outgrowth of eliminated paragraphs.

¹⁷ For clarity, paragraph (b)(6) in §§ 135.337 and 135.338 require a check pilot or flight instructor to satisfy the recency of experience requirements of § 135.247. Section 135.247 applies to those pilots serving as PIC of an aircraft carrying passengers, which would apply regardless of duplicity in §§ 135.337 and 135.338. In other words, § 135.247 continues to control the conditions under which a person must meet recent experience requirements.

¹³ See 49 U.S.C. 44703(i)(2)(A)(i).

¹⁴ Paragraph restructuring is discussed in section IV.B. of this preamble. Additionally, the FAA notes that the NPRM proposed to change certain medical certificate terminology from Class I, II, and III to first-class, second-class, and third-class. With the elimination of these paragraphs, that proposal is rendered irrelevant.

¹⁵ For example, pursuant to 14 CFR 63.3, if a person is acting as a flight engineer of an aircraft, that person would be required to hold at least a second-class medical certificate or other documentation acceptable to the FAA. However, if the check flight engineer was only performing check duties, and was not acting as the flight engineer of the aircraft, the person would be exempted from holding the medical certificate.

which they are serving. This would include the appropriate medical certificate when serving as a required flightcrew member. The FAA acknowledges that there may be instances where a person is “assigned” to a part 135 operation. The FAA notes that if a check pilot or flight instructor is assigned duties, then they must be qualified as if they were required (*i.e.*, must be qualified for the operation for which the person is to be used), pursuant to § 135.95. Additionally, for the same reasons previously discussed in the part 121 revisions, the FAA is combining § 135.337 paragraph (c) with paragraph (b) and § 135.338(c) with (b).

In summary, these changes clarify that a person serving as a check pilot, check FE, or flight instructor under parts 121 or 135 would not be required to hold a medical certificate unless serving as a required flightcrew member. As previously discussed, a person is a required flightcrew member in two

scenarios: (1) where the operating rule requires the person to be a flightcrew member or (2) the aircraft’s type certificate requires the person to be a flightcrew member. In either scenario, the person would be required to hold a medical certificate in accordance with the privileges of the certificate they were exercising.¹⁸ For example, if a check pilot is performing a check but also serving as a safety pilot under § 91.109, that check pilot would be considered a required flightcrew member (due to the operating rule). Because under § 91.109(c)(1), the safety pilot/check pilot would be exercising the privileges of at least a private pilot certificate, the person must hold the requisite medical certificate: at least a third-class medical certificate.¹⁹ As another example, if the check pilot is conducting a check under part 135 in an aircraft that requires two pilots via type certificate and the check pilot is the second pilot, the check pilot would be

serving as a required flightcrew member under that part (due to type certificate). That check pilot would be serving as second in command, requiring at least a commercial pilot certificate and an instrument rating pursuant to § 135.4. Because the check pilot would be exercising the privileges of a commercial pilot certificate and instrument rating, that check pilot must hold at least a second-class medical certificate.²⁰ The same principle applies to part 121 operations, as well as flight instructors who would be considered required flightcrew members.

B. Redesignation of Affected Sections

As discussed in the previous section, the final rule revises and removes a number of existing paragraphs within §§ 121.411, 121.412, 135.337, and 135.338. The FAA provides the following tables to concisely detail the resulting redesignation within those sections.

TABLE 1—PART 121 REDESIGNATION

Current citation (14 CFR §)	Final rule action	Current citation (14 CFR §)	Final rule action
121.411(a)	Unchanged	121.412(a)	Unchanged.
121.411(b)	Incorporated paragraph (c)	121.412(b)	Incorporated paragraph (c).
121.411(c)	Merged into paragraph (b)	121.412(c)	Merged into paragraph (b).
121.411(d)	Redesignated as § 121.411(c)	121.412(d)	Redesignated as § 121.412(c).
121.411(e)	Removed	121.412(e)	Removed.
121.411(f)	Redesignated as § 121.411(d)	121.412(f)	Redesignated as § 121.412(d).
121.411(g)	Redesignated as § 121.411(e)	121.412(g)	Redesignated as § 121.412(e).

TABLE 2—PART 135 REDESIGNATION

Current citation (14 CFR §)	Final rule action	Current citation (14 CFR §)	Final rule action
135.337(a)	Unchanged	135.338(a)	Unchanged.
135.337(b)	Incorporated paragraph (c)	135.338(b)	Incorporated paragraph (c).
135.337(c)	Merged into paragraph (b)	135.338(c)	Merged into paragraph (b).
135.337(d)	Redesignated as § 135.337(c)	135.338(d)	Redesignated as § 135.338(c).
135.337(e)	Removed	135.338(e)	Removed.
135.337(f)	Redesignated as § 135.337(d)	135.338(f)	Redesignated as § 135.338(d).
135.337(g)	Redesignated as § 135.337(e)	135.338(g)	Redesignated as § 135.338(e).

C. Discussion of Comments

The FAA received and considered 12 comments to the NPRM, consisting of two from industry (Ameristar Air Cargo, Inc. and Harris Aircraft Services, Inc.) and 10 from individuals. The majority of commenters, including Ameristar Air Cargo, Inc. (Ameristar) and Harris Aircraft Services, Inc. (Harris), supported the rule. Only two individuals opposed the proposal, while

three commenters sought additional clarification on the proposal.

1. Support for the Rule

The majority of commenters supported the proposal. While some simply stated support for the proposal with no further rationale, several provided additional discussion as part of their support. Many supporters stated that the proposal helps to clarify an unsettled area of confusion for parts 121

and 135 operators. Supporters, including Harris and Ameristar, emphasized that adoption of the proposal would ensure operators could capitalize on the experience, ability, and expertise of retired or semi-retired pilots who may not be able to qualify for a medical certificate. Ameristar contended that utilizing the check airmen and instructors in a non-required flightcrew member role provides benefits, including, for

¹⁸ Section 61.3(c)(1) requires a person to hold the appropriate medical certificate if serving as a required pilot flightcrew member, subject to certain exceptions set forth in § 61.3(c)(2). Section 61.23

sets forth the class of medical certificate required for pilots, and § 63.3(b) requires a flight engineer to hold at least a current second-class medical certificate.

¹⁹ See 14 CFR 61.23(a)(3)(i).

²⁰ See 14 CFR 61.23(a)(2)(ii).

example, providing: (1) an additional person on the flight deck who understands the systems, procedures, and regulatory requirements and (2) an additional person to evaluate the improvement of teaching and checking techniques. Because that person is an additional and not a required flightcrew member, the lack of a medical certificate in that role would not necessarily degrade safety, as the person would not be in control of the aircraft. A couple of commenters went on to stress, though, that if check airmen or flight instructors were serving as required crewmembers, then they should possess the appropriate medical certificate to serve in the requisite capacity. Harris noted that the ability to utilize pilots for longer periods as check pilots would relieve the burden from the local Flight Standards District Office (FSDO).²¹

2. Requests for Clarifications and Suggestions

Several commenters suggested clarifications to the proposed regulatory text, asked specific questions and/or hypothetical scenarios to ensure understanding of the proposal, or requested additional relief for check pilots and flight instructors. This section responds to such comments.

First, one commenter asked the FAA to clarify when a check pilot would be a required flightcrew member. The commenter stated there are a number of operators who fly Caravan and Pilatus series aircraft in commercial operations, which are examples of specific aircraft that are certified to fly in commercial operations using a single pilot. The commenter further stated that if a check pilot were to give a check ride in one of these aircraft and the flight was flown under visual flight rules (VFR) flight with the applicant wearing a view limiting device, then the check pilot would be considered an essential flightcrew member even though the type certificate for the aircraft does not require a second pilot. The commenter asked for additional clarification to the regulation to explicitly allow a check pilot without a medical certificate to serve as a safety pilot while simultaneously conducting a check ride

in an aircraft certified to be used in commercial operations using a single pilot. The commenter explained that, if needed, the check ride could be conducted or mandated to be flown in VFR conditions if there was any concern with the applicant wearing a view-limiting device, adding that while the flight may be conducted while adhering to part 135 rules for the purposes of the check ride, the flight could be legally flown under part 91.

