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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 61

[Docket No.: FAA-2013-0780; Amdt. No. 61-131]

RIN 2120-AK23

### **Certified Flight Instructor Flight Reviews; Recent Pilot in Command Experience; Airmen Online Services**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This rule permits an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate to meet the 24-calendar month flight review requirements. This rule also clarifies that the generally applicable recent flight experience requirements do not apply to a pilot in command who is employed by a commuter or on-demand operator if the pilot in command is in compliance with the specific pilot in command qualifications and recent experience requirements for that commuter or on-demand operator. Finally, this rule permits replacement airman and medical certificates to be requested online, or by any other method acceptable to the Administrator. These changes relieve regulatory burdens and clarify existing regulations.

**DATES:** Effective Date: [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Submit comments on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the FAA receives an adverse comment or notice of intent to file an adverse comment, the FAA will advise the public by publishing a document in the Federal Register before the effective date of this direct final rule. This document may withdraw the direct final rule in whole or in part.

**ADDRESSES:** You may send comments identified by docket number FAA-2013-0780 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations at (202) 493-2251.

Privacy: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Allan G. Kash, Airmen Certification and Training Branch, Flight Standards Service, AFS-810, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 385-9621; e-mail [allan.g.kash@faa.gov](mailto:allan.g.kash@faa.gov).

For legal questions concerning this action, contact Anne Moore, Office of the Chief Counsel—International Law, Legislation, and Regulations Division, AGC-200, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-3123; e-mail [anne.moore@faa.gov](mailto:anne.moore@faa.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **Authority for this Rulemaking**

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 447—Safety Regulation. Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations necessary for safety and prescribing regulations for the issuance of airman certificates. This final rule is within the scope of that authority.

## **The Direct Final Rule Procedure**

The FAA is adopting this rule without prior notice and prior public comment as a direct final rule because it alleviates unnecessary burdens by expanding the exceptions to a flight review, removes redundant recency requirements for pilots flying for certificated operators under part 135, and provides a regulatory basis for the Airmen Certification Branch to provide Airmen Online Services. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134, February 26, 1979) provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, the FAA invites interested persons to participate in this rulemaking by filing comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting this final rule.

This direct final rule will take effect on [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] unless the FAA receives an adverse comment or a notice of intent to file an adverse comment within the comment period. An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a change. It may challenge the rule's underlying premise or approach. Under the direct final rule process, the FAA does not consider the following types of comments to be adverse:

- A comment recommending another rule change, in addition to the change in the direct final rule at issue. The FAA considers the comment adverse, however, if the commenter states why the direct final rule would be ineffective without the change.
- A frivolous or insubstantial comment.

If the FAA receives an adverse comment or notice of intent to file an adverse comment, the FAA will advise the public by publishing a document in the Federal Register before the effective date of the final rule. This document may withdraw the direct final rule in whole or in part. If the FAA withdraws a direct final rule because of an adverse comment, the FAA may incorporate the commenter's recommendation into another direct final rule or may publish a notice of proposed rulemaking.

If the FAA does not receive an adverse comment or notice of intent to file an adverse comment, the FAA will publish a confirmation document in the Federal Register, generally within 15 days after the comment period closes. The confirmation document confirms to the public the effective date of the rule.

See the "Additional Information" section for information on how to comment on this direct final rule and how the FAA will handle comments received. The "Additional Information" section also contains related information about the docket, privacy, and the handling of proprietary or confidential business information. In addition, there is information on obtaining copies of related rulemaking documents.

