

RULEMAKING PROJECT RECORD
For a Short Simple Project (SSP)
[Insignificant or minimal economic impact, minimal resources]

Project #
Document #

Title of rulemaking project and originating office:

Template Version 5 effective: 03/20/06

Title: Technical amendment to Title 14 CFR sections 91.1091(f)(2), 121.412(f)(2) and 135.338(f)(2).

Originating Office Information:

AFS-200 Air Transportation Division
AFS-210, Air Carrier Training Branch
Eric Friedman, POC: 202-493-5259

Background and needed rule change:

Purpose: To do a technical amendment to correct 14 CFR parts 91.1091(f)(2), 121.412(f)(2) and 135.338(f)(2) because the FAA incorrectly used the term “check airman” (in parts 121 and 135) and “check pilot” (in part 91) sections that address qualifications of flight instructors.

Background: The current use of the term “check airman” in 121.412(f)(2), 135.338(f)(2) and “check pilot” in 91.1091(f)(2) is incorrect as these sections pertain only to flight instructors. The error in the parts 121 and 135 language was included in the Final Rule published June 17, 1996. It appears likely that the 121.412 and 135.338 language was copied from 121.411 (which addresses check airmen) and that the FAA missed changing one of the “check airman” references to “flight instructor.”

The same thing apparently happened when 14 CFR part 91 subpart K—the Fractional Aircraft Operations Final Rule—was published on September 17, 2003. The language in 91.1091 was evidently copied from the 121/135 regulations, including the mistaken use of the term “check airman” (which was changed to “check pilot”) when the term “flight instructor” should have been used.

Template Version 5 effective: 03/20/06

What rules do you want to change?

14 CFR parts 91.1091(f)(2), 121.412(f)(2) and 135.338(f)(2).

How should they be changed?

§ 91.1091 Qualifications: Flight instructors (aircraft) and flight instructors (simulator).

...

(f) A flight instructor (simulator) 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 a flight simulator; or

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

...

§ 121.412 Qualifications: Flight instructors (airplane) and flight instructors (simulator).

...

(f) A flight instructor (simulator) 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 a flight simulator (and must hold a Class I or Class II medical certificate as appropriate); or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program ~~and that must precede~~ preceding the performance of any ~~check airman~~ flight instructor duty in a flight simulator.

...

§ 135.338 Qualifications: Flight instructors (aircraft) and flight instructors (simulator).

...

(f) A flight instructor (simulator) 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 a flight simulator; or

(2) Satisfactorily complete an approved line-observation program within the period prescribed by that program ~~and that must precede~~ preceding the performance of any ~~check airman~~ flight instructor duty in a flight simulator.

...

Why is this change necessary?

The incorrect use of the term “check airmen/pilot” where “flight instructor” should be used has caused confusion for the regulated operators, as it essentially makes nonsense of the affected subparagraphs. Clarity is important as these sections have recently been the focus of attention from industry and discussion from a compliance and policy standpoint.

Factors that affect this rule’s priority:

Template Version 5 effective: 03/20/06

It is important that this technical amendment be processed as soon as possible. The responsible policy office (AFS-210) believes it is vital that all operators be in full compliance with applicable line observation requirements. As written, these rule sections make little sense, making it difficult to formulate policy statements on appropriate means of compliance.

Explanation of why costs are minimal:

Template Version 5 effective: 03/20/06

The cost impact is nil. The purpose of this proposed technical amendment is only to correct an error in rule language with which operators should already be in compliance.

Agency Strategic Plan Goal:

Template Version 5 effective: 03/20/06

- Safety
- Capacity
- International Efficiency
- Organizational Excellence

Recommended rulemaking document:

Template Version 5 effective: 03/20/06

- Notice of Proposed Rulemaking (NPRM)
- Direct Final Rule (comments required)
- Final Rule
- Final Rule (Immediately Adopted (no NPRM))

Additional comments (optional):

Template Version 5 effective: 03/20/06

None

OPR Director Approval:

Template Version 5 effective: 03/20/06

Title

Signature

Date

RULEMAKING PROJECT RECORD
For a Short Simple Project (SSP)
[Insignificant or minimal economic impact, minimal resources]

Project #
Document #

Title of rulemaking project and originating office:

Template Version 5 effective: 03/20/06

Title: Technical amendment to Title 14 CFR part 121.402(b)(4).