As discussed in section IV.A. of this preamble, a person is a required flightcrew member in two scenarios: where the operating rule or the aircraft's type certificate requires the person to be a required flightcrew member. In the commenter's hypothetical, the person would be required to hold a medical certificate in accordance with the privileges of the certificate they were exercising. Therefore, as the example provides in that section, the safety pilot would be exercising the privileges of a private pilot certificate and would require at least a third-class medical certificate. The FAA recognizes that the currently situated regulations indicate that, in this case, a safety pilot would be required to hold a first- or second-class medical certificate. As discussed, the FAA has removed that language in the adoption of this final rule; the pilot certificate that is required for the specific operation (whether that be by regulation or type certificate) controls what medical certificate is necessary for the pilot to hold.

The same commenter also asked the FAA to consider extending the rulemaking further to remove the general requirement that FAA aviation safety inspectors (ASIs) possess second-class medical certificates, as advertised by FAA ASI job solicitations. The commenter stated that ASI positions that involve simulator-only operations should be given the same consideration that check pilot, check FE, and flight instructor positions were given in this proposal (*i.e.*, to not require that they hold medical certificates). The commenter explained that an ASI is not normally acting as a required crewmember, and there is no need for an ASI to hold a medical certificate if the ASI is overseeing an airline designating a new check pilot or renewing a check pilot. The commenter asked if, assuming all the other requisites for that type of ASI job announcement are met, the FAA could consider removing the requirement that ASIs hold medical certificates for ASIs involving simulator operations so that the FAA could access the same highly experienced pilot pool as is discussed in

the proposal concerning check pilots and flight instructors.

The FAA acknowledges this comment, but changes to the FAA's hiring parameters and qualifications are outside the scope of this rulemaking. FAA requirements for ASIs are internal requirements specific to the FAA's employees rather than regulations on the public. Such internal FAA requirements are not subject to rulemaking nor public notice and comment.

Two individuals commented on requirements where a check pilot would be only occupying the jump seat. One of the individuals stated that the medical certification requirements should only be specific to or differentiate between the position of the check pilot: for example, a jump seat or a simulator. The FAA maintains that the differentiation between the requisite medical certificates should not be driven by the pilot's physical position in the aircraft but rather by their duties. The implementation of a rule only applicable to a certain location or seat could not be applicable to every contemplated aircraft that may be used in a part 121 or part 135 operation. Specifically, a check pilot may be checking a pilot in an aircraft that does not have a jump seat. Or, an aircraft may be type certificated for one pilot, and the regulations do not require more than one, in which case the check pilot could occupy the right seat to carry out the check. Therefore, it is inappropriate to regulate based solely on the physical location of the check pilot, check FE, or flight instructor and, for the reasons discussed in this preamble, more appropriate to ensure the pilot possesses the corresponding medical certificate required to perform the duties of the position that pilot is performing.

Next, one commenter asked whether a person would need to hold a medical certificate if that person was a check pilot or flight instructor who was the sole person on board with the ability to maintain the flight.

The FAA assumes that the commenter is alluding to a scenario in which a flight departs with a pilot serving as PIC in a single pilot operation with a check pilot on board conducting a check, subsequent to which the pilot experiences an incapacitating event and the check pilot is therefore required to fly the aircraft. While it is possible that a scenario such as the commenter raised could occur, the required flightcrew determination that check pilots rely on is made prior to takeoff based on the type certificate for the aircraft or the regulations governing the flight. In a hypothetical emergency situation, the

²¹ Checks may be given by the Administrator or an authorized check pilot; therefore, where a check pilot is unavailable, an FAA Aviation Safety Inspector (ASI) at a FSDO would give the appropriate check. The FAA notes that one commenter who supported the proposal as providing clarity and efficiency also questioned why check pilots must be approved or authorized by the Administrator. Because this responsibility is delegated to a person outside the FAA, the Administrator must ensure that the check pilot and flight instructors demonstrate the ability to perform check and instruction functions.

primary concern would be the safety of the persons on board the aircraft and landing the aircraft; a medical certificate (or lack thereof) should not prevent a check pilot or flight instructor from mitigating a safety situation. Therefore, the FAA does not intend to make amendments to the regulations beyond what was in the NPRM.

Ameristar requested clarification regarding the recency of experience and training requirements. Specifically, Ameristar asked that the FAA state whether a flight instructor who is not a required crewmember must meet the recency of experience requirements of § 121.412(b)(6). Ameristar believes that the instructor would not need to meet those requirements as long as he or she meets all of the other requirements of § 121.412.

Section 121.412 contains the qualification requirements for persons serving as flight instructors under part 121. Among these requirements, § 121.412(b)(6) requires part 121 flight instructors to, with respect to the airplane type involved, meet the recency of experience requirements of § 121.439, as applicable. The FAA notes that the same requirement would apply to check pilots and check FEs under part 121, as § 121.411 requires check pilots to meet the recency of experience requirements of § 121.439, as applicable. The recent experience requirements in § 121.439 apply only to “required pilot flightcrew members.” Therefore, for flight instructors, check FEs, and check pilots in aircraft who are not serving as required flightcrew members, the recency of flight experience requirements of § 121.439²² are not applicable. This same concept applies to the recency of flight experience requirements in part 135. In other words, for part 135, a certificate holder may only use a check airman or flight

instructor as a required flightcrew member serving as PIC carrying passengers if the person has satisfied the recency of experience requirements of § 135.247. Because these regulations set forth the conditions under which a pilot or FE must meet the recency of experience, the FAA does not find these provisions (*i.e.*, §§ 121.411(b)(6), 121.412(b)(6), 135.337(b)(6), and 135.338(b)(6)) required. The FAA expects these revisions to succinctly set forth the expectations for recency of experience. See section IV.A. of this preamble for additional discussion on the removal of these paragraphs.

Finally, Ameristar stated that it believed that the authorization to conduct training or checking without a medical certificate should be delineated to (1) line checks pursuant to § 121.440, where the PIC being checked is currently qualified as a pilot in command and is not out of currency, and (2) refresher training under § 121.434(h)(4)(ii) or other training required by a training program that requires an observation by an aircraft instructor or check pilot where the individual is otherwise qualified to be a required crewmember. Ameristar recommended limiting the allowance of checking or training without a medical certificate in part 121 to the line check requirement in § 121.440 and the refresher training in § 121.434 (or similar observational training) only. The FAA emphasizes that, as previously discussed, §§ 121.411 and 121.412 are currently implemented so as to not require a medical certificate when a check pilot or flight instructor is not serving as a required flightcrew member. This final rule merely clarifies, but does not change, the current implementation of those requirements. It is not the FAA’s intention to limit the authorization to conduct training or checking without a medical certificate further, nor does the FAA find it appropriate to do so. If the check pilot and flight instructor conducting their duties under § 121.440 or § 121.434 are not required crewmembers, then they would not be required to hold a medical certificate.

3. Opposition to Rule

Two anonymous commenters explicitly disagreed with the proposal. One commenter expressed a lack of understanding as to why check pilots should be exempt from medical certificate requirements, opining that it could be dangerous to other people on the flight if they relied on the check pilot and a medical situation were to happen. The second commenter believed that lowering the certifications

would add to general aviation community fears, especially as it pertained to flight paths of commuter aircraft.

As discussed in the NPRM, given the contradictory provisions in parts 121 and 135 regarding medical certification, the FAA currently implements §§ 121.411, 121.412, 135.337, and 135.338 under the least burdensome provision such that parts 121 and 135 check pilots and flight instructors are not required to hold a medical certificate unless serving as required flightcrew members. In other words, this final rule maintains the status quo of medical certificates in current practice. Given the length of time and lack of safety data to support more stringent medical certificate requirements on these persons, the FAA has no basis upon which to conclude that this final rule would create an adverse impact on safety. The required flightcrew, who are responsible for the safe conduct of the flight, will continue to hold the appropriate medical certificates as required by § 61.23.