## **I. Discussion of the Direct Final Rule**

### Flight Review

To act as pilot in command of an aircraft, § 61.56(c) of Title 14 of the Code of Federal Regulations (CFR) requires a pilot to have satisfactorily completed a flight review in an aircraft for which that pilot is rated within 24 calendar months before the month in which the pilot acts as pilot in

command. The flight review must consist of a minimum of 1 hour flight training and 1 hour ground training.<sup>1</sup>

The purpose of the flight review is to provide for a regular assessment of pilot skills and aeronautical knowledge. When the requirement was first introduced, the FAA stated that the flight review would assure that every pilot would have a qualified individual comment on his or her competency at least once every two years, as discussed in 38 FR 3156 (February 1, 1973). The flight review also offers pilots the opportunity to design a personal currency and proficiency program in consultation with an authorized flight instructor. A flight review may have certain standard features, e.g., review of specific regulations and procedures; however, both the flight review and any follow-up plan for training and proficiency may be tailored to each pilot's skill, experience, aircraft, and personal flying goals.<sup>2</sup>

Section 61.56 sets forth certain exceptions to the requirement for a pilot to accomplish a flight review.<sup>3</sup> Among these exceptions, a person who has, within the prescribed 24-month period, “passed a pilot proficiency check conducted by an FAA examiner, an approved pilot check airman, or a U.S. Armed Force, for a pilot certificate, rating, or operating privilege,” need not accomplish the required flight review required by § 61.56(d). This exception is appropriate because a practical test for a certificate or rating is administered by an FAA examiner in accordance with the practical test standards. In addition, pilots employed by a part 119 certificate holder conducting operations under part 121 and part 135 receive recurring training and proficiency checks, conducted by an FAA examiner or approved

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<sup>1</sup> There are two exceptions to the minimum time requirement for a flight review. They are found in § 61.56(b) and (f). Paragraph (b) pertains to a reduction of time required for glider pilots and paragraph (f) pertains to 1 hour ground training credited toward a flight review for successful renewal of a flight instructor certificate under § 61.197.

<sup>2</sup> Federal Aviation Administration, Conducting an Effective Flight Review [http://www.faa.gov/pilots/training/media/flight\\_review.pdf](http://www.faa.gov/pilots/training/media/flight_review.pdf)

<sup>3</sup> Paragraphs (d), (e), and (g) of § 61.56 are the three exceptions to this regulatory requirement to complete a flight review. The exceptions in paragraphs (e) and (g) are not subjects of this rulemaking. Under paragraph (e), a person who has, within the previous 24 calendar months, satisfactorily accomplished one or more phases of an FAA-sponsored pilot proficiency award program need not accomplish the flight review (14 CFR 61.56(e)). Paragraph (g) is an exception regarding a student pilot and remains as it was previously written.

pilot check airman provided by their employer, which exceed the requirements of a flight review. As noted in the regulation above, the FAA accepts U.S. Armed Forces proficiency checks. The content of the listed practical tests and proficiency checks typically exceeds the requirements of a flight review and satisfies the stated objective of the flight review, namely, to ensure that a pilot has had a qualified individual comment on his or her competency at least once every 24 calendar months. Thus, these pilots need not accomplish the flight review of § 61.56(a) as they meet the requirements of § 61.56(d).

In a recent legal interpretation, the FAA concluded that a flight instructor practical test is not included in the listed exceptions in § 61.56(d) because it is not a “pilot proficiency check,” Levy Interpretation, February 7, 2008.<sup>4</sup> The FAA explained that, although a flight instructor practical test does not automatically relieve a pilot of the requirement to complete a flight review, a person taking a flight instructor practical test may request that the test be taken in conjunction with a flight review at the examiner’s discretion. The FAA has received several requests to reconsider the Levy Interpretation and one request for rulemaking.<sup>5</sup>

The FAA finds that good cause exists to amend § 61.56(d) to include successful completion of flight instructor practical tests among the exceptions to the flight review requirement. Applicants for an FAA flight instructor certificate are required to have the comprehensive knowledge and skills necessary to provide instruction to airmen seeking pilot certificates and ratings. Part 61 specifies the areas of operation in which knowledge and skill must be demonstrated by the applicant before the issuance of an FAA flight instructor certificate with the associated category and class ratings. All practical tests

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<sup>4</sup> Legal interpretations can be found on the FAA Legal Interpretation & Opinion website:

[http://www.faa.gov/about/office\\_org/headquarters\\_offices/agc/pol\\_adjudication/agc200/Interpretations/](http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/agc200/Interpretations/).