Originating Office Information:

AFS-200 Air Transportation Division
AFS-210, Air Carrier Training Branch
Eric Friedman, POC: 202-493-5259

Background and needed rule change:

Purpose: Promulgate a technical amendment to 14 CFR part 121.402(b)(4) to correct the references to other rule sections contained in that paragraph.

Background: Part 121.402 is titled “Training program: Special rules” and allows a part 121 air carrier to contract with a part 142 training center for training, testing and checking services. Paragraph 121.402(b)(4) requires that, in order to conduct such training, testing and checking, a part 142 training center must have sufficient numbers of instructors and check airmen qualified in accordance with “§§121.411 or 121.413.” This reference, however, is incomplete as the cited paragraphs pertain only to check airmen—not flight instructors.

Template Version 5 effective: 03/20/06

What rule do you want to change?

14 CFR part 121.402(b)(4).

How should it be changed?

§ 121.402 Training program: Special rules.

(a) Other than the certificate holder, only another certificate holder certificated under this part or a flight training center certificated under part 142 of this chapter is eligible under this subpart to provide flight training, testing, and checking under contract or other arrangement to those persons subject to the requirements of this subpart.

(b) A certificate holder may contract with, or otherwise arrange to use the services of, a training center certificated under part 142 of this chapter to provide training, testing, and checking required by this part only if the training center—

(1) Holds applicable training specifications issued under part 142 of this chapter;

(2) Has facilities, training equipment, and courseware meeting the applicable requirements of part 142 of this chapter;

(3) Has approved curriculums, curriculum segments, and portions of curriculum segments applicable for use in training courses required by this subpart; and

(4) Has sufficient instructor and check airmen qualified under the applicable requirements of §§121.411 ~~or 121.413~~ through 121.414 to provide training, testing, and checking to persons subject to the requirements of this subpart.

Factors that affect this rule’s priority:

Template Version 5 effective: 03/20/06

It is important that this technical amendment be processed as soon as possible. The responsible policy office (AFS-210) believes that all part 121 operators and part 142 training centers must fully comply with all rules applicable to contract training/testing/checking services. As written, this rule section is missing references, making it difficult to formulate policy statements on appropriate means of compliance.

Explanation of why costs are minimal:

Template Version 5 effective: 03/20/06

The cost impact is nil. The purpose of this proposed technical amendment is only to correct an error in rule language with which operators should already be in compliance.

Agency Strategic Plan Goal:

Template Version 5 effective: 03/20/06

- Safety
- Capacity
- International Efficiency
- Organizational Excellence

Recommended rulemaking document:

Template Version 5 effective: 03/20/06

- Notice of Proposed Rulemaking (NPRM)
- Direct Final Rule (comments required)
- Final Rule
- Final Rule (Immediately Adopted (no NPRM))

Additional comments (optional):

Template Version 5 effective: 03/20/06

None

OPR Director Approval:

Template Version 5 effective: 03/20/06

Title

Signature

Date

Council Review

Project #

Document #

Date of Council review: Template Version 5 effective: 03/20/06

Summary of Council discussion: Template Version 5 effective: 03/20/06

Determination Template Version 5 effective: 03/20/06

- Not enough information to make determination. Returned to OPR with written comments.
- Designated a rulemaking team to proceed with drafting the rulemaking document.
- Other (Describe in "Comments" block below).

Rulemaking team (designated by Council) Template Version 5 effective: 03/20/06

Team Members	Routing Symbol	Telephone Number (optional)
		
		
		
		

Comments: Template Version 5 effective: 03/20/06

Prepared by Council Staff: Template Version 5 effective: 03/20/06

Mgmt Analyst, ARM-24 Signature Date

Council Chair: Template Version 5 effective: 03/20/06

Director, Office of Rulemaking, ARM-1 Signature Date