Further, when a check pilot or flight instructor is serving as a required flightcrew member (*i.e.*, at the controls as required by regulation or type certificate), that check pilot or flight instructor must be fully qualified to serve as PIC²³ to include the requirement to hold a first- or second-class medical certificate, as appropriate, under § 61.23. In other words, they are not exempt from any medical certificate requirement. The only time a check pilot, check FE, or flight instructor is not required to hold a medical certificate is when they are not serving as a required flightcrew member; in that case, they are not needed for the conduct of the flight, and the person or persons operating the flight in that scenario would be fully qualified to conduct the operation. Eliminating the requirement that a check pilot, check FE, or flight instructor hold a medical certificate when they are not serving as a required flightcrew member will have no impact on risk to safety because aircraft will continue to operate using required flightcrew members who satisfy the necessary training and qualification requirements, including the requirement to hold an appropriate medical certificate. Therefore, while the FAA is revising some regulatory text from that proposed in the NPRM, as

²² The FAA notes that this may seem inconsistent with recency of experience requirements set forth in current §§ 121.411(f) and 121.412(f) (redesignated in this final rule as paragraph (d) for each section), which are required of simulator check airmen or flight instructors regardless of whether the person is a required crewmember or not. In other words, check pilots and flight instructors who are conducting checks or instruction in only simulators must meet certain recency requirements (*i.e.*, fly at least two flight segments as a required crewmember for the type of airplane in the 12 month period preceding the performance of any check airman duty in a full flight simulator (FFS) or satisfactorily complete a line-observation program within the period prescribed by that program preceding the performance of any check airman duty in an FFS). The recency of experience requirements for check airmen and flight instructors who only conduct operations in FFS ensure that these persons are adequately familiarized with a real-time flight environment. The same reasoning applies in part 135 (*i.e.*, current §§ 135.337(f) and 135.338(f)).

²³ See §§ 121.411(b)(1); 121.412(b)(1); 135.337(b)(1); and 135.338(b)(1). The FAA notes that a check pilot and flight instructor must hold the airman certificates and ratings required to serve as a PIC in operations under part 121 or 135, as applicable, regardless of whether they are a required flightcrew member.

explained in this preamble, the FAA is moving forward with the removal of certain inconsistent text to make clear no medical certificate is required for certain persons.

D. Miscellaneous Amendments

1. Part 121

The FAA notes that it did not propose changes to certain terminology in part 121 of the NPRM. However, given the proposed changes in part 135, the FAA finds that it would introduce confusion to have references to “check airmen” and “check pilots,” which could indicate the two have different meanings when that may not be the intent. Therefore, the FAA is adopting nonsubstantive rule terminology changes in part 121 of this final rule.

Specifically, “check airmen” is changed to “check pilot” and/or “check flight engineer” (as applicable²⁴) in the plural and singular. Currently, the term “check airmen” applies to both check pilots and check FEs. While there are similarities between the required training, qualification, and duties of check pilots and check FEs, there are many distinctive requirements. For example, a check pilot evaluates pilots operating the flight controls of an airplane, while a check FE evaluates FEs managing airplane systems. Using “check airmen” to describe both check pilots and check FEs can lead to confusion or misapplication of the regulations. Additionally, some provisions in subparts N and O of part 121 use the term “pilot check airman,”

while other provisions in subparts N and O use the term “check pilot.” The FAA considers these two terms synonymous, but using two different terms can create confusion and inconsistent application.

Additionally, the term “simulator” is changed to “FSTD.” Specifically, where the regulations reference a flight simulator or a flight training device together, the correct terminology is “flight simulation training device” or “FSTD,” given the definition of a flight simulation training device in 14 CFR 1.1.²⁵ This revision does not result in any substantive change to the regulations; rather, it simply condenses regulatory text. The following table sets forth the specific revised regulatory citations.

TABLE 3—TERMINOLOGY CHANGES IN PART 121

Revision	Affected regulations in this final rule (14 CFR)
“Check airman” to “check pilot” and/or “check flight engineer”.	§§ 121.401(a)(1), (c), and (e); 121.407(a)(5); 121.408(d) and (d)(1); 121.411(a)(1) and (2), (b), (b)(1) and (5), (d), (d)(1) and (2); 121.413(a), (a)(1), (c)(1), (d)(1) and (2); 121.414(a)(2); 121.434(d); 121.439(b)(1) and (e); 121.440(b)(1) and (c)(1); 121.441(b)(2); 121.445(d)(2); 121.915(b)(2)(iii); 121.919(e); appendix E to part 121, II.(f) and IV.(j); appendix F to part 121, V., freestanding paragraph after (d)(2); appendix H to part 121 3., 4., and 5.
“Check airmen” to “check pilots” and/or “check flight engineers”.	§§ 121.401(a)(4); 121.402(b)(4); 121.411 heading; 121.411(a)(3); 121.413 heading; 121.413(c), (c)(7), (d), (d)(2), (e), (e)(3) and (4), (g), and (h); appendix H to part 121 intro paragraph and 5.
“Simulator” to “FSTD”	§§ 121.411(a)(1) and (2), (d), (d)(1) and (2); 121.412(a)(1) and (2), (d), (d)(1) and (2); 121.413(a)(2), (c)(7) and (7)(iv), (d)(2) and (2)(iv), (f), (g)(1) and (2), and (h); and 121.414(a)(2), (c)(8) and (8)(iv), (d)(2) and (2)(iv), (f), (g), (g)(1) and (2), and (h).

2. Part 135

The FAA did not receive any comments on its proposed part 135 terminology changes as discussed in the

NPRM. Specifically, the FAA proposed to change “check airman” to “check pilot,” in the singular and plural, as well as changing “flight simulator” to

“FSTD,”²⁶ where appropriate, and adopts these revisions in this final rule. The following table sets forth the specific revised regulatory citations.

TABLE 4—TERMINOLOGY CHANGES IN PART 135

Revision	Affected regulations (14 CFR)
“Check airman” to “check pilot”	§§ 135.113; 135.297(c)(2); 135.323(a)(1) and (c); 135.337(a)(1), (a)(2), (b), (b)(1), (b)(6), (d), (d)(1), and (d)(2); 135.339(a), (a)(1), (c)(1), and (d); 135.340(a)(2).
“Check airmen” to “check pilots and check flight engineers”.	§§ 135.321(a)(2); 135.323(a)(4); 135.324(b)(4); 135.337 heading; 135.337(a)(3); 135.339 heading; 135.339(c), (d), (e), and (g).
“Simulator” to “FSTD”	§§ 135.323(a)(4); 135.337(a)(1), (a)(2), (d), (d)(1), and (d)(2); 135.338(a)(1), (a)(2), (d), (d)(1), and (d)(2); 135.339 heading; 135.339(g); and 135.340(g).

3. Removal of Certain Dated Provisions

During the pendency of this rulemaking, the FAA noted several provisions in parts 121 and 135 that direct action or remove action after a certain date that has since passed. As a result, these provisions are unnecessary

and may be removed without any substantive effect. The FAA notes that, while these removals were not included in the NPRM to this Final Rule, they are purely editorial revisions in nature that do not result in additional or lesser

requirements on the regulated community.

First, in December 1995, the FAA published the Air Carrier and Commercial Operator Training Programs final rule.²⁷ This created a rule (§ 121.404) with compliance

²⁴ There are certain instances in part 121 where “check airman” directs action only on a pilot or a flight engineer, not both. For example, § 121.413(e) sets forth initial and transition flight training specific to check pilots and check flight engineers. In these instances, the appropriate replacement is made.

²⁵ Specifically, an FSTD is defined as a full flight simulator or a flight training device. Additionally, the FAA notes that a flight simulation training device is abbreviated “FSTD” pursuant to 14 CFR 1.2.