<sup>5</sup> Petition from Robert Hadow, dated April 18, 2011. Docket No. FAA-2011-0437, <http://www.regulations.gov>.

administered must meet the knowledge and skill standard prescribed by the corresponding Flight Instructor Practical Test Standards Book published by the FAA.

Although a flight instructor practical test is chiefly focused on the pilot's instructional skills, a pilot must demonstrate satisfactory performance of the procedures and maneuvers selected by the examiner – at least to the commercial pilot skill level – while giving effective instruction.<sup>6</sup> Therefore, the flight instructor practical test standards require the applicant to demonstrate not only the knowledge but also the skill required of pilots completing the practical tests that the FAA instructor is authorized to teach. As with the other exceptions listed in § 61.56, the requirements for passing an FAA flight instructor practical test exceed those for a pilot accomplishing a flight review and meet the goal of ensuring that a pilot's competency is observed by a qualified individual.

An FAA flight instructor practical test places the applicant in the position of having the examiner evaluate the applicant as the applicant demonstrates the procedures and maneuvers performed in the practical test to commercial pilot practical test standards. The flight instructor applicant also performs and demonstrates selected phases of flight during the flight portion of the practical test. If the pilot taking a flight instructor practical test does not demonstrate the safe exercise of the privileges of their pilot certificate while instructing, the test would not meet commercial pilot practical test standards and the applicant would not pass the flight instructor practical test.

As previously stated, the flight instructor practical test standards require an airman to demonstrate and simultaneously explain the tasks required for the issuance of a pilot certificate while meeting commercial practical test standards. Industry advocacy groups have indicated they believe that

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<sup>6</sup> For example, Flight Instructor Practical Test Standards Book for Airplane, June 2012 (Effective December 1, 2012), FAA-S-8081-6D U.S. Department of Transportation (with changes 1 & 2), Satisfactory Performance No.6 page 13.



the flight instructor certification covers much more than the regulatory requirements of a flight review. These groups have indicated support for amendment of the regulations to allow for a flight instructor practical test to be included as an exception to completing a flight review. The FAA agrees with this view. This rule modifies § 61.56(d) to allow an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate to meet the flight review requirements of 14 CFR part 61.

#### Recent flight experience

Section 61.57 sets forth the recent flight experience requirements to act as pilot in command of an aircraft. Section 61.57(e)(2) states that this section does not apply “to a pilot in command who is employed by an air carrier certificated under part 121 or 135 and is engaged in a flight operation under part 91, 121, or 135 for that air carrier if the pilot is in compliance with” the pilot-in-command requirements in § 121.435 or § 121.436, as applicable, and § 121.439 or §§ 135.243 and 135.247, as appropriate. The FAA has received several requests for clarification of whether, under the specific language of § 61.57(e)(2), the exception applies only to a pilot in command employed by the holder of a part 119 air carrier certificate or whether it also extends to a pilot in command employed by the holder of a part 119 operating certificate.

When the FAA first proposed this exception to the recent flight experience requirements in § 61.57, it stated that the intention was to provide relief from “essentially redundant recency requirements” for part 121 and part 135 operators and their pilots in command (59 FR 56385, November 14, 1994). In that final rule, then-§ 61.57(f) stated that the recent flight experience requirements in part 61 did not apply “to a pilot in command, employed by a 14 CFR part 121 or part 135 operator, engaged

in flight operations under 14 CFR part 91, 121, or 135 for that operator.” The FAA refined the language in a 1997 final rule and, in doing so, introduced the term “air carrier” in place of the term “operator” (62 FR 16220, April 7, 1997).

The FAA did not intend to limit the exception to pilots employed by air carriers operating in parts 121 and 135. The FAA intended to include any pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 121 or part 135 when the pilot is engaged in operations under parts 91, 121, or 135 for that certificate holder if the pilot in command is in compliance with §§ 121.435 or 121.436, as applicable, and § 121.439 or §§ 135.243 and 135.247, as appropriate.

Consequently, the FAA finds that good cause exists to amend the language in § 61.57(e) to make clear that the recent flight experience requirements of that section do not apply to a pilot in command who is employed by the holder of an operating certificate that is conducting operations under part 121 or part 135 if the pilot in command is also in compliance with § 121.435 or § 121.436, as applicable, and § 121.439, or §§ 135.243 and 135.247, as appropriate. In making this change, the FAA is acting consistently with the original intent of the regulation – specifically, providing relief from redundant recency requirements.<sup>7</sup>

### Airmen Online Services

In the case of a lost or destroyed airman or medical certificate, § 61.29(a) and (b) permit a pilot to request the replacement of a lost or destroyed airman certificate issued under part 61. Replacement airman certificates may be requested by letter to the Department of Transportation, FAA, Airmen

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<sup>7</sup> The FAA has modified the language in § 61.57(e)(1) pertaining to pilots in command employed by part 119 certificate holders conducting operations under part 125. The revision of paragraph (e)(1) results in no substantive change to the requirements for part 119 certificate holders conducting operations under part 125.

Certification Branch, P.O. Box 25082, Oklahoma City, OK 73124. Replacement medical certificates may be requested by letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125.

Although current regulations recognize requests for replacement certificates only by letter, the FAA has established Airmen Online Services through which a pilot can request a replacement airman certificate or obtain a document that provides temporary authority to exercise the privileges of an airman certificate by facsimile or through internet download at the FAA website:

[http://www.faa.gov/licenses\\_certificates/airmen\\_certification/certificate\\_replacement/](http://www.faa.gov/licenses_certificates/airmen_certification/certificate_replacement/). The use of Airmen Online Services is not addressed or recognized in § 61.29. Therefore, the FAA is amending the language in § 61.29 to reflect the use of Airmen Online Services or any method acceptable to the FAA for the purpose of obtaining a replacement certificate or 60-day authority to exercise the privileges of a lost or stolen certificate.

The FAA is also revising § 61.3 to clarify that temporary documents issued under § 61.29(e) are acceptable for meeting the § 61.3 requirement that a pilot have his or her pilot certificate and medical certificate in the person's physical possession when serving as a required flightcrew member. The FAA notes that § 61.29(e) already contains language indicating that temporary documents may be carried "as an airman certificate [or] medical certificate" for up to 60 days. As such, the language being added to § 61.3 is not intended as a change to existing regulations but rather is intended solely to provide ease of reference for persons seeking such information in § 61.3. The FAA notes that online services are currently unavailable for replacement medical certificates and knowledge test reports; however, the FAA has modified the language of those provisions in anticipation of other methods becoming available in the future.

## **II. Regulatory Analyses and Executive Order Determinations**

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall 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 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this direct final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this direct final rule. The reasoning for this determination follows.

## Executive Orders 12866 and 13563

This direct final rule relieves regulatory burdens for certified flight instructor applicants and pilots in command. It also makes clear that applications for replacement airman and medical certificates may be obtained using methods other than individual letters mailed to the Airmen Certification Branch or Aerospace Medical Certification Division, respectively.

Since the direct final rule will impose no new costs, and updates four sections of part 61, the expected outcome will be a minimal impact with positive net benefits. A regulatory evaluation was not prepared.

The FAA, therefore, has determined that this direct final rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866. Therefore, this action has not been reviewed by the Office of Management and Budget. Further, this direct final rule is not “significant” as defined in DOT’s Regulatory Policies and Procedures.

## Regulatory Flexibility Act

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

Agencies must perform a review to determine whether a 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. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rule relieves regulatory restrictions for certified flight instructor applicants and pilots in command. It also makes clear that applications for replacement airmen and medical certificates may be obtained using methods other than individual letters mailed to the Airmen Certification Branch or Aerospace Medical Certification Division, respectively. Small businesses and small entities are not impacted by this action.