²⁶ The FAA notes that the regulations refer to check pilot and flight instructor duties only in flight

simulator in § 135.337(f)(1) and (2) and § 135.338(f)(1) and (2). However, in practice, these regulations apply to any checking and instruction in flight training devices, as well.

²⁷ *Air Carrier and Commercial Operator Training Programs*, 60 FR 65940 (Dec. 20, 1995).

requirements for flight crewmembers, flight attendants, and aircraft dispatchers to have received Crew Resource Management (CRM) or Dispatch Resource Management (DRM) initial training by certain dates (*i.e.*, after March 19, 1998 and after March 19, 1999). Because these dates have passed, the FAA removes references to the expired compliance dates from § 121.404 in this final rule.

Next, in November 2013, the FAA issued the Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers final rule.²⁸ That rule prescribed a compliance date of March 12, 2019, for certain provisions. Because March 12, 2019, has passed, the FAA is removing references to that expired compliance date, as well as certain requirements in part 121 subparts N and O that have expired. Specifically, the following paragraphs list a compliance date of March 12, 2019, as an outgrowth of that rule. Because these regulations are now in effect and do not require an explicit compliance date, the following paragraphs are revised or removed, as appropriate,²⁹ from the regulations:

- § 121.403(b)(2);
- § 121.407(e);
- § 121.408(f);
- § 121.409(b)(ii)(A);³⁰
- § 121.413(i);
- § 121.414(i);
- § 121.415(k);
- § 121.419(f);
- § 121.423(f);
- § 121.424(f);
- § 121.427(f);
- § 121.433(d);³¹
- § 121.441(a)(1);
- § 121.544;
- Appendix E to part 121, I.(c), I.(d), II.(c), and IV.(d)(2);
- Appendix F to part 121, I.(c), I.(d)(2), II.(c)(2), and V.(c)(2);

²⁸ *Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers*, 78 FR 67800 (Nov. 12, 2013).

²⁹ Some paragraphs are only utilized to set forth the compliance date; these paragraphs are removed in their entirety (*e.g.*, § 121.413(i)). Other paragraphs set forth the compliance date among other text within the paragraph; these paragraphs are revised to remove only the compliance date phrasing (*e.g.*, § 121.407(e)).

³⁰ The compliance date for § 121.407(b)(2)(ii)(B)(6) has passed and, therefore, the requirement to provide an opportunity for each PIC to demonstrate leadership and command skills as part of LOFT is currently in effect. Therefore, the introductory text in paragraph (b)(2)(ii)(B) is rendered unnecessary, and the list of (b)(2)(ii)(B)(1) through (6) becomes (b)(2)(ii)(A) through (F).

³¹ The elimination of the compliance date in § 121.433 resulted in the removal of paragraph (d) in its entirety. As a result, § 121.433(e) is redesignated to § 121.433(d). In turn, this final rule makes a conforming amendment in § 121.427(e)(1)(ii)(B) to correct the cross-reference of § 121.433(e) to (d).

- Appendix H to part 121, 6.

Finally, in February 2020, the FAA issued the Pilot Professional Development final rule.³² That rule included April 27, 2022, or April 27, 2023, as a compliance date for certain provisions in part 121. For other provisions in part 121, the rule included April 27, 2022, as an expiration date. The FAA removes references to the April 27, 2022, compliance dates as well as any requirements in part 121 subpart N and appendix E to part 121 that expired on April 27, 2022. This revision includes the removal of reference to the April 27, 2022, compliance date in corresponding parts 91 and 135 that refer to part 121 certificate holders, specifically, §§ 91.1063 and 135.3. Furthermore, the FAA removes references to the April 27, 2023, compliance date, as air carriers are already in compliance with the provisions tied to that compliance date.

The following paragraphs are revised or removed, as appropriate,³³ from the regulations:

- § 91.1063(b)(2)(i) and (ii);
- § 121.409(b)(2)(ii)(B)(6);³⁴
- § 121.415(e)(2);
- § 121.419(c) and (g);
- § 121.420(c);
- § 121.424(b) and (g);
- § 121.426(d);
- § 121.429(a); and
- § 135.3(d)(1) and (2).

V. Regulatory Notices and Analyses

Federal agencies consider the impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563, as amended by Executive Order 14094 (“Modernizing Regulatory Review”), direct that each Federal agency 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 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements

³² *Pilot Professional Development*, 85 FR 10896 (Feb. 25, 2020).

³³ Some paragraphs are only utilized to set forth the compliance date; these paragraphs are removed in their entirety (*e.g.*, § 121.420(c)). Other paragraphs set forth the compliance date among other text within the paragraph; these paragraphs are revised to remove only the compliance date phrasing (*e.g.*, § 121.429(a)).

³⁴ To note, § 121.409(b)(2)(ii)(B)(6) is redesignated as § 121.409(b)(2)(ii)(F), as discussed in footnote 27 of this preamble. As a result of the redesignation, the FAA made a conforming amendment to § 135.3(d)(2) to revise the cross reference in that section to the updated citation of § 121.409(b)(2)(ii)(F).

Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. 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 that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is \$183 million using the most current (2023) Implicit Price Deflator for the Gross Domestic Product.

In conducting these analyses, the FAA has determined that this final rule will: (1) have savings and no additional costs, (2) not be an economically “significant regulatory action” as defined in section 3(f) of Executive Order 12866 as amended by Executive Order 14094, (3) not have a significant economic impact on a substantial number of small entities, (4) not create unnecessary obstacles to the foreign commerce of the United States, and (5) not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector by exceeding the threshold identified above.

A. Regulatory Evaluation

As previously discussed, the FAA has determined the changes in this final rule will have no adverse impact on safety. The FAA has determined that allowing parts 121 and 135 check pilots and parts 121 and 135 flight instructors to perform their functions in an airplane without a medical certificate (unless they are required flightcrew members) has no negative effect on safety. Further, pilots serving as required flightcrew members must be fully qualified to serve as such and must have the appropriate medical certificate. If a check pilot or flight instructor is not a required flightcrew member, they are not necessary for the operation, and the flight may proceed whether or not they are present. The FAA’s current application of the regulations to allow check pilots, check FEs, and flight instructors to serve without medical certificates if not serving as required flightcrew members has caused no degradation in the safe operation of aircraft. Conversely, requiring a medical certificate for check pilots, check FEs, and flight instructors who are not serving as required flightcrew members would result in an unnecessary burden.

As of January 2020, there are approximately 1,069 part 135 check

pilots.³⁵ Of these 1,069 part 135 check pilots, there are roughly 532 part 135 check pilots who do not hold a medical certificate. In the NPRM, the FAA estimated cost savings from enabling check pilots who do not hold a medical certificate to perform their duties in an aircraft. The FAA requested additional information and data on the expanded opportunities for affected check pilots but did not receive additional information or data. The final rule instead clarifies that check pilots who are otherwise qualified and are not serving as required flightcrew are already exempt from having to hold a medical certificate as a matter of FAA policy (see section III. of this preamble, which explained that the FAA gave force and effect to the most relieving provision by not requiring flight instructors and check airmen performing their respective duties in aircraft to hold any medical certificate when not serving as a required flightcrew member). Since these check pilots can already perform their duties in an aircraft, the FAA does not estimate cost savings in this final rule but notes that the clarification could provide minimal cost savings.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (Pub. L. 96–354, codified at 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small entities and to minimize any significant economic impact. The term “small entities” includes small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Agencies must perform a review to determine whether a 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 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.

This final rule clarifies that part 135 check pilots who do not hold a current medical certificate but are otherwise qualified can function as check pilots, check FEs, and flight instructors in aircraft. This change could provide cost savings to a few part 135 check pilots without additional costs. The final rule also clarifies related FAA regulations without substantive effect. Thus, the expected outcome would be a small positive impact on any small entity affected by this rulemaking action.

Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that those international standards be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and determined that it has only a domestic impact and, therefore, does not present any obstacle to foreign commerce of the United States.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that this final rule will not result in the expenditure of \$183 million or more by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. 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. 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 Office of Management and Budget (OMB) control number.