This direct final rule imposes no new costs and updates and clarifies four sections of part 61; the expected outcome will have only a minimal impact on any small entity affected by this rulemaking action.

Therefore, as the FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

#### International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 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 they be the basis for U.S. standards. The FAA has assessed the potential effect of this direct final rule and determined that it will have only a domestic impact and therefore no effect on international trade.

#### Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$143.1 million in lieu of \$100 million. This direct final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

#### 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.

This action contains the following revision to the existing information collection requirements previously approved under OMB Control Number 2120-0021, Certification: Pilots, Flight Instructors, and Ground Instructors. As required by the Paperwork Reduction Act (44 U.S.C. 3507(d)), the FAA has submitted this information collection revision to the Office of Management and Budget for its review.

This direct final rule reduces the recordkeeping burden for an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate as this rule will now allow passage of such a test to meet the 24-calendar month flight review requirements for the airman. This rule also relieves regulatory burdens for airmen by making clear that the recent flight experience requirements do not apply to a pilot in command who is employed by an operator certificated under 14 CFR part 135 if the pilot in command is also in compliance with the pilot in command qualifications and recent experience requirements of part 135.

Flight reviews: The current information collection estimates that, of the total active pilot population of 700,000, some 190,000 pilots complete a flight review per year with an average time of 0.1 hours each (6 minutes) necessary for the flight instructor to record the flight review. This rule reduces that recordkeeping burden by permitting an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate to meet the flight review requirements.



During calendar year 2012, the FAA issued 4,127 original certified flight instructor certificates and 4,034<sup>8</sup> certified flight instructor certificates for the addition of a rating. These persons will no longer be required to complete the flight review. Thus, the FAA estimates that 8,161 airmen annually will no longer be required to complete flight reviews because they passed a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate. Therefore, the FAA estimates that this rule will reduce the burden by 816.1 hours annually.

Recent flight experience: The current information collection estimates that 290,000 pilots are subject to these recordkeeping requirements at an average of 0.1 hours (6 minutes) each. While this rule clarifies that the recent flight experience requirements do not apply to a pilot in command who is employed by the holder of a part 119 operating certificate that authorizes operations under 14 CFR part 135 if the pilot in command is also in compliance with the pilot in command qualifications and recent experience requirements of part 135, the FAA does not believe that the burden related to this information collection will change in a manner that is quantifiable. Based on the information received from the industry, the FAA believes that part 119 certificate holders have been interpreting the regulations to permit pilots who complete the recency requirements under part 135 to use this provision regardless of whether they are employed by a certificate holder that holds an air carrier certificate or an operating certificate. While a small number of persons may benefit from this regulatory change, the FAA believes that those numbers are small as most part 119 certificate holders have already been operating in a manner similar to the regulations being revised and clarified by this rule. Therefore, the

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<sup>8</sup> This number reflects practical tests for an additional rating to a flight instructor certificate, for renewal of a flight instructor certificate, and for reinstatement of a flight instructor certificate.

FAA is not revising the burden associated with the recent flight experience element of this information collection.

Based on the change made by this direct final rule to the information collection related to certified flight instructor flight reviews, the recordkeeping requirements associated with 14 CFR 61.56 are reduced from 19,000 annual burden hours to 18,184 annual burden hours, reflecting the reduction in number of annual responses for this aspect of the information collection from 190,000 responses to 181,839 responses.

**Information Collection 2120-0021: Certification: Pilots, Flight Instructors, and Ground Instructors**

**Type of information collection:** Revision of a currently approved collection.

**Form(s):** FAA form 8710-1.

**Frequency:** The information is collected on occasion.

**Abstract:** 14 CFR Part 61 prescribes certification standards for pilots, flight instructors, and ground instructors. The information collected is used to determine compliance with applicant eligibility, via FAA form 8710-1.

The following table provides information regarding annual responses and annual burden hours.

Provision CFR §	Number of Responses	Average Time per Response (hours)	Total Annual Burden Hours
<b>Reporting</b>			
61.13	100,000	0.1	10,000
61.197	40,000	0.1	4,000
<b>Recordkeeping</b>			
61.39	100,000	<b>0.05</b>	<b>5,000</b>

61.49	13,600	0.05	680
61.51	190,000	1.0	190,000
61.56(a)	181,839	0.1	18,184
61.57	290,000	0.1	29,000
61.87	80,000	0.05	4,000
61.93	80,000	0.1	8,000
61.125	9,500	0.2	1,900
61.185	5,800	0.1	580
61.189	30,000	1.0	30,000
<b>Total</b>	<b>1,120,739</b>		<b>301,344</b>

The agency is soliciting comments to—

- Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement to the address listed in the ADDRESSES section at the beginning of this preamble by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Office Building, Room 10202, 725 17th Street, NW, Washington, DC 20503.

#### International Compatibility and Cooperation

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.

#### Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

#### Environmental Analysis

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

#### Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (5 U.S.C. 553), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest. This rule relieves regulatory restrictions by permitting an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a

flight instructor certificate to meet the 24-calendar month flight review requirements of part 61. This rule also clarifies that the recent flight experience requirements of § 61.57 do not apply to a pilot in command who is employed by an operator certificated under 14 CFR part 135 if the pilot in command is in compliance with the pilot in command qualifications and recent experience requirements of part 135. Finally, this rule permits replacement airmen and medical certificates to be requested online, or by any other method acceptable to the Administrator. Therefore, the FAA finds good cause to publish this action as a direct final rule. Please see the “Direct Final Rule Procedure” section for more information.

#### Executive Order 13132

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency 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, and, therefore, does not have Federalism implications.

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

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

### **III. Additional Information**

#### A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental,

energy, or federalism impacts that might result from adopting the rulemaking action in this document. The most helpful comments reference a specific portion of the rulemaking action, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking. Before confirming this direct final rule, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this rulemaking action in light of the comments it receives.

Proprietary or Confidential Business Information: Do not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the FOR FURTHER INFORMATION CONTACT section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act

(5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

#### B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
- Visiting the FAA’s Regulations and Policies web page at [http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) or
- Accessing the Government Printing Office’s Federal Digital System web page at <http://www.gpo.gov/fdsys>.

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) 267-9680. Commenters must identify the docket or amendment number of this rulemaking.

All documents the FAA considered in developing this rulemaking action, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

#### **List of Subjects in 14 CFR Part 61**

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures, Teachers.

#### **The Amendment**

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

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

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

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

2. Section 61.3 is amended by revising paragraphs (a) introductory text, (a)(1), (b), and (i)(1) to read as follows:

**§ 61.3 Requirement for certificates, ratings, and authorizations.**

(a) Required pilot certificate for operating a civil aircraft of the United States. No person may serve as a required pilot flight crewmember of a civil aircraft of the United States, unless that person:

(1) Has in the person's physical possession or readily accessible in the aircraft when exercising the privileges of that pilot certificate or authorization—

(i) A pilot certificate issued under this part and in accordance with § 61.19;

(ii) A special purpose pilot authorization issued under § 61.77;

(iii) A temporary certificate issued under § 61.17;

(iv) A document conveying temporary authority to exercise certificate privileges issued by the Airmen Certification Branch under § 61.29(e); or



(v) When operating an aircraft within a foreign country, a pilot license issued by that country may be used.

\* \* \* \* \*

(b) Required pilot certificate for operating a foreign-registered aircraft within the United States.

No person may serve as a required pilot flight crewmember of a civil aircraft of foreign registry within the United States, unless—

(1) That person's pilot certificate or document issued under § 61.29(e) is in that person's physical possession or readily accessible in the aircraft when exercising the privileges of that pilot certificate; and

(2) Has been issued in accordance with this part, or has been issued or validated by the country in which the aircraft is registered.