The existing information collection associated with all check pilot and flight instructor medical certificates in parts 121 and 135 was approved under OMB control number 2120–0034. The information collection is used to collect medical certificate information to determine whether applicants are medically qualified to perform the duties associated with the class of medical certificate sought. The FAA has determined that removing the medical certificate requirement for part 135 check pilots (aircraft) who are currently eligible for a medical certificate but who may choose to allow their certificate to expire would result in a negligible reduction in the information collection, as pilots serving as a required flightcrew member would still need to maintain a valid medical certificate. The FAA has determined that there is no reduction in the information collection associated with part 121 check pilots and flight instructors and part 135 flight instructors. The FAA has also determined that there is no new requirement for information collection associated with this rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from the preparation of an environmental assessment or environmental impact statement under NEPA in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion

³⁵ National Vital Information Subsystem (NVIS) database, January 2020. All estimates of affected check pilots reported in this section are based on information from FAA's Air Transportation Division and the National Vital Information Subsystem (NVIS) database.

identified in paragraph 5–6.6f for regulations and that no extraordinary circumstances exist.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

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

B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Consistent with Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures, the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding Federal actions that have the potential to uniquely or significantly affect their respective Tribes. The FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this final rule.

C. Executive Order 13211, Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211. The FAA has determined that it is not a “significant energy action” under the Executive order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation and International Trade Analysis

Under Executive Order 13609, Promoting International Regulatory Cooperation, agencies must consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, regulatory approaches developed through international cooperation can provide equivalent protection to standards developed independently while also minimizing

unnecessary differences. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609 and has determined that this action does not affect international regulatory cooperation.

VII. How To Obtain Additional Information

A. Electronic Access and Filing

A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at <https://www.regulations.gov> using the docket number listed above. A copy of this rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s website at <https://www.federalregister.gov> and the Government Publishing Office’s website at <https://www.govinfo.gov>. A copy may also be found on the FAA’s Regulations and Policies website at https://www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket, notice, or amendment number of this rulemaking.

All documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 91

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

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Transportation.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Amend § 91.1063 by revising paragraphs (b)(2)(i) and (ii) to read as follows:

§ 91.1063 Testing and training: Applicability and terms used.

* * * * *

(b) * * *

(2) * * *

(i) Each program manager must include in upgrade ground training for pilots, instruction in at least the subjects identified in § 121.419(a) of this chapter, as applicable to their assigned duties; and, for pilots serving in crews of two or more pilots, instruction and facilitated discussion in the subjects identified in § 121.419(c) of this chapter.

(ii) Each program manager must include in upgrade flight training for pilots, flight training for the maneuvers and procedures required in § 121.424(a), (c), (e), and (f) of this chapter; and, for pilots serving in crews of two or more pilots, the flight training required in § 121.424(b) of this chapter.

* * * * *

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

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

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat 62 (49 U.S.C. 44732 note); Pub. L.

115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

■ 4. Amend § 121.401 by revising paragraphs (a)(1) and (4), (c), and (e) and removing the undesignated text following paragraph (e) to read as follows:

§ 121.401 Training program: General.

(a) * * *

(1) Establish and implement a training program that satisfies the requirements of this subpart and appendices E and F of this part and that ensures that each crewmember, aircraft dispatcher, flight instructor, check pilot, and check flight engineer is adequately trained to perform his or her assigned duties. Prior to implementation, the certificate holder must obtain initial and final FAA approval of the training program.

(4) Provide enough flight instructors and approved check pilots and check flight engineers to conduct the flight training and checks required under this part.

(c) Each instructor, supervisor, check pilot, or check flight engineer who is responsible for a particular ground training subject, segment of flight training, course of training, flight check, or competence check under this part shall certify as to the proficiency and knowledge of the crewmember, aircraft dispatcher, flight instructor, check pilot, or check flight engineer concerned upon completion of that training or check. That certification shall be made a part of the crewmember's or dispatcher's record. When the certification required by this paragraph is made by an entry in a computerized recordkeeping system, the certifying instructor, supervisor, check pilot, or check flight engineer must be identified with that entry. However, the signature of the certifying instructor, supervisor, check pilot, or check flight engineer is not required for computerized entries.

(e) A person who progresses successfully through flight training; is recommended by his instructor, check pilot, or check flight engineer; and successfully completes the appropriate flight check for a check pilot, check flight engineer, or the Administrator need not complete the programmed hours of flight training for the particular airplane. However, whenever the Administrator finds that 20 percent of the flight checks given at a particular training base during the previous 6 months under this paragraph are unsuccessful, this paragraph may not be used by the certificate holder at that

base until the Administrator finds that the effectiveness of the flight training there has improved.

■ 5. Amend § 121.402 by revising paragraph (b)(4) to read as follows:

§ 121.402 Training program: Special rules.

(b) * * *

(4) Has sufficient instructors, check pilots, and check flight engineers qualified under the applicable requirements of §§ 121.411 or 121.412 to provide training, testing, and checking to persons subject to the requirements of this subpart.

■ 6. Amend § 121.403 by revising paragraph (b)(2) to read as follows:

§ 121.403 Training program: Curriculum.

(b) * * *

(2) A list of all the training equipment approved under § 121.408 as well as other training aids that the certificate holder will use.

■ 7. Revise § 121.404 to read as follows:

§ 121.404 Crew and dispatcher resource management training.

No certificate holder may use a person as a flightcrew member, flight attendant, or aircraft dispatcher unless that person has completed approved crew resource management (CRM) or dispatcher resource management (DRM) initial training, as applicable, with that certificate holder or with another certificate holder.

■ 8. Amend § 121.407 by revising paragraphs (a)(5) and (e) to read as follows:

§ 121.407 Training program: Approval of flight simulation training devices.

(a) * * *

(5) Have a daily discrepancy log kept with each discrepancy entered in that log by the appropriate instructor, check pilot, or check flight engineer at the end of each training or check flight.

(e) An FFS approved under this section must be used instead of the airplane to satisfy the pilot flight training requirements prescribed in the extended envelope training set forth in § 121.423 of this part.

■ 9. Amend § 121.408 by:
■ a. Revising paragraphs (d) introductory text and (d)(1), and
■ b. Removing paragraph (f).

The revisions read as follows:

§ 121.408 Training equipment other than flight simulation training devices.

(d) * * *

(d) All training equipment must have a record of discrepancies. The

documenting system must be readily available for review by each instructor, check pilot, check flight engineer, or supervisor prior to conducting training or checking with that equipment.

(1) Each instructor, check pilot, check flight engineer or supervisor conducting training or checking, and each person conducting an inspection of the equipment who discovers a discrepancy, including any missing, malfunctioning, or inoperative components, must record a description of that discrepancy and the date that the discrepancy was identified.

■ 10. Amend § 121.409 by revising and republishing paragraph (b)(2)(ii) to read as follows:

§ 121.409 Training courses using flight simulation training devices.

(b) * * *

(2) * * *

(ii) Line-oriented flight training (LOFT) that—

(A) Utilizes a complete flight crew;

(B) Includes at least the maneuvers and procedures (abnormal and emergency) that may be expected in line operations;

(C) Includes scenario-based or maneuver-based stall prevention training before, during or after the LOFT scenario for each pilot;

(D) Is representative of two flight segments appropriate to the operations being conducted by the certificate holder;

(E) Provides an opportunity to demonstrate workload management and pilot monitoring skills; and

(F) Provides an opportunity for each pilot in command to demonstrate leadership and command skills.

■ 11. Revise § 121.411 to read as follows:

§ 121.411 Qualifications: Check pilots and check flight engineers.

(a) For the purposes of this part:

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

(2) A check pilot (FSTD) or check flight engineer (FSTD) is a person who is qualified to conduct flight checks or instruction-only in an FSTD for a particular type airplane.

(3) Check pilots and check flight engineers are those persons who perform the functions described in § 121.401(a)(4).