\* \* \* \* \*

(i) Ground instructor certificate. (1) Each person who holds a ground instructor certificate issued under this part must have that certificate or a temporary document issued under § 61.29(e) in that person's physical possession or immediately accessible when exercising the privileges of that certificate.

\* \* \* \* \*

3. Section 61.29 is amended by revising paragraphs (a), (b), (c), and (e) to read as follows:

**§ 61.29 Replacement of a lost or destroyed airman or medical certificate or knowledge test report.**

(a) A request for the replacement of a lost or destroyed airman certificate issued under this part must be made:

(1) By letter to the Department of Transportation, FAA, Airmen Certification Branch, P.O. Box 25082, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator including a request online to Airmen Services at <http://www.faa.gov>, and must be accompanied by acceptable form of payment for the appropriate fee.

(b) A request for the replacement of a lost or destroyed medical certificate must be made:

(1) By letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator and must be accompanied by acceptable form of payment for the appropriate fee.

(c) A request for the replacement of a lost or destroyed knowledge test report must be made:

(1) By letter to the Department of Transportation, FAA, Airmen Certification Branch, P.O. Box 25082, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator and must be accompanied by acceptable form of payment for the appropriate fee.

\* \* \* \* \*

(e) A person who has lost an airman certificate, medical certificate, or knowledge test report may obtain, in a form or manner approved by the Administrator, a document conveying temporary authority to exercise certificate privileges from the FAA Aeromedical Certification Branch or the Airman Certification Branch, as appropriate, and the:

(1) Document may be carried as an airman certificate, medical certificate, or knowledge test report, as appropriate, for up to 60 days pending the person's receipt of a duplicate under paragraph (a), (b), or (c) of this section, unless the person has been notified that the certificate has been suspended or revoked.

(2) Request for such a document must include the date on which a duplicate certificate or knowledge test report was previously requested.

4. Section 61.56 is amended by revising paragraph (d) to read as follows:

**§ 61.56 Flight review.**

\* \* \* \* \*

(d) A person who has, within the period specified in paragraph (c) of this section, passed any of the following need not accomplish the flight review required by this section:

(1) A pilot proficiency check or practical test conducted by an examiner, an approved pilot check airman, or a U.S. Armed Force, for a pilot certificate, rating, or operating privilege.

(2) A practical test conducted by an examiner for the issuance of a flight instructor certificate, an additional rating on a flight instructor certificate, renewal of a flight instructor certificate, or reinstatement of a flight instructor certificate.

\* \* \* \* \*

5. Section 61.57 is amended by--

A. Revising paragraphs (e)(1) and (e)(2),

B. Redesignating paragraph (e)(3) as paragraph (e)(4) and revising the introductory text of newly redesignated paragraph (e)(4), and

C. Adding new paragraph (e)(3) to read as follows:

**§ 61.57 Recent flight experience: Pilot in command.**

\* \* \* \* \*

(e) Exceptions. (1) Paragraphs (a) and (b) of this section do not apply to a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 125 when the pilot is engaged in a flight operation for that certificate holder if the pilot in command is in compliance with §§ 125.281 and 125.285 of this chapter.

(2) This section does not apply to a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 121 when the pilot is engaged in a flight operation under parts 91 and 121 for that certificate holder if the pilot in command is in compliance with §§ 121.435 or 121.436, as applicable, and § 121.439 of this chapter.

(3) This section does not apply to a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 135 when the pilot is engaged in a flight operation under parts 91 and 135 for that certificate holder if the pilot in command is in compliance with §§ 135.243 and 135.247 of this chapter.

(4) Paragraph (b) of this section does not apply to a pilot in command of a turbine-powered airplane that is type certificated for more than one pilot crewmember, provided that pilot has complied with the requirements of paragraph (e)(4)(i) or (ii) of this section:

\* \* \* \* \*

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703,  
in Washington, DC, on August 27, 2013.

Michael P. Huerta,  
Administrator.

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