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

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

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

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

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

(5) Has been approved by the Administrator for the check pilot or check flight engineer duties involved.

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

(d) A check pilot (FSTD) and check flight engineer (FSTD) must accomplish the following—

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

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

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

(f) A person who serves as a required flightcrew member while performing check pilot or check flight engineer duties must also meet the requirements of this chapter for the duty position in which they are serving.

■ 12. Revise § 121.412 to read as follows:

§ 121.412 Qualifications: Flight instructors.

(a) For the purposes of this part:

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

(2) A flight instructor (FSTD) is a person who is qualified to instruct only in an FSTD for a particular type airplane.

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

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

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

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

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

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

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

(d) A flight instructor (FSTD) must accomplish the following—

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

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program preceding the performance of any flight instructor duty in an FSTD.

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

(f) A person who serves as a required flightcrew member while performing flight instructor duties must also meet the requirements of this chapter for the duty position in which they are serving.

■ 13. Revise § 121.413 to read as follows:

§ 121.413 Initial, transition and recurrent training and checking requirements: Check pilots and check flight engineers.

(a) No certificate holder may use a person nor may any person serve as a check pilot or check flight engineer unless—

(1) That person has satisfactorily completed initial or transition check pilot or check flight engineer training, as applicable; and

(2) Within the preceding 24 calendar months, that person satisfactorily conducts a check or supervises operating experience under the observation of an FAA inspector or an aircrew designated examiner employed by the operator. The observation check may be accomplished in part or in full in an airplane and in an FSTD.

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

(c) The initial ground training for check pilots or check flight engineers must include the following, as applicable:

(1) Check pilot or check flight engineer duties, functions, and responsibilities.

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

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

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

(i) Improper and insufficient training; and

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

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

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

(7) For check pilots or check flight engineers who conduct training or checking in an FSTD, the following subjects specific to the device(s) for the airplane type:

(i) Proper operation of the controls and systems;

(ii) Proper operation of environmental and fault panels;

(iii) Data and motion limitations of simulation; and

(iv) The minimum airplane simulator equipment required by this part or part 60 of this chapter for each maneuver and procedure completed in an FSTD.

(d) The transition ground training for check pilots or check flight engineers must include the following:

(1) The approved methods, procedures, and limitations for performing the required normal, abnormal, and emergency procedures applicable to the airplane to which the check pilot or check flight engineer is transitioning.

(2) For check pilots or check flight engineers who conduct training or checking in an FSTD, the following subjects specific to the device(s) for the airplane type to which the check pilot or check flight engineer is transitioning:

(i) Proper operation of the controls and systems;

(ii) Proper operation of environmental and fault panels;

(iii) Data and motion limitations of simulation; and

(iv) The minimum airplane simulator equipment required by this part or part 60 of this chapter for each maneuver and procedure completed in an FSTD.

(e) The initial and transition flight training for check pilots (airplane) and check flight engineers (airplane) must include the following:

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

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

(3) For check pilots (airplane)—

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

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

(4) For check flight engineers (airplane), training to ensure competence to perform assigned duties.

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part inflight and in an FSTD, as appropriate.

(g) The initial and transition flight training for check pilots or check flight engineers who conduct training or checking in an FSTD must include the following:

(1) Training and practice in conducting flight checks in the required normal, abnormal, and emergency procedures to ensure competence to conduct the flight checks required by

this part. This training and practice must be accomplished in an FSTD.

(2) Training in the operation of FSTDs to ensure competence to conduct the flight checks required by this part.

(h) Recurrent ground training for check pilots or check flight engineers who conduct training or checking in an FSTD must be completed every 12 calendar months and must include the subjects required in paragraph (c)(7) of this section.

■ 14. Amend § 121.414 by:

- a. Revising the section heading;
- b. Revising paragraphs (a)(2), (c)(8) introductory text and (c)(8)(iv), (d)(2) introductory text and (d)(2)(iv), (f), (g), and (h), and
- c. Removing paragraph (i).

The revisions read as follows:

§ 121.414 Initial, transition and recurrent training and checking requirements: Flight instructors.

(a) * * *

(2) Within the preceding 24 calendar months, that person satisfactorily conducts instruction under the observation of an FAA inspector, an operator check pilot, a check flight engineer, or an aircrew designated examiner employed by the operator, as appropriate. The observation check may be accomplished in part or in full in an airplane and an FSTD.

* * * * *

(c) * * *

(8) For flight instructors who conduct training in an FSTD, the following subjects specific to the device(s) for the airplane type:

* * * * *

(iv) The minimum airplane simulator equipment required by this part 121 or part 60 of this chapter for each maneuver and procedure completed in an FSTD.

(d) * * *

(2) For flight instructors who conduct training in an FSTD, the following subjects specific to the device(s) for the airplane type to which the flight instructor is transitioning:

* * * * *

(iv) The minimum airplane simulator equipment required by this part or part 60 of this chapter for each maneuver and procedure completed in an FSTD.

* * * * *

(f) The requirements of paragraph (e) of this section may be accomplished in full or in part inflight and in an FSTD, as appropriate.

(g) The initial and transition flight training for flight instructors who conduct training in an FSTD must include the following:

(1) Training and practice in the required normal, abnormal, and

emergency procedures to ensure competence to conduct the flight instruction required by this part. This training and practice must be accomplished in full or in part in an FSTD.

(2) Training in the operation of FSTDs to ensure competence to conduct the flight instruction required by this part.

(h) Recurrent flight instructor ground training for flight instructors who conduct training in an FSTD must be completed every 12 calendar months and must include the subjects required in paragraph (c)(8) of this section.

■ 15. Amend § 121.415 by:

- a. Revising paragraph (e), and
- b. Removing paragraph (k).

The revision reads as follows:

§ 121.415 Crewmember and dispatcher training program requirements.

* * * * *

(e) Upgrade training as specified in §§ 121.420 and 121.426 for a particular type airplane may be included in the training program for flightcrew members who have qualified and served as second in command pilot on that airplane.

* * * * *

■ 16. Amend § 121.419 by:

- a. Revising paragraphs (c) and (f); and
- b. Removing paragraph (g).

The revisions read as follows:

§ 121.419 Pilots and flight engineers: Initial, transition, conversion and upgrade ground training.

* * * * *

(c) In addition to the requirements in paragraph (a) or (b) of this section, as applicable, initial ground training for pilots in command must include instruction and facilitated discussion on the following:

* * * * *

(f) Initial programmed hours applicable to pilots as specified in paragraphs (d) and (e) of this section must include 2 additional hours to meet the requirements in paragraphs (a)(2)(xi) and (xii) of this section.

§ 121.420 [Amended]

■ 17. Amend § 121.420 by removing paragraph (c).

§ 121.423 [Amended]

■ 18. Amend § 121.423 by removing paragraph (f).

■ 19. Amend § 121.424 by:

- a. Revising paragraph (b), and
- b. Removing paragraphs (f) and (g).

The revision reads as follows:

§ 121.424 Pilots: Initial, transition, conversion, and upgrade flight training.

* * * * *

(b) In addition to the requirements in paragraph (a) of this section, initial flight training for pilots in command must include sufficient scenario-based training incorporating CRM and leadership and command skills to ensure the pilot's proficiency as pilot in command. The training required by this paragraph (b) may be completed inflight or in an FSTD.

§ 121.426 [Amended]

■ 20. Amend § 121.426 by removing paragraph (d).

■ 21. Amend § 121.427 by revising paragraphs (e)(1)(ii)(B) and (f) to read as follows:

§ 121.427 Recurrent training.

* * * * *

- (e) * * *
(1) * * *
(ii) * * *

(B) Satisfactory completion of a proficiency check may be substituted for recurrent flight training as permitted in § 121.433(c) and (d).

* * * * *

(f) Recurrent programmed hours applicable to pilots as specified in paragraph (c)(1) of this section must include 30 additional minutes to meet the requirements in paragraph (e)(1)(i) of this section.

■ 22. Amend § 121.429 by revising the introductory text of paragraph (a) to read as follows:

§ 121.429 Pilots in command: Leadership and command and mentoring training.

(a) No certificate holder may use a pilot as pilot in command in an operation under this part unless the pilot has completed the following ground training in accordance with the certificate holder's approved training program:

* * * * *

■ 23. Amend § 121.433 by revising paragraph (d) and removing paragraph (e) to read as follows:

§ 121.433 Training required.

* * * * *

(d) Notwithstanding paragraph (c)(2) of this section, a proficiency check as provided in § 121.441 may not be substituted for the extended envelope training required by § 121.423 or training in those maneuvers and procedures set forth in a certificate holder's approved low-altitude windshear flight training program when that program is included in a recurrent flight training course as required by § 121.409(d).

■ 24. Amend § 121.434 by revising the introductory text of paragraph (d) to read as follows:

§ 121.434 Operating experience, operating cycles, and consolidation of knowledge and skills.

* * * * *

(d) A flight engineer must perform the duties of a flight engineer under the supervision of a check flight engineer or a qualified flight engineer for at least the following number of hours:

* * * * *

■ 25. Amend § 121.439 by revising paragraphs (b)(1) and (e) to read as follows:

§ 121.439 Pilot qualification: Recent experience.

* * * * *

(b) * * *

(1) Under the supervision of a check pilot, make at least three takeoffs and landings in the type airplane in which that person is to serve or in a Level B or higher FFS.

* * * * *

(e) A check pilot who observes the takeoffs and landings prescribed in paragraph (b)(1) of this section shall certify that the person being observed is proficient and qualified to perform flight duty in operations under this part and may require any additional maneuvers that are determined necessary to make this certifying statement.

* * * * *

■ 26. Amend § 121.440 by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 121.440 Line checks.

* * * * *

(b) * * *

(1) Be given by a check pilot who is currently qualified on both the route and the airplane; and

* * * * *

(c) * * *

(1) Be given by a check pilot who is currently qualified on the airplane; and

* * * * *

■ 27. Amend § 121.441 by revising paragraphs (a)(1)(i) and (ii) and (b)(2) to read as follows:

§ 121.441 Proficiency checks.

(a) * * *

(1) * * *

(i) A proficiency check within the preceding 12 calendar months in the aircraft type in which the person is to serve and,

(ii) In addition, within the preceding 6 calendar months, either a proficiency

check or the approved FFS course of training.

* * * * *

(b) * * *

(2) It must be given by the Administrator or a check pilot.

* * * * *

■ 28. Amend § 121.445 by revising paragraph (d)(2) to read as follows:

§ 121.445 Pilot in command airport qualification: Special areas and airports.

* * * * *

(d) * * *

(2) By flying over a route or area as pilot in command under the supervision of a check pilot using the special type of navigation system.

* * * * *

■ 29. Revise § 121.544 to read as follows:

§ 121.544 Pilot monitoring.

Each pilot who is seated at the pilot controls of the aircraft while not flying the aircraft must accomplish pilot monitoring duties as appropriate in accordance with the certificate holder's procedures contained in the manual required by § 121.133.

■ 30. Amend § 121.915 by revising paragraph (b)(2)(iii) to read as follows:

§ 121.915 Continuing qualification curriculum.

* * * * *

(b) * * *

(2) * * *

(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 the person has sufficient knowledge and skills to operate effectively as part of a crew. The evaluator must be a check pilot, check flight engineer, an APD, or an FAA inspector and must hold the certificates and ratings required of the pilot in command.

* * * * *

■ 31. Amend § 121.919 by revising paragraph (e) to read as follows:

§ 121.919 Certification.

* * * * *

(e) The applicant has been trained to proficiency on the certificate holder's approved AQP Qualification Standards as witnessed by an instructor, check pilot, check flight engineer, or APD and has passed an LOE administered by an APD or the FAA.

- 32. Amend Appendix E to part 121 by:
 - a. Revising paragraphs I.(c) and (d) in the table;
 - b. Revising paragraphs II.(c) and (f) in the table; and

- c. Revising paragraphs IV.(d) and (j) in the table.

The revisions read as follows:

Appendix E to Part 121—Flight Training Requirements

* * * * *

<p>I. * * *</p> <p>(c) Taxiing. This maneuver includes the following:</p> <p>(1) Taxiing, sailing, and docking procedures in compliance with instructions issued by ATC or by the person conducting the training.</p> <p>(2) Use of airport diagram (surface movement chart)</p> <p>(3) Obtaining appropriate clearance before crossing or entering active runways.</p> <p>(4) Observation of all surface movement guidance control markings and lighting.</p> <p>(d) Pre-takeoff procedures that include powerplant checks, receipt of takeoff clearance and confirmation of aircraft location, and FMS entry (if appropriate) for departure runway prior to crossing hold short line for takeoff.</p>	<p>I, T, U, C.</p> <p>I, T, U, C.</p> <p>I, T, U, C.</p> <p>I, T, U, C.</p> <p>..... I, T, U, C.</p>
<p>II. * * *</p> <p>(c) Crosswind takeoffs, including crosswind takeoffs with gusts if practicable under the existing meteorological, airport, and traffic conditions.</p> <p>(f) Night takeoffs. For pilots in transition training, this requirement may be met during the operating experience required under § 121.434 by performing a normal takeoff at night when a check pilot serving as PIC is occupying a pilot station.</p>	<p>I, T, U, C.</p> <p>I, T, U, C.</p>
<p>IV. * * *</p> <p>(d) Crosswind landing, including crosswind landings with gusts if practicable under the existing meteorological, airport, and traffic conditions.</p> <p>(j) Night landings. For pilots in transition training, this requirement may be met during the operating experience required under § 121.434 by performing a normal landing at night when a check pilot serving as PIC is occupying a pilot station.</p>	<p>I, T, U, C.</p> <p>I, T, U, C.</p>

- 33. Amend Appendix F to part 121 by:
 - a. Revising paragraph I.(c) and (d) in the table;
 - b. Revising paragraph II.(c)(2) in the table;

- c. Revising paragraph V.(c) and the text in the row beneath paragraph V.(d)(2) in the table.

The revisions read as follows:

Appendix F to Part 121—Proficiency Check Requirements

* * * * *

<p>I. * * *</p> <p>(c) Taxiing. This maneuver includes the following: (1) Taxiing, sailing, or docking procedures in compliance with instructions issued by ATC or by the person conducting the check. (2) Use of airport diagram (surface movement chart). (3) Obtaining appropriate clearance before crossing or entering active runways. (4) Observation of all surface movement guidance control markings and lighting. SIC proficiency checks for a type rating must include taxiing. However, other SIC proficiency checks need only include taxiing to the extent practical from the seat position assigned to the SIC</p> <p>(d) Pre-takeoff procedures that include powerplant checks, receipt of takeoff clearance and confirmation of aircraft location, and FMS entry (if appropriate), for departure runway prior to crossing hold short line for takeoff</p>	<p>..... B</p> <p>..... B</p>
<p>II. * * *</p> <p>(c) Crosswind. One crosswind takeoff with gusts, if practicable, under the existing meteorological, airport, and traffic conditions</p>	<p>..... B*</p>
<p>V. * * *</p>	<p>.....</p>

- (c) Crosswind landing with gusts, if practicable under existing meteorological, airport, and traffic conditions B*
- (d) * * *

Notwithstanding the requirements of subparagraphs (d)(1) and (2) of this paragraph, for an SIC proficiency check, except for an SIC proficiency check for a type rating, the simulated loss of power may be only the most critical powerplant. In addition, a PIC may omit the maneuver required by subparagraph (d)(1) or (d)(2) of this paragraph during a required proficiency check or FFS course of training if the PIC satisfactorily performed that maneuver during the preceding proficiency check, or during the preceding approved FFS course of training under the observation of a check pilot, whichever was completed later.

* * * * *

■ 34. In appendix H to part 121 amend the section Advanced Simulation Training Program by revising the introductory text and paragraphs 3., 4., 5., and 6. to read as follows:

Appendix H to Part 121—Advanced Simulation

Advanced Simulation Training Program

For a certificate holder to conduct Level C or D training under this appendix, all required FFS instruction and checks must be conducted under an advanced simulation training program approved by the Administrator for the certificate holder. This program must also ensure that all instructors, check pilots, and check flight engineers used in Appendix H training and checking are highly qualified to provide the training required in the training program. The advanced simulation training program must include the following:

* * * * *

3. Documentation that each instructor and check pilot has served for at least 1 year in that capacity in a certificate holder's approved program or has served for at least 1 year as a pilot in command or second in command in an airplane of the group in which that pilot is instructing or checking.

4. A procedure to ensure that each instructor, check pilot, and check flight engineer-actively participates in either an approved regularly scheduled line flying program as a flightcrew member or an approved line observation program in the same airplane type for which that person is instructing or checking.

5. A procedure to ensure that each instructor, check pilot, and check flight engineer-is given a minimum of 4 hours of training each year to become familiar with the certificate holder's advanced simulation training program, or changes to it, and to emphasize their respective roles in the program. Training for instructors, check pilots, and check flight engineers must include training policies and procedures, instruction methods and techniques, operation of FFS controls (including environmental and trouble panels), limitations of the FFS, and minimum equipment required for each course of training.

6. A special Line-Oriented Flight Training (LOFT) program to facilitate the transition from the FFS to line flying. This LOFT program must consist of at least a 4-hour course of training for each flightcrew. It also

must contain at least two representative flight segments of the certificate holder's operations. One of the flight segments must contain strictly normal operating procedures from pushback at one airport to arrival at another. Another flight segment must contain training in appropriate abnormal and emergency flight operations. The LOFT must provide an opportunity for the pilot to demonstrate workload management and pilot monitoring skills.

* * * * *

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

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

Authority: 49 U.S.C. 106(f), 106(g), 40113, 41706, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730).

■ 36. Amend § 135.3 by revising paragraphs (d)(1) and (2) to read as follows:

§ 135.3 Rules applicable to operations subject to this part.

* * * * *

(d) * * *

(1) *Upgrade training.* (i) Each certificate holder must include in upgrade ground training for pilots, instruction in at least the subjects identified in § 121.419(a) of this chapter, as applicable to their assigned duties; and, for pilots serving in crews of two or more pilots, instruction and facilitated discussion in the subjects identified in § 121.419(c) of this chapter.

(ii) Each certificate holder must include in upgrade flight training for pilots, flight training for the maneuvers and procedures required in § 121.424(a), (c), (e), and (f) of this chapter; and, for pilots serving in crews of two or more pilots, the flight training required in § 121.424(b) of this chapter.

(2) Initial and recurrent leadership and command and mentoring training. Certificate holders are not required to include leadership and command

training in §§ 121.409(b)(2)(ii)(F), 121.419(c)(1), 121.424(b) and 121.427(d)(1) of this chapter and mentoring training in §§ 121.419(c)(2) and 121.427(d)(1) of this chapter in initial and recurrent training for pilots in command who serve in operations that use only one pilot.

* * * * *

■ 37. Revise § 135.113 to read as follows:

§ 135.113 Passenger occupancy of pilot seat.

No certificate holder may operate an aircraft type certificated after October 15, 1971, that has a passenger seating configuration, excluding any pilot seat, of more than eight seats if any person other than the pilot in command, a second in command, a company check pilot, or an authorized representative of the Administrator, the National Transportation Safety Board, or the United States Postal Service occupies a pilot seat.

■ 38. Amend § 135.297 by revising paragraph (c)(2) to read as follows:

§ 135.297 Pilot in command: Instrument proficiency check requirements.

* * * * *

(c) * * *

(2) The instrument proficiency check must be given by an authorized check pilot or by the Administrator.

* * * * *

■ 39. Amend § 135.321 by revising paragraph (a)(2) to read as follows:

§ 135.321 Applicability and terms used.

(a) * * *

(2) Each certificate holder for establishing and maintaining an approved training program for crewmembers, check pilots and instructors, and other operations personnel employed or used by that certificate holder; and

* * * * *

■ 40. Amend § 135.323 by revising paragraphs (a)(1) and (4), and (c) to read as follows:

§ 135.323 Training program: General.

(a) * * *

(1) Establish and implement a training program that satisfies the requirements of this subpart and that ensures that each crewmember, aircraft dispatcher, flight instructor, and check pilot is adequately trained to perform his or her assigned duties. Prior to implementation, the certificate holder must obtain initial and final FAA approval of the training program.

* * * * *

(4) Provide enough flight instructors, check pilots, and FSTD instructors to conduct required flight training and flight checks and FSTD training courses allowed under this subpart.

* * * * *

(c) Each instructor, supervisor, or check pilot who is responsible for a particular ground training subject, segment of flight training, course of training, flight check, or competence check under this part shall certify as to the proficiency and knowledge of the crewmember, flight instructor, or check pilot concerned upon completion of that training or check. That certification shall be made a part of the crewmember's record. When the certification required by this paragraph is made by an entry in a computerized recordkeeping system, the certifying instructor, supervisor, or check pilot, must be identified with that entry. However, the signature of the certifying instructor, supervisor, or check pilot is not required for computerized entries.

* * * * *

■ 41. Amend § 135.324 by revising paragraph (b)(4) to read as follows:

§ 135.324 Training program: Special rules.

* * * * *

(b) * * *

(4) Has sufficient instructor and check pilots qualified under the applicable requirements of §§ 135.337 through 135.340 to provide training, testing, and checking to persons subject to the requirements of this subpart.

■ 42. Revise § 135.337 to read as follows:

§ 135.337 Qualifications: Check pilots.

(a) For the purposes of this part:

(1) A check pilot (aircraft) is a person who is qualified to conduct flight checks in an aircraft for a particular type aircraft.

(2) A check-pilot (FSTD) is a person who is qualified to conduct flight checks only in an FSTD for a particular type aircraft.

(3) Check pilots are those persons who perform the functions described in §§ 135.321(a) and 135.323(a)(4) and (c).

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

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

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

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

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

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

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

(d) A check pilot (FSTD) must accomplish the following—

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

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

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

(f) A person who serves as a required flightcrew member while performing check pilot duties must also meet the requirements of this chapter for the duty position in which they are serving.

■ 43. Revise § 135.338 to read as follows:

§ 135.338 Qualifications: Flight instructors.

(a) For the purposes of this part:

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

(2) A flight instructor (FSTD) is a person who is qualified to instruct only in an FSTD for a particular type, class, or category aircraft.

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

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

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

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

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

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

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

(d) A flight instructor (FSTD) must accomplish the following—

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

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program preceding the performance of any flight instructor duty in an FSTD.

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

(f) A person who serves as a required flightcrew member while performing flight instructor duties must also meet the requirements of this chapter for the duty position in which they are serving.

■ 44. Amend § 135.339 by revising paragraphs (a) introductory text, (a)(1), (c) introductory text, (c)(1), (d), (e) introductory text and (g) introductory text to read as follows:

§ 135.339 Initial and transition training and checking: Check pilots.

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

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

* * * * *

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

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

* * * * *

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

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

* * * * *

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

* * * * *

■ 45. Amend § 135.340 by revising paragraph (a)(2) and paragraph (g) introductory text to read as follows:

§ 135.340 Initial and transition training and checking: Flight instructors.

(a) * * *

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

* * * * *

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

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a)(5), and 44705 in Washington, DC.

Michael Gordon Whitaker,
Administrator, Federal Aviation Administration.

[FR Doc. 2024-12621 Filed 6-17-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31552; Amdt. No. 579]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective Date:* 0901 UTC, July 11, 2024.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to

the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on June 7, 2024.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, 11 July 2024.

PART 95—IFR ALTITUDES

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113 and 14 CFR 11.49(b)(2)

■ 2. Part 95 is amended to read as follows: