dated February 6, 2008; Revision B, dated March 6, 2008; or Revision C, dated August 20, 2008; is acceptable for compliance with the corresponding requirements of paragraphs (g) and (h) of this AD. However, the repetitive inspections required by paragraph (g) of this AD must be continued at the time specified.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Special Flight Permits

(k) Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), may be issued to operate the airplane to a location where the requirements of this AD can be accomplished, but concurrence by the Manager, New York Aircraft Certification Office (ACO), FAA, is required prior to issuance of the special flight permit. Before using any approved special flight permits, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office (FSDO). Operators must request a repair drawing from Bombardier which provides recommendations for a one-time special flight permit. The repair drawing will be applicable to the operator's aircraft serial number only. Special flight permits may be permitted provided that the conditions specified in paragraphs (k)(1), (k)(2), (k)(3), (k)(4), and (k)(5) of this AD are met.

(1) Only one barrel nut out of four is cracked, one cradle is cracked, or one washer is loose; all other strut bolt locations must be free of damage.

(2) The airplane must operate with reduced airspeed not to exceed 180 KIAS [knots indicated air speed]. No passengers and no cargo are onboard.

(3) The airplane must not operate in known or forecast turbulence, other than light turbulence.

(4) The airplane descent rate on landing flare-out is not to exceed 5 feet per second.

(5) Heavy braking or hard turning of the airplane upon landing is to be avoided if possible.

Other FAA AD Provisions

(l) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANE–170, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to *Attn:* Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

Related Information

(m) Refer to MCAI Canadian Emergency Airworthiness Directive CF–2011–24, dated July 21, 2011; and Bombardier Alert Service Bulletin A84–57–25, dated July 20, 2011; for related information.

Material Incorporated by Reference

(n) You must use Bombardier Alert Service Bulletin A84–57–25, dated July 20, 2011, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; e-mail *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on August 19, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–22013 Filed 8–30–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 91, 141, and 142

[Docket No.: FAA–2008–0938; Amendment Nos. 61–128, 91–324, 141–15, and 142–7]

RIN 2120–AJ18

Pilot in Command Proficiency Check and Other Changes to the Pilot and Pilot School Certification Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the FAA's regulations concerning pilot, flight instructor, and pilot school certification. This rule will require pilot-in-command (PIC) proficiency checks for pilots who act as PIC of turbojet-powered aircraft except for pilots of single seat experimental jets and pilots of experimental jets who do not carry passengers. It allows pilot applicants to apply concurrently for a private pilot certificate and an instrument rating and permits pilot schools and provisional pilot schools to apply for a combined private pilot certification and instrument rating course. In addition, the rule will: Allow pilot schools to use internet-based training programs without requiring schools to have a physical ground training facility; revise the definition of ''complex airplane;'' and allow the use of airplanes with throwover control wheels for expanded flight training. The final rule also amends the FAA's regulations concerning pilot certificates to allow the conversion of a foreign pilot license to a U.S. pilot certificate under the provisions of a Bilateral Aviation Safety Agreement (BASA) and Implementing Procedures for Licensing (IPL). The FAA has determined these amendments are needed to enhance safety, respond to changes in the aviation industry, and reduce unnecessary regulatory burdens.

DATES: These amendments become effective October 31, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule contact Gregory French, Airman Certification and Training Branch, General Aviation and Commercial Division, AFS–810, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 493–5474; e-mail *Gregory.French@faa.gov.* For legal questions concerning this final rule contact Michael Chase, Esq., Office of Chief Counsel, AGC–240, Regulations

Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3110; e-mail *Michael.Chase@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator, including the authority to issue, rescind, and revise regulations. 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, Chapter 447—Safety Regulation. Under section 44701, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations necessary for safety. Under section 44703, the FAA issues an airman certificate to an individual when we find, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. In this final rule, we amend the training, qualification, certification, and operating requirements for pilots.

These changes are intended to ensure that flight crewmembers have the training and qualifications to operate aircraft safely. For this reason, the changes are within the scope of our authority and are a reasonable and necessary exercise of our statutory obligations.

II. Executive Summary

The notice of proposed rulemaking (NPRM) published on August 31, 2009, (74 FR 44779) included 16 proposed changes to the FAA's existing pilot, flight instructor, and pilot school certification regulations. Of the proposed rule changes, proposal 2, which would require proficiency checks for PICs of single-piloted turbojet-powered aircraft, and proposal 3, which would permit application for an instrument rating concurrently with a private pilot certificate, raised the largest response by commenters. Upon review of the comments, the FAA has concluded that the rule requiring proficiency checks for single-piloted turbojet-powered aircraft was not well suited to experimental turbojet-powered aircraft and had the potential to add significant expense for the pilots of those aircraft. The final rule allows alternative methods of compliance for pilots of experimental jets that possess more than a single seat. It excludes from the proficiency check requirement those pilots of experimental jets that possess more than a single seat who do not carry passengers and those pilots of experimental jets that possess a single seat. The FAA has also modified the rule permitting concurrent application for a private pilot certificate and instrument rating because the rule as proposed in the original NPRM failed to recognize that the prerequisite of 50 hours of cross-country time for the instrument rating could not easily be met by a student pilot. The FAA has added a provision to § 61.65 to accommodate an alternative method of compliance with that requirement.

Finally, the NPRM proposed to replace the 10 hours of training in a complex airplane required for pilots applying for a commercial pilot certificate with 10 hours of advanced instrument training. These proposals would have resulted in changes to both Part 61 and Part 141. However, in response to the public comments received and in light of the recently passed Airline Safety and Federal Aviation Administration Extension Act of 2010 (Pub. L. 111–2163) that addresses flight crewmember training, the FAA has elected not to adopt these proposals.

III. Background

A. Summary of the NPRM

The following proposals were contained in the NPRM.

Proposal No.	CFR designation	Summary of the proposed changes
1	§ 61.1(b)(3)	Proposal to revise the definition of "complex airplane" to include airplanes equipped with a full authority digital engine control (FADEC) and move it from § 61.31(e) to § 61.1(b)(3).
2	§ 61.58(a)(1) & (2) and (d)(1)–(4)	Proposal to require a § 61.58 PIC proficiency check for PICs of single piloted, turbojet-powered airplanes.
3	§ 61.65(a)(1)	Proposal to permit the application for and the issuance of an instrument rating concurrently with a private pilot certificate for pilots.
4	§ 61.71(c)	Proposal to allow the conversion of a foreign pilot license to a U.S. pilot certificate based on an Implementation Procedures for Licensing (IPL) agreement.
5	§ 61.129(a)(3)(ii)	Commercial pilot certificate, airplane single engine class rating—Proposal to replace the 10 hours of complex airplane aeronautical experience with 10 hours of advanced instrument training.
6	§ 61.129(b)(3)(ii)	Commercial pilot certificate, airplane multiengine class rating—Proposal to replace the 10 hours of complex multiengine airplane aeronautical experience with 10 hours of advanced instrument training.
7	§ 91.109(a) and (b)(3)	Proposal to expand the use of airplanes with a single, functioning throwover control wheel for providing expanded flight training. This proposal parallels the long standing grants of exemptions that the FAA has issued to many petitioners for use with certain airplanes with a single, functioning throwover control wheel.
8	§ 141.45	Proposal to allow pilot schools and provisional pilot schools an exception to the requirement to have a ground training facility when the training course is an online, computer-based training program.
9	§ 141.55(c)(1)	Proposal to allow pilot schools and provisional pilot schools an exception to the requirement to describe each room used for ground training when the training course is an online, computer-based training program.
10	Part 141, Appx. D, para. 4.(b)(1)(ii)	Commercial pilot certification course for an airplane single engine class rating—Proposal to replace the 10 hours of complex airplane training with 10 hours of advanced instrument training.
11	Part 141, Appx. D, para. 4.(b)(2)(ii)	Commercial pilot certification course for an airplane multiengine class rating—Proposal to replace the 10 hours of complex multiengine airplane training with 10 hours of advanced instrument training.

Proposal No.	CFR designation	Summary of the proposed changes
12	Part 141, Appx. I, para. 4.(a)(3)(ii)	Additional airplane single engine class rating at the commercial pilot certification level—Proposal to replace the 10 hours of complex airplane training with 10 hours of advanced instrument training.
13	Part 141, Appx. I, para. 4.(b)(2)(ii)	Additional airplane multiengine class rating at the commercial pilot certification level—Proposal to replace the 10 hours of complex multiengine airplane training with 10 hours of advanced instrument training.
14	Part 141, Appx. I, para. 4.(j)(2)(ii)	Additional airplane single engine class rating at the commercial pilot certification level—Proposal to replace the 10 hours of complex airplane training with 10 hours of advanced instrument training.
15	Part 141, Appx. I, para. 4.(k)(2)(ii)	Additional airplane multiengine class rating at the commercial pilot certification level—Proposal to replace the 10 hours of complex multiengine airplane training with 10 hours of advanced instrument training.
16	Part 141, Appx. M	Proposal to establish a combined private pilot certification and instrument rating course.

The public comment period closed on November 30, 2009.

B. Summary of Comments

The FAA received 441 comments on the NPRM. Commenters consisted of aviation industry associations, flight schools, flight instructors, and pilots. Most commenters expressed multiple opinions, concerns, and suggestions, which were often repeated by others. Common areas of concern are grouped by subject for response.

C. Changes From the NPRM to the Final Rule

The single most significant change from the original proposal relates to § 61.58, which will require a PIC of a turbojet-powered aircraft to receive an annual pilot proficiency check. As proposed in the NPRM, those pilots who operated experimental jets would have incurred the most significant costs; however, those costs were inadvertently not included in the initial cost analysis. The language as proposed would have required annual checks in virtually every experimental jet for which the pilot held an authorization to operate if the pilot intended to serve as PIC in that aircraft. Because of the inherent nature of operating historic turbojet-powered aircraft, this would have entailed, in some cases, debilitating expenses for the pilot(s). Therefore, we have modified the rule by adding a paragraph to § 61.58 to exclude from the proficiency check requirement those pilots of experimental jets that, by original design, possess only a single seat because those aircraft cannot carry passengers. Existing limitations to the operation of those aircraft adequately address any other potential safety issues. Another provision, also not proposed in the NPRM, was added to § 61.58(d) to accommodate pilots of experimental jets that, by original design or through modification, possess more than a single seat. Pilots of those aircraft who wish to carry passengers may use any single § 61.58 proficiency check or equivalent check taken in another turbojet-powered aircraft to exercise the PIC privileges for all experimental jet aircraft for which the pilot holds an authorization. This § 61.58 proficiency check or equivalent must have been accomplished in the prior 12 months. The requirement for experimental jet pilots of multi-seat aircraft to receive annual proficiency checks is based on the carriage of passengers on those aircraft. Another provision was added to accommodate pilots of multi-seat experimental jet aircraft who have not received a proficiency check within the prior 12 months. These pilots may continue to operate those experimental jet aircraft in accordance with their authorizations; however, they are prohibited from carriage of any passengers other than authorized designees, instructors, or FAA personnel until such time as they successfully complete the proficiency check.

This final rule amends § 61.65(a)(1) to allow a student pilot to train concurrently for both the private pilot certificate and instrument rating. The amendment as proposed in the NPRM had a potential for decreasing safety and adding unnecessary economic burden to pilots engaged in a combined course because it would have required a student pilot to obtain 50 hours of cross-country flight time as PIC through a series of endorsements for solo flights. The FAA has added a new paragraph (g) to § 61.65 to allow an applicant for a combined private pilot certificate with instrument rating to credit cross-country time performing the duties of pilot in command, when accompanied by an instructor to satisfy a majority of the cross-country PIC time required by § 61.65(d)(1), (e)(1) and (f)(1). A similar privilege already exists under § 61.129(b)(4). The intent is to limit this credit to no more than the 45 hours of cross-country PIC time remaining after the student pilot has completed the 5 hours of solo cross-country flight time required by §§ 61.109(a)(5)(i) for a single engine rating, 61.109(b)(5)(i) for a multiengine rating, and 61.109(e)(5)(i) for a powered-lift rating. For a private pilot helicopter rating, the credit for cross-country time as PIC is limited to the 47 hours of cross-country PIC time remaining after completion of the 3 hours of solo cross-country flight time required by § 61.109(c)(4)(i). Any credit allowed under this rule is limited to those students enrolled in a combined private pilot instrument rating course of training that culminates in a combined practical test. If at the conclusion of a program of combined training under this rule, the student instead elects to take only the private pilot practical test, then any solo cross-country time accrued while accompanied by an instructor prior to the completion of the private pilot practical test will not be creditable as solo PIC time.

The FAA will not adopt the proposed amendments to replace the 10 hours of complex aeronautical experience with 10 hours of advanced instrument training for commercial pilot applicants as required by § 61.129 and Part 141, Appendices D and I. A complete discussion of this issue is included in this final rule under ''IV. Discussion of the Final Rule, C. Replace Complex Airplane Aeronautical Experience with Advanced Instrument Training.''

IV. Discussion of the Final Rule

A. Recurrent Proficiency Check for a Pilot in Command of a Single-Piloted Turbojet-Powered Aircraft

This rule extends the requirement for recurrent proficiency checks to pilots operating single-piloted turbojet-powered aircraft.

This proposal garnered a significant number of comments. The overwhelming majority opposed the proposed rule as written. None of the commenters expressed resistance to the

imposition of an annual proficiency check for standard category, single-piloted turbojet-powered aircraft. Some expressed the opinion that this proposal was appropriate for the Very Light Jet (VLJ) community. Their concern focused exclusively on the effect that such a rule, as proposed, would have on the owners and pilots of experimental jets which are not type certificated aircraft.

Commenters expressed concern in two principal areas related to experimental jets. First, they cited the prohibitive costs of the annual checks in each of the experimental jets that they are authorized to operate—estimates for which ranged from $10,000 to more than $50,000 per year. A number of commenters stated they would no longer be able to operate due to the costs. Many commented that the FAA had not adequately examined the anticipated cost to owners of experimental jets before proposing this rule. The second issue that commenters expressed concern over was the extremely limited availability of Experimental Aircraft Examiners (EAE) to conduct the required tests. Currently, the FAA has authorized nine EAEs that are qualified in experimental jets. With the limited pool of EAEs, many commenters stated that it would be physically impossible to provide the number of annual proficiency checks that would be required.

A small subset of those commenting on this proposed rule change expressed approval for the proposal as applied to the VLJ community. They stated that it would be appropriate because single-pilot operations are more demanding since such pilots do not have a co-pilot to share the workload and, thus, should be checked annually for competency.

Some commenters asked us to clarify the requirements for a § 61.58 proficiency check for single-pilot operations in standard category aircraft. Specifically, they wanted to know whether existing annual training requirements required by most insurance companies would qualify. The FAA believes that annual training required by insurance companies will culminate in a proficiency check which will satisfy the requirement for a § 61.58 proficiency check if conducted in accordance with this section, § 61.58.

One commenter requested that, in addition to the changes already proposed, the FAA further amend § 61.58 to allow the check to serve as an acceptable means of completing the instrument proficiency check under § 61.57(d) if conducted in an airplane certified for instrument flight rules (IFR) flight and given to the pilot holding a type rating that does not contain the visual flight rules (VFR) limitation ''VFR ONLY.'' We recognize that in many cases a § 61.58 check may meet the requirements of a § 61.57(d) check. If it does so, then the authorized official may so endorse the pilot's training and currency record. However, in many cases, a § 61.58 check may not cover everything required for a § 61.57(d) check and therefore would not qualify for one. The individual providing the check must make that distinction. It is the pilot's responsibility to ensure that he or she remains in regulatory compliance. The FAA does not believe it is necessary to amend § 61.58 as suggested by the commenter.

Finally, one commenter suggested that the PIC proficiency check for pilots of single-piloted turbojet-powered airplanes should be applicable only to those who are using the aircraft for hire. Commercial pilots of these aircraft may carry passengers or conduct other operations for hire under certain conditions and rules. Any pilot at the private or higher level may carry non-paying passengers on not-for-hire flights. Their responsibility for the safety of their passengers and their environment is no less than if they operated for hire. Therefore, the FAA does not see any safety benefit in limiting the proficiency checks to for-hire operations.

The FAA has concluded, upon analysis of the comments, that the proposed revision to § 61.58 cannot work for the experimental jet community for several reasons. The experimental jet fleet is not standardized; even among the same make and model virtually no two are identical although they frequently share similar handling characteristics. Full compliance with the rule as proposed would require a proficiency check in each individual aircraft (not just make and model) for which the pilot holds a letter of authorization. The costs incurred for proficiency checks in experimental jets are extremely high due to the unique historic value and technology of the aircraft. For example, the majority of these aircraft are historic military jets that employ outdated technology that requires high levels of specialized maintenance making them expensive to operate. In addition, the vintage jet engines in most of these aircraft typically are inefficient in fuel use as opposed to modern jet engines resulting in additional expenses in their operation.

The FAA believes that the operation of experimental jet aircraft does not represent a significant hazard in the United States. There are a limited number of aircraft in the experimental jet fleet (just over 1,200). Experimental jets are limited in both time and activity when measured against standard category turbojet aircraft. Under current regulations and policies, experimental jets are limited to demonstration and exhibition flights only and are not permitted to fly over populated areas. *See* § 91.319; Flight Standards Information Management System [FSIMS], Order 8900.1, Volume 5, Chapter 9, Section 2. The relatively high operating costs of these aircraft compared to those of standard category aircraft limits their operation even further. This combination of low numbers of aircraft, high operational costs, and strict existing regulatory policies limits their exposure to risk significantly. Further, unlike most standard category turbojet aircraft, there are no alternatives to conducting proficiency check flights in an airplane because there are presently no approved simulators for the fleet of experimental jets. Finally, there are an inadequate number of qualified experimental jet check pilots to conduct the number of annual checks that would be necessary under the proposed rule.

Notwithstanding these considerations, the FAA firmly believes that pilots conducting flight in turbojet-powered experimental aircraft with more than one seat, who wish to carry a passenger, must receive annual proficiency checks to ensure their continued understanding of the unique operating characteristics common to turbojet-powered aircraft.

An experimental jet aircraft that by original design or through modification possesses more than a single seat, has the potential to carry one or more passengers. In such a case, the pilot will be directly responsible for those passengers. We believe these circumstances demand a higher level of confirmation of the pilot's ability to operate safely in a turbojet- powered aircraft. For the reasons outlined previously, however, the FAA believes it is impractical to implement § 61.58 as published in the NPRM. Therefore, for the purpose of meeting the regulatory intent of the proposed rule as applied to the pilots of experimental jets, the FAA will accept any of the following as an alternative to requiring a proficiency check in any multi-seat experimental jet for which the pilot holds an authorization:

1. A single proficiency check by an EAE in any one of the experimental jet aircraft for which the airman holds an authorization to operate if conducted within the prior 12 months;

2. A single proficiency check by an EAE in any experimental jet (*e.g.,* if a

pilot acquires a new authorization to operate an additional experimental jet aircraft, the check for that new authorization will meet the intent), if conducted within the prior 12 months;

3. Maintaining qualification under an Advanced Qualification Program (AQP) under Subpart Y of part 121;

4. Any pilot proficiency check given in accordance with subpart K of part 91, parts 121, 125, or 135 conducted within the prior 12 months if conducted in a turbojet-powered aircraft;

5. Any other § 61.58 proficiency check conducted within the prior 12 months if conducted in a turbojet-powered aircraft.

Any one of the listed checks will apply to the PIC privileges for all of the experimental jets for which the pilot holds an authorization for a given 12-month period.

A pilot of a multi-seat turbojet experimental jet aircraft who has not received a proficiency check within the prior 12 months as outlined here may continue to operate such aircraft in accordance with the pilot's authorizations. However, the pilot is prohibited from carriage of any persons in any turbojet-powered experimental jet aircraft with the exception of individuals authorized by the Administrator to conduct training, flight checks, or perform pilot certification functions in such aircraft during flights specifically related to training, flight checks, or certification.

The FAA has determined that those experimental jet aircraft that have only a single seat do not pose a risk to the public due to the strict constraints placed on the pilot's authorizations and the aircraft's inherent inability to transport anyone other than the pilot. Therefore, this section will not apply to those pilots of experimental jet aircraft that, through original design, possess only a single seat.

For the reasons stated, this final rule adopts § 61.58 with modifications to accommodate pilots of experimental jets.

B. Application for and Issuance of an Instrument Rating Concurrently With a Private Pilot Certificate

In the NPRM, the FAA proposed to revise § 61.65(a) to permit the application for an instrument rating concurrently with a private pilot certificate. Several commenters expressed concern that the proposal would result in a reduction in the experience that would otherwise be gained when a pilot completes the private pilot certificate first and then returns later for the instrument rating. This concern arose because § 61.65(d)(1), (e)(1), and (f)(1) require, as a prerequisite to application for an instrument rating, that the pilot have acquired 50 hours of cross-country pilot-in-command (PIC) time for single-engine, multiengine, or powered-lift aircraft, respectively. Commenters believed that, if the rule were published as proposed, the cross-country requirements would be eliminated. This perception was inaccurate. However, upon further analysis, the FAA recognized that those specific requirements had not been fully addressed in the NPRM. As proposed in the NPRM, it would be possible, although difficult, for the pilot concurrently training for the private pilot certificate and instrument rating to acquire the required PIC cross-country time because the pilot would hold only a student pilot certificate. In such cases, the student pilot could acquire the requisite 50 hours of PIC cross-country time only through a series of individually endorsed solo flights. Under current regulations, student pilots may log PIC time only when flying solo as the sole occupant of the aircraft and are not permitted to carry passengers. *See* 14 CFR 61.89. Currently, under § 61.109(a)(5)(i) (single engine), § 61.109(b)(5)(i) (multiengine), and § 61.109(e)(5)(i) (powered-lift), a student pilot seeking private pilot certification is required to complete 5 hours of solo cross-country flight. Under § 61.109(c)(4)(i) a student pilot is required to complete 3 hours for the helicopter rating. These hours qualify as PIC time since the student pilot is the sole occupant of the aircraft. The original intent of § 61.65(d)(1), (e)(1), and (f)(1) was to have the pilot develop a basis of experience as a certificated pilot prior to pursuing the instrument rating. Requiring a student pilot to complete an additional 45 hours (47 hours for the helicopter rating) of cross-country solo flight would not be in the best interest of safety. The additional hours of cross-country solo flight would also impose significant additional costs on the pilot.

The FAA recognizes the value of the experience gained during cross-country flight and does not intend to eliminate the 50-hour requirement. We also recognize that requiring the pilot to acquire 50 hours of cross-country flight time under a series of student-pilot solo endorsements would not enhance safety and would largely negate the purpose of this combined training. Therefore, although not proposed in the NPRM, a new paragraph (g) has been added to § 61.65 to allow the pilot seeking combined private pilot certification and an instrument rating to credit up to 45 hours (47 hours for the helicopter rating) of the required 50 hours of cross-country flight time as PIC when the student pilot is performing the duties of pilot in command while accompanied by an instructor. This provision is similar to the privilege already offered under § 61.129(b)(4).

The 5 hours of solo flight, as the sole occupant of the aircraft, required under § 61.109(a)(5)(i) (single-engine), § 61.109(b)(5)(i) (multiengine), and § 61.109(e)(5)(i) (powered-lift), or 3 hours of solo flight required under § 61.109(c)(5)(i) (helicopter) must still be met. The student pilot may log cross-country PIC time toward the balance of the 50-hour requirement if the training is conducted during cross-country flight with an instructor on board the aircraft. This provision applies only to training conducted for a combined private pilot certificate and instrument rating. The credit for cross-country PIC time when accompanied by an instructor is limited to 45 hours (47 hours for the helicopter rating) of the required 50 hours of cross-country PIC time.

The FAA has determined that this allowance will result in a better prepared and more competent private pilot with an instrument rating at the conclusion of the combined training. A significant portion of the combined training will, of necessity, have been conducted during cross-country flight, which represents an environment more representative of the environment in which the pilot can be expected to operate upon completion of their training. In addition, this cross-country flight time will be more useful to the pilot than an equivalent number of hours of solo flight. The pilot will be directly under the supervision of an instructor who, presumably, will better ensure that correct habits are firmly established.

Because there was no proposed requirement for 50 hours of cross-country PIC time for an instrument rating under Appendix M to part 141, this final rule adopts Appendix M to part 141 as proposed in the NPRM with minor editorial changes. The FAA anticipates, however, that any approved training program under part 141 will include cross-country flight time as pilot in command due to the value of such aeronautical experience.

C. Replace Complex Airplane Aeronautical Experience With Advanced Instrument Training

The NPRM proposed to replace the requirement for 10 hours of training in a complex airplane with 10 hours of advanced instrument training for pilots

who apply for the commercial pilot certificate. Accordingly, the FAA proposed to amend §§ 61.129(a)(3)(ii), 61.129(b)(3)(ii), Appendix D to part 141 paragraphs 4.(b)(1)(ii), 4.(b)(2)(ii); Appendix I to part 141 paragraphs 4.(a)(3)(ii), 4.(b)(2)(ii), 4.(j)(2)(ii), and 4.(k)(2)(ii). The FAA has elected not to adopt these proposed amendments.

The FAA received a wide variety of comments on this set of regulatory amendments, with approximately half of the comments in favor of implementing the changes. Some in favor of the proposals felt that maintaining and operating complex aircraft was too costly, placing burden on flight training providers and those seeking a commercial pilot certificate. Another portion of supporters felt that advanced instrument experience would be more valuable than the current complex training requirement because the additional instrument time would better prepare airmen for employment as commercial pilots. One commenter expressed belief that complex training should only be required prior to operating a complex aircraft and the current regulation requiring a complex endorsement is sufficient. Although the advanced instrument training need not have been conducted in a technologically advanced aircraft, some commenters offered that these proposals are appropriate given the technological advancements in aircraft avionics.

The remaining comments were either against adopting all provisions of proposed changes or suggested that only a portion of the proposed changes should be implemented. A number of commenters were opposed to the removal of the 10 hours of complex training citing the potential for an increase in gear up landing incidences. Some commenters felt that the experience gained operating complex aircraft is essential for safety since commercial pilots may encounter complex aircraft in their career. One commenter suggested that a minimum number of complex training hours be required for a complex endorsement instead of requiring complex training for a commercial pilot applicant. Other commenters felt that the requirement of advanced instrument training would be redundant and would present unnecessary cost for those individuals who already hold an instrument rating. Further, those commercial pilots who do not have an instrument rating are already limited in privilege by existing regulations. One commenter urged the FAA to consider the differences between those aircraft that are mechanically complex and those aircraft that are electronically complex in amendments to the regulations.

The recent enactment of the Airline Safety and Federal Aviation Administration Extension Act of 2010 also influenced the FAA's decision not to adopt the proposals affecting commercial pilot requirements. Section 208 of this law directs the FAA to ''conduct rulemaking proceedings to require part 121 air carriers to provide flight crew members with ground training and flight training or flight simulator training…to recognize and avoid the stall of an aircraft or, if not avoided, to recover from the stall' and 'to recognize and avoid an upset of an aircraft or, if not avoided, to execute such techniques as available data indicate are appropriate to recover from the upset.'' Although this section specifically addresses training for crewmembers operating in the air carrier environment, the FAA believes that conforming changes to the commercial pilot requirements may be prudent and necessary in the near future.

The FAA finds validity in the points raised through the public comments. Additional time is necessary to analyze changes to the regulations that were the subject of these proposals. The FAA also feels compelled to review the commercial pilot certification regulations alongside the requirements of Public Law 111–216. Therefore, the FAA will not adopt the proposed amendments that replace the 10 hours of complex training with the 10 hours of advanced instrument training. The FAA intends to devote additional consideration to the commercial pilot requirements and may publish a future notice of proposed rulemaking to amend these regulations.

D. Conversion of a Foreign Pilot License to a U.S. Pilot Certificate

This final rule amends the FAA's regulations concerning pilot licenses to allow the conversion of a foreign pilot license to a U.S. certificate under the provisions of a Bilateral Aviation Safety Agreement (BASA) and Implementing Procedures for Licensing (IPL).

On June 12, 2000, the United States and Transport Canada Civil Aviation (TCCA) signed a BASA that permits a pilot holding certain pilot licenses or certificates from either country to obtain a pilot license or certificate from the other county after the pilot applicant has met the appropriate qualifications and certification requirements. Before executing an IPL, the BASA process requires the FAA and a foreign civil aviation authority to first evaluate each other's pilot licensing standards and procedures and compare them to their own to determine what, if any, additional requirements would be necessary to assure that the pilot is in compliance with their own standards. The FAA and TCCA completed the conformity analysis and executed an IPL on July 14, 2006, that establishes the procedures each country must follow to achieve the objectives of the BASA. The FAA–Canada IPL allows holders of FAA pilot certificates and TCCA pilot licenses to convert to Canadian pilot licenses and U.S. pilot certificates, respectively. The IPL currently is limited to the airplane category of aircraft at the private, commercial, and airline transport pilot levels of licenses or certificates. The IPL includes the following ratings or qualifications: instrument rating, class ratings of airplane single-engine land (ASEL) and airplane multiengine (AMEL), type ratings, and night qualification addressed under part 61 and Canadian Aviation Regulations Part IV. The FAA and TCCA have agreed that they may amend the IPL to allow conversion of other licenses or certificates in the future.

The amendment to § 61.71(c) would not only provide the legal basis for expansion of the FAA–TCCA BASA/IPL, but would also allow similar BASA/IPL arrangements with other ICAO Contracting States, as determined by the Administrator in the interest of safety. Therefore, the FAA revises § 61.71 to allow holders of foreign pilot licenses to convert to U.S. pilot certificates where the U.S. Government and the foreign government have concluded a BASA and associated IPL. The issuance of a U.S. private pilot certificate and ratings under § 61.75 is a separate pilot certification process, as is the process described in § 61.153.

A majority of the commenters approved of this proposal. However, several commenters suggested that holders of foreign pilot certificates receive inferior training and were not up to the standards of pilots trained in the United States. One commenter asked for assurance that any country that the United States entered into a BASA with would allow conversion of a U.S. pilot certificate to a foreign pilot license in that country. Finally, one organization expressed concern that there would be lack of oversight of the foreign pilot training program and that the influx of foreign IPL certificate holders would erode the wages, benefits, and working conditions of U.S. airline pilots, and would have a detrimental effect on U.S. flight schools.

As discussed above, the FAA has fully considered these issues. The FAA

believes that countries which enter into BASA with the United States will fully meet both the mutually agreed upon U.S. and International Civil Aviation Organization (ICAO) standards, and that such agreements are reciprocal. Oversight of the foreign flight training facilities has and will continue to be the responsibility of the ICAO affiliate nations. Additionally, the FAA does not anticipate such agreements will interfere with the ability of U.S. flight schools to conduct business and may, in fact, enhance their success. For many years, foreign students have come to the United States to receive both primary and advanced flight training, largely for economic reasons. In light of these considerations, entering into BASA with other ICAO contracting states will encourage pilots from those countries to seek more economical training because their U.S. certificates may be converted to a license issued by their national licensing authority.

This final rule adopts 61.71(c) as proposed in the NPRM with one editorial change to include a reference to the bilateral agreement which is the basis for entering into an IPL with an ICAO Contracting State.

E. Proposal To Revise the Definition of ''Complex Airplane''

In the NPRM, the FAA proposed to revise the definition of ''complex'' airplane to include airplanes equipped with a full authority digital engine control (FADEC) and move the definition from § 61.31(e) to § 61.1(b)(3).

The majority of commenters supported this rule. Those who disapproved were consistent in their concern that this proposal was over-simplifying the practical test for the commercial pilot certificate. They expressed concern that the complex aircraft, with propeller and other thrust controls, still existed and that ''professional pilots'' should be able to operate those aircraft. The FAA recognizes that the technology is changing and that FADEC aircraft are growing in availability. The FAA also recognizes that professional pilots may never encounter the type of controls that FADEC aircraft replace. This is particularly true for those who transition directly from flight academies to the airlines. This proposal simply reflects the changing duties and activities of a professional pilot.

Several commenters misunderstood an important aspect of the proposal and expressed concern that the proposal would require use of a FADEC-equipped airplane for complex training, supplanting the more conventionally-equipped light training airplane. This is not the case. Those aircraft that were previously defined as complex will continue to qualify for any application where a complex aircraft is required. This amendment simply adds the option to use a FADEC-equipped airplane with retractable landing gear and flaps for complex airplane training if the pilot chooses to do so.

This final rule adopts §§ 61.31(e) and 61.1(b) as proposed in the NPRM with clarifying changes as related to the definition of complex seaplanes.

F. Expanded Use of Airplane With a Single Functioning Throwover Control Wheel for Certain Kinds of Flight Training

The amendment to § 91.109 permits the use of a functioning throwover control wheel for certain flight training that includes the flight review required by § 61.56, and the recent flight experience and instrument proficiency check required by § 61.57.

Several commenters expressed concern over the lack of instructor control during the training. The fact that the FAA has been issuing exemptions to allow the use of a functioning throwover control wheel for flight training for many years has provided demonstrated evidence of the safety of such operations. This amendment will eliminate the need for future exemptions for this purpose.

One commenter who opposed the proposal stated that it was unnecessary because it applied to a limited, aging fleet. The commenter indicated that the current practice of issuing exemptions to allow for the use of such aircraft for flight training is adequate. The purpose of the amendment is to eliminate the need to issue exemptions for a practice that has a proven record of safety. The fact that this rule will be applicable only to a limited fleet is not relevant.

One commenter described the discrepancy over the wording in the NPRM, expressing that the description of the rule change did not coincide with the verbiage in the proposed regulation. Upon review, the FAA found validity in this comment. The NPRM indicates that the amendments to this rule aim to parallel certain exemptions that have been issued in the past for § 91.109 (a) and (b). The final rule has been modified to increase clarity in this regard.

Another commenter expressed concern about obtaining the recent flight experience required by § 61.57. The commenter believed that permitting the use of a throwover control wheel for § 61.57 did not make sense because a pilot not already meeting the recency requirements of that section cannot legally act as PIC when a certified flight instructor (CFI) is on board. The commenter is partially correct in stating that a pilot whose recency has lapsed under § 61.57 may not complete the requirements of § 61.57 in an airplane equipped with a throwover control wheel because the pilot may not act as PIC. The commenter's assertion is true if the airman had allowed a lapse in the takeoff and landing experience requirements dictated by § 61.57 (a) and (b). An airman would, however, be allowed to obtain flight instruction to acquire takeoffs and landings prior to such a lapse in these experience requirements. The key concept in this example is whether the airman is able to act as PIC and therefore meet the requirement stipulated by § 91.109 (b)(2).

That same commenter expressed concern over the language in § 91.109 that requires a flight instructor in an airplane with only a single functioning throwover control wheel to ''have logged at least 25 hours of pilot in command flight time'' in the make and model of airplane with a single functioning throwover control wheel involved in the instruction. The commenter stated that the language could be interpreted to require that the 25 hours must be flown with a single wheel and throwover yoke. The commenter's interpretation was correct; however, upon further review the FAA has concluded that this requirement is unnecessarily burdensome. The requirement in the final rule will not demand that the instructor have logged 25 hours of PIC flight time in a make and model of an aircraft that was obtained in aircraft having a throwover control wheel. The intent of the 25 hours in make and model that remains in the final rule is to ensure that the instructor has the proficiency and skill in that type of aircraft to safely provide instruction without the benefit of direct elevator and aileron control.

There was also confusion expressed over whether the 25 hours must be as acting PIC, or as logged PIC time, *e.g.,* as the sole manipulator or CFI providing dual instruction. The answer is yes to all. If the CFI's flight history involved PIC time logged as a student, a pilot, and/or a CFI in an aircraft that is of the particular make and model involved, then that time may be applied to the 25-hour requirement. The FAA received a similar comment expressing a request that ''model'' be defined as ''all versions of a manufacturer's type or series in the same class of aircraft.'' As stated previously, the 25-hour requirement is in place to ensure that the instructor has the proficiency and skill in that type of

aircraft to safely provide instruction. Therefore, the 25-hour requirement in the particular make and model of airplane will remain in the final rule.

Based on the established safety record of these operations, the FAA adopts § 91.109(a) and (b)(3) as proposed in the NPRM with the changes described above.

G. Exception to Requirement for Ground Training Facility When Training Is an Online Computer-Based Training Program

In the NPRM, the FAA proposed to except pilot schools and provisional pilot schools from the requirement to describe each room used for ground training when the training course is an online computer-based training program.

The responses to this proposal were overwhelmingly favorable. A few commenters expressed concern over the lack of personal interaction between the instructor and the student when receiving knowledge training over the internet.

The FAA fully understands the concerns that distance learning seems counterintuitive. However, for many years, knowledge training under 14 CFR part 61 has been conducted successfully via remote learning through the internet or home video, or even with books alone. Additionally, colleges and universities have embraced distance learning and have found such training to be highly effective for multiple degree programs. Nevertheless, an endeavor such as flight training must include personal, one-on-one training with a flight instructor. Naturally, all actual flight training will involve such direct interaction. The flight training will reinforce the academic knowledge training that the student receives. Many schools already divide the one-on-one flight training portion of the student's learning experience from the ground-based classroom training, with different instructors serving each capacity. This has proven to be very effective. Any training that would be allowed in any online computer-based training program under 14 CFR part 141 will be reviewed, approved, and overseen by the FAA. Distance learning has been available to students training under 14 CFR part 61 for many years. This amendment, with additional oversight, simply extends distance learning to schools operating under 14 CFR part 141.

Upon further review, it was found that some of the proposed text presented in the NPRM pertained to existing regulations found in Part 141, and therefore these portions have been moved to other sections of this Part or removed. In addition, minor editorial changes have been made for consistency with current regulations or to reflect current practice.

This final rule adopts §§ 141.45 and 141.55(c)(1) as proposed in the NPRM with clarifying changes described above.

H. Conforming Amendments

Since this rule amends § 61.1, the rule includes conforming amendments to § 142.3 to make it consistent with the amendment to § 61.1.

Miscellaneous Issues

One organization submitted recommendations regarding the duration, renewal, and reinstatement requirements of flight instructor certificates. The arguments presented were cogent, thoroughly developed, and offered insightful observations. However, the FAA believes that pursuing that regulatory path is beyond the scope of this rulemaking effort and will not address those issues at this time.

V. Regulatory Notices and Analyses

Paperwork Reduction Act

Information collection requirements associated with this final rule have been approved previously by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Numbers 2120–0021 and 2120–0009.

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.

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.

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

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

In conducting these analyses, the FAA has determined that this final rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) will have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Total Benefits and Costs of This Rule

Over 10 years (2011 through 2020), the estimated total costs sum to $38.4 million with $1.8 million of cost savings for a net cost of approximately $36.6 million ($25.3 million discounted by 7% and $31.0 million discounted by 3%). Total estimated benefits over the 10 years are approximately $96.5 million ($66.7 million discounted by 7% and $81.8 million discounted by 3%).

Who is potentially affected by this rule?

- Pilots who act as pilot in command of single-piloted turbojet-powered aircraft;

• Pilot Examiners who give proficiency checks in these aircraft;
• Corporations that own these aircraft;
• Applicants for private pilot certificates who may opt to apply for a combined private pilot certificate with instrument rating;
• Holders of foreign pilot licenses;
• Operators of aircraft with throwover control wheels;
• Providers of internet-based training under part 141; and
• Operators of complex aircraft.

Assumptions:

Estimates are in 2010 Dollars.

Discount rates—7% and 3%.

Period of analysis—2011 through 2020.

Value of a fatality avoided—$6.0 million, value of serious injury—$345,000, value of minor injury—$12,000.

Changes From the NPRM to the Final Rule

The following summarizes changes from the NPRM to the final rule that are relevant to the regulatory evaluation and differences in the final regulatory evaluation from the initial regulatory evaluation.

To mitigate the impact on experimental turbojet-powered aircraft pilots and owners, the final rule allows alternative methods of compliance for pilots of experimental jets who possess more than a single seat and excludes from the proficiency check requirement those pilots of experimental jets that possess a single seat and those who are not carrying passengers or who are carrying persons authorized by the Administrator. Pilots of experimental jets that possess more than a single seat, either by original design, or through modification, will be allowed to perform their annual proficiency checks in any turbojet-powered aircraft, and will not be required to have the check in an experimental jet, and one annual proficiency check in a turbojet-powered aircraft will suffice. Therefore, if the pilot is type rated in other turbojet-powered aircraft and is taking annual proficiency checks in these aircraft that comply with § 61.58, he or she will not need an additional check to be in compliance with the final revision to § 61.58.

However, in the NPRM regulatory evaluation, the FAA inadvertently did not include the cost of proficiency checks for pilots of experimental jets. The final rule regulatory evaluation includes those costs, but the costs are significantly less than they would have been under the more stringent requirements proposed in the NPRM.

In the NPRM, the FAA proposed replacing the commercial pilot certificate requirement for 10 hours of training in a complex airplane with 10 hours of advanced instrument training. For reasons cited previously, the FAA has elected not to adopt this proposal.

Benefits of This Rule

The quantified benefits of this rule consist of the value of fatalities, injuries and medical and legal expenses as the rule may avert more than 20 accidents if an annual proficiency check is required of pilots in command of those turbojet aircraft that are type certificated for single pilot operation and multi-seat experimental jets. The estimated safety benefits from flights in type certificated turbojets are $38.3 million; and from flights in experimental jets the estimated safety benefits are $58 million. These benefits are associated with the revisions to § 61.58.

Non-quantified benefits include:

• Less work for pilots and aviation authorities and more cooperation that are expected to result from the revision to § 61.71 which will allow the conversion of a foreign pilot license to a U.S. pilot certificate;
• Relieving part 141 schools from the requirements to have a ground training facility and to meet heating, lighting, ventilation, and location requirements for ground training space which is expected to result from the revisions to § 141.45 and § 141.55.

Costs of This Rule

Costs: Total quantifiable costs of the changes, over 10 years, sum to approximately $38.4 million, with cost savings of approximately $1.8 million for a net cost of $36.6 million ($25.3 million discounted by 7% and $31.0 million discounted by 3%).

The FAA estimated $38.4 million of costs associated with the revision to § 61.58, which extended the requirement for annual proficiency checks to pilots in command of single-piloted, turbojet-powered aircraft with an exclusion for those pilots serving as PIC in an experimental jet that possesses, by original design, a single seat and those not carrying passengers. These 10 year costs are based on:

• An estimated 3,006 proficiency checks for pilots of type certificated turbojets at an net average cost of $3,914 per check for a total cost of $11.8 million; and
• An estimated 5,880 proficiency checks for pilots of experimental jets at an net average cost of $4,529 per check for a total cost of $26.6 million.

Cost Savings: The FAA also estimated a total of $1.8 million in cost savings associated with the revisions to § 61.65 and Appendix M to Part 141. These revisions will allow the application for and issuance of an instrument rating concurrently with a private pilot certificate for pilots. Pilots are expected to save money by completing the combined course in less time and taking one exam rather than two.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (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.

Final Regulatory Flexibility Analysis

Section 603 of the Act requires agencies to prepare and make available for public comment a final regulatory flexibility analysis (FRFA) describing the impact of final rules on small entities. Section 603 of the Act specifies the content of a FRFA. Each FRFA must contain:

• A description of the reasons why action by the agency is being considered;
• A succinct statement of the objectives of, and legal basis for, the final rule;
• A description of and, where feasible, an estimate of the number of small entities to which the rule will apply;
• A description of the projected reporting, record keeping and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
• An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the final rule; and

• Each final regulatory flexibility analysis shall also contain a description of any significant alternatives to the final rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the final rule on small entities.

Reasons Why the Final Rule Is Being Promulgated

This rulemaking is being promulgated to ensure that flight crewmembers have the training and qualifications to operate aircraft safely. For this reason, the changes are within the scope of our authority and are a reasonable and necessary exercise of our statutory obligations.

Objectives and Legal Basis for the Rule

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator, including the authority to issue, rescind, and revise regulations. 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, Chapter 447—Safety Regulation. Under section 44701, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations necessary for safety. Under section 44703, the FAA issues an airman certificate to an individual when we find, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. In this final rule, we amend the training, qualification, certification, and operating requirements for pilots.

A description of the small entities the rule will apply to:

Some commenters contested the statement in the NPRM that ''pilots are not entities, so there would not be a small entity impact with regards to pilots.'' However, the Small Business Administration identifies three types of small entities: small business, small organization, and small governmental jurisdiction. Pilots are therefore not considered small entities for purposes of the regulatory flexibility analysis.

However, contrary to our statement in the NPRM, the FAA believes that this rule, by revising § 61.58, will have a significant impact on a substantial number of small entities. The revision to § 61.58 may apply to small corporations that provide air transportation in type certificated single-piloted turbojet-powered aircraft, small businesses that participate in air shows using an experimental jet and small businesses which provide training in multi-seat experimental jet aircraft under an A–115 authorization.

Other revisions that are being finalized with this rule are not expected to have a significant impact on a substantial number of small entities, as was described in the NPRM. The revision allowing foreign pilot applicants to convert their foreign pilot license to a U.S. pilot certificate will affect pilots not small entities. The revision allowing pilot schools to use online training without requiring a physical ground facility is cost relieving and might encourage more schools to provide internet-based ground training, but only if the schools believe the revenues will outweigh the costs. The revision allowing applicants for a private pilot certificate to apply for a combined private pilot certification and instrument rating is expected to be cost relieving to pilots.

Projected Reporting, Recordkeeping and Other Requirements

There are no new paperwork requirements associated with this final rule.

Overlapping, Duplicative, or Conflicting Federal Rules

The FAA has concluded that the final rule will not overlap, duplicate or conflict with existing Federal Rules.

Mitigation of Higher Cost Alternatives

The final rule is expected to have a significant impact on a substantial number of small entities. The most likely net cost for each § 61.58 proficiency check averages $3,914 for type certificated aircraft and $4,529 for experimental aircraft. These costs are expected to have a significant economic impact on operators/owners of one or two aircraft with limited revenue. The FAA however, has revised § 61.58 in the final rule relative to the NPRM by adding several cost relieving elements for experimental jet pilots. Each element can be viewed as a cost relieving alternative. One element excludes pilots who serve as pilot in command of an experimental jet with one seat by original design from the requirement to complete a proficiency check. Another element that applies to pilots of experimental aircraft will allow proficiency checks taken in any turbojet-powered aircraft, consistent with § 61.58, to fulfill the requirement. The FAA expects this to be cost relieving to about 60% of experimental jet pilots who are type rated in other turbojets and who the agency thinks are already completing proficiency checks either because of insurance requirements or employment requirements. Also, the additions to the final rule will relieve the experimental jet pilot from having to take a § 61.58 proficiency check in every experimental jet that he or she pilots: One proficiency check in a turbojet will be sufficient. Another cost relieving element in the final rule that was not in the NPRM is the addition of § 61.58(e), which allows pilots of experimental jets with more than one seat who have not taken proficiency checks to continue to pilot an experimental jet if they do not carry passengers. These provisions will substantially relieve costs of the NPRM requirements.

Although there have been changes from the NPRM to the final rule to mitigate possible costs, the rule will still have a significant economic impact on a substantial number of small entities.

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 they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it ensures the safety of the American public. As a result, this rule is not considered as creating an unnecessary obstacle to foreign commerce.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Executive Order 13132, Federalism

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.

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 307(k) and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or
3. Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy 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. Make sure to identify the notice, amendment, or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

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. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Recreation and recreation areas, Reporting and recordkeeping requirements, Security measures, Teachers.

14 CFR Part 91

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Ethiopia, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Yugoslavia.

14 CFR Part 141

Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

14 CFR Part 142

Administrative practice and procedure, Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools, 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 AND FLIGHT INSTRUCTORS

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

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

■ 2. Amend § 61.1 as follows:

■ a. Redesignating paragraphs (b)(3) through (18) as paragraphs (b)(4) through (19) respectively;

■ b. Add new paragraph (b)(3); and

■ c. Amend newly redesignated (b)(4)(i) introductory text by removing the phrase ''(b)(3)(ii) through (b)(3)(vi)'' and adding the phrase ''(b)(4)(ii) through (b)(4)(vi)'' in its place.

The addition reads as follows:

§ 61.1 Applicability and definitions.

* * * * *

(b) * * *

(3) *Complex airplane* means an airplane that has a retractable landing gear, flaps, and a controllable pitch propeller, including airplanes equipped with an engine control system consisting of a digital computer and associated accessories for controlling the engine and propeller, such as a full authority digital engine control; or, in the case of a seaplane, flaps and a controllable pitch propeller, including seaplanes equipped with an engine control system consisting of a digital computer and associated accessories for controlling the engine and propeller, such as a full authority digital engine control.

* * * * *

■ 3. Amend § 61.31 by revising paragraph (e)(1) introductory text to read as follows:

§ 61.31 Type rating requirements, additional training, and authorization requirements.

* * * * *

(e) * * *

(1) Except as provided in paragraph (e)(2) of this section, no person may act as pilot in command of a complex airplane, unless the person has—

* * * * *

■ 4. Amend § 61.51 by revising paragraph (b)(1)(v) to read as follows:

§ 61.51 Pilot logbooks.

* * * * *

(b) * * *

(v) The name of a safety pilot, if required by § 91.109 of this chapter.

* * * * *

■ 5. Amend § 61.55 by revising paragraph (f)(4) to read as follows:

§ 61.55 Second-in-command qualifications.

* * * * *

(f) * * *

(4) Designated as a safety pilot for purposes required by § 91.109 of this chapter.

* * * * *

■ 6. Amend § 61.58 as follows:

■ a. Revise the section heading and paragraphs (a) and (d)(1) through (4);

■ b. Add paragraph (d)(5);

■ c. Redesignate paragraphs (e) through (g) as paragraphs (g) through (i), respectively;

■ d. Add new paragraphs (e) and (f);

■ e. Amend newly redesignated paragraph (g) introductory text by removing the phrase ''paragraphs (d)(1) through (d)(4)'' and adding in its place the phrase ''paragraphs (d)(1) through (5)'':

■ f. Amend newly redesignated paragraph (g)(1) introductory text by removing the phrase ''paragraphs (e)(2) and (e)(3)'' and adding in its place the phrase ''paragraphs (g)(2) and (3)'';

■ g. Amend newly redesignated paragraph (g)(2) introductory text by removing the phrase ''paragraph (e)'' and adding in its place the phrase ''paragraph (g)''; and

■ h. Amend newly redesignated paragraph (g)(3) introductory text by removing the phrase ''paragraph (e)'' and adding in its place the phrase ''paragraph (g)''.

The revisions and additions read as follows:

§ 61.58 Pilot-in-command proficiency check: Operation of an aircraft that requires more than one pilot flight crewmember or is turbojet-powered.

(a) Except as otherwise provided in this section, to serve as pilot in command of an aircraft that is type certificated for more than one required pilot flight crewmember or is turbojet-powered, a person must—

(1) Within the preceding 12 calendar months, complete a pilot-in-command proficiency check in an aircraft that is type certificated for more than one required pilot flight crewmember or is turbojet-powered; and

(2) Within the preceding 24 calendar months, complete a pilot-in-command proficiency check in the particular type of aircraft in which that person will serve as pilot in command, that is type certificated for more than one required pilot flight crewmember or is turbojet-powered.

* * * * *

(d) * * *

(1) A pilot-in-command proficiency check conducted by a person authorized by the Administrator, consisting of the aeronautical knowledge areas, areas of operations, and tasks required for a type rating, in an aircraft that is type certificated for more than one pilot flight crewmember or is turbojet-powered;

(2) The practical test required for a type rating, in an aircraft that is type certificated for more than one required pilot flight crewmember or is turbojet-powered;

(3) The initial or periodic practical test required for the issuance of a pilot examiner or check airman designation, in an aircraft that is type certificated for more than one required pilot flight crewmember or is turbojet-powered;

(4) A pilot proficiency check administered by a U.S. Armed Force that qualifies the military pilot for pilot-in-command designation with instrument privileges, and was performed in a military aircraft that the military requires to be operated by more than one pilot flight crewmember or is turbojet-powered;

(5) For a pilot authorized by the Administrator to operate an experimental turbojet-powered aircraft that possesses, by original design or through modification, more than a single seat, the required proficiency check for all of the experimental turbojet-powered aircraft for which the pilot holds an authorization may be accomplished by completing any one of the following:

(i) A single proficiency check, conducted by an examiner authorized by the Administrator, in any one of the experimental turbojet-powered aircraft for which the airman holds an authorization to operate if conducted within the prior 12 months;

(ii) A single proficiency check, conducted by an examiner authorized by the Administrator, in any experimental turbojet-powered aircraft (*e.g.*, if a pilot acquires a new authorization to operate an additional experimental turbojet-powered aircraft, the check for that new authorization will meet the intent), if conducted within the prior 12 months;

(iii) Current qualification under an Advanced Qualification Program (AQP) under subpart Y of part 121 of this chapter;

(iv) Any proficiency check conducted under subpart K of part 91, part 121, or part 135 of this chapter within the prior 12 months if conducted in a turbojet-powered aircraft; or

(v) Any other § 61.58 proficiency check conducted within the prior 12 months if conducted in a turbojet-powered aircraft.

(e) The pilot of a multi-seat experimental turbojet-powered aircraft who has not received a proficiency check within the prior 12 months in accordance with this section may continue to operate such aircraft in accordance with the pilot's authorizations. However, the pilot is prohibited from carriage of any persons in any experimental turbojet-powered aircraft with the exception of those individuals authorized by the Administrator to conduct training, conduct flight checks, or perform pilot certification functions in such aircraft, and only during flights specifically related to training, flight checks, or certification in such aircraft.

(f) This section will not apply to a pilot authorized by the Administrator to serve as pilot in command in experimental turbojet-powered aircraft that possesses, by original design, a single seat, when operating such single-seat aircraft.

* * * * *

■ 7. Amend § 61.65 as follows:

■ a. Revise paragraphs (a)(1), (d)(1), (e)(1), and (f)(1);

■ b. Redesignate paragraphs (g) and (h) as paragraphs (h) and (i);

■ c. Add new paragraph (g).

The revisions and additions read as follows:

§ 61.65 Instrument rating requirements.

(a) * * *

(1) Hold at least a current private pilot certificate, or be concurrently applying for a private pilot certificate, with an airplane, helicopter, or powered-lift rating appropriate to the instrument rating sought;

* * * * *

(d) * * *

(1) Except as provided in paragraph (g) of this section, 50 hours of cross-country flight time as pilot in command, of which 10 hours must have been in an airplane; and

* * * * *

(e) * * *

(1) Except as provided in paragraph (g) of this section, 50 hours of cross-country flight time as pilot in command, of which 10 hours must have been in a helicopter; and

* * * * *

(f) * * *

(1) Except as provided in paragraph (g) of this section, 50 hours of cross-country flight time as pilot in command, of which 10 hours must have been in a powered-lift; and

* * * * *

(g) An applicant for a combined private pilot certificate with an instrument rating may satisfy the cross-country flight time requirements of this section by crediting:

(1) For an instrument-airplane rating or an instrument-powered-lift rating, up to 45 hours of cross-country flight time performing the duties of pilot in command with an authorized instructor; or

(2) For an instrument-helicopter rating, up to 47 hours of cross-country flight time performing the duties of pilot in command with an authorized instructor.

* * * * *

■ 8. Amend § 61.71 by adding paragraph (c) to read as follows:

§ 61.71 Graduates of an approved training program other than under this part: Special rules.

* * * * *

(c) A person who holds a foreign pilot license and is applying for an equivalent U.S. pilot certificate on the basis of a Bilateral Aviation Safety Agreement and associated Implementation Procedures for Licensing is considered to have met the applicable aeronautical experience, aeronautical knowledge, and areas of operation requirements of this part.

PART 91—GENERAL OPERATING AND FLIGHT RULES

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

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

■ 10. Amend SFAR No. 108 by revising paragraph (b)(3) of section 2 to read as follows:

Special Federal Aviation Regulation No. 108—Mitsubishi MU–28 Series Special Training, Experience, and Operating Requirements

* * * * *

2. * * *

(b) * * *

(3) The pilot-in-command is conducting a simulated instrument flight and is using a safety pilot other than the pilot-in-command who manipulates the controls for the purposes of 14 CFR 91.109, and no passengers or cargo are carried on board the airplane.

* * * * *

■ 11. Amend § 91.109 as follows:

■ a. Revise paragraph (a) introductory text;

■ b. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively;

■ c. Add new paragraph (b).

The revision and addition read as follows:

§ 91.109 Flight instruction; simulated instrument flight and certain flight tests.

(a) No person may operate a civil aircraft (except a manned free balloon) that is being used for flight instruction unless that aircraft has fully functioning dual controls. However, instrument flight instruction may be given in an airplane that is equipped with a single, functioning throwover control wheel that controls the elevator and ailerons, in place of fixed, dual controls, when—

* * * * *

(b) An airplane equipped with a single, functioning throwover control wheel that controls the elevator and ailerons, in place of fixed, dual controls may be used for flight instruction to conduct a flight review required by § 61.56 of this chapter, or to obtain recent flight experience or an instrument proficiency check required by § 61.57 when—

(1) The airplane is equipped with operable rudder pedals at both pilot stations;

(2) The pilot manipulating the controls is qualified to serve and serves as pilot in command during the entire flight;

(3) The instructor is current and qualified to serve as pilot in command of the airplane, meets the requirements of § 61.195(b), and has logged at least 25 hours of pilot-in-command flight time in the make and model of airplane; and

(4) The pilot in command and the instructor have determined the flight can be conducted safely.

* * * * *

PART 141—PILOT SCHOOLS

■ 12. The authority citation for 14 CFR part 141 continues to read as follows:

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

■ 13. Revise § 141.45 to read as follows:

§ 141.45 Ground training facilities.

An applicant for a pilot school or provisional pilot school certificate must show that:

(a) Except as provided in paragraph (c) of this section, each room, training booth, or other space used for instructional purposes is heated, lighted, and ventilated to conform to local building, sanitation, and health codes.

(b) Except as provided in paragraph (c) of this section, the training facility is so located that the students in that facility are not distracted by the training conducted in other rooms, or by flight and maintenance operations on the airport.

(c) If a training course is conducted through an internet-based medium, the holder of a pilot school certificate or provisional pilot school certificate that provides such training need not comply with paragraphs (a) and (b) of this section but must maintain in current status a permanent business location and business telephone number.

■ 14. Amend § 141.53 by adding paragraph (d) to read as follows:

§ 141.53 Approval procedures for a training course: General.

* * * * *

(d) *Additional rules for internet based training courses.* An application for an initial or amended training course offered through an internet based medium must comply with the following:

(1) All amendments must be identified numerically by page, date, and screen. Minor editorial and typographical changes do not require FAA approval, provided the school notifies the FAA within 30 days of their insertion.

(2) For monitoring purposes, the school must provide the FAA an acceptable means to log-in and log-off from a remote location to review all elements of the course as viewed by attendees and to by-pass the normal attendee restrictions.

(3) The school must incorporate adequate security measures into its internet-based courseware information system and into its operating and maintenance procedures to ensure the following fundamental areas of security and protection:

(i) Integrity.

(ii) Identification/Authentication.

(iii) Confidentiality.

(iv) Availability.

(v) Access control.

■ 15. Amend § 141.55 by revising paragraph (c)(1) to read as follows:

§ 141.55 Training course: Contents.

* * * * *

(c) * * *

(1) A description of each room used for ground training, including the room's size and the maximum number of students that may be trained in the room at one time, unless the course is provided via an internet-based training medium;

* * * * *

■ 16. Amend § 141.93 by revising paragraph (a)(3) introductory text to read as follows:

§ 141.93 Enrollment.

(a) * * *

(3) Except for a training course offered through an internet based medium, a

copy of the safety procedures and practices developed by the school that describe the use of the school's facilities and the operation of its aircraft. Those procedures and practices shall include training on at least the following information—

* * * * *

■ 17. Amend § 141.95 by adding paragraph (b)(8) to read as follows:

§ 141.95 Graduation Certificate.

* * * * *

(b) * * *

(8) Certificates issued upon graduating from a course based on internet media must be uniquely identified using an alphanumeric code that is specific to the student graduating from that course.

■ 18. Amend § 141.101 by revising paragraph (a)(3) to read as follows:

§ 141.101 Training records.

(a) * * *

(3) The date the student graduated, terminated training, or transferred to another school. In the case of graduation from a course based on internet media, the school must maintain the identifying graduation certificate code required by § 141.95(b)(8).

* * * * *

■ 19. Add new Appendix M to Part 141 to read as follows:

Appendix M to Part 141—Combined Private Pilot Certification and Instrument Rating Course

1. *Applicability.* This appendix prescribes the minimum curriculum for a combined private pilot certification and instrument rating course required under this part, for the following ratings:

(a) Airplane.

(1) Airplane single-engine.

(2) Airplane multiengine.

(b) Rotorcraft helicopter.

(c) Powered-lift.

2. *Eligibility for enrollment.* A person must hold a sport pilot, recreational, or student pilot certificate prior to enrolling in the flight portion of a combined private pilot certification and instrument rating course.

3. *Aeronautical knowledge training.*

(a) Each approved course must include at least 65 hours of ground training on the aeronautical knowledge areas listed in paragraph (b) of this section that are appropriate to the aircraft category and class rating of the course:

(b) Ground training must include the following aeronautical knowledge areas:

(1) Applicable Federal Aviation Regulations for private pilot privileges, limitations, flight operations, and instrument flight rules (IFR) flight operations.

(2) Accident reporting requirements of the National Transportation Safety Board.

(3) Applicable subjects of the ''Aeronautical Information Manual'' and the appropriate FAA advisory circulars.

(4) Aeronautical charts for visual flight rules (VFR) navigation using pilotage, dead reckoning, and navigation systems.

(5) Radio communication procedures.

(6) Recognition of critical weather situations from the ground and in flight, windshear avoidance, and the procurement and use of aeronautical weather reports and forecasts.

(7) Safe and efficient operation of aircraft under instrument flight rules and conditions.

(8) Collision avoidance and recognition and avoidance of wake turbulence.

(9) Effects of density altitude on takeoff and climb performance.

(10) Weight and balance computations.

(11) Principles of aerodynamics, powerplants, and aircraft systems.

(12) If the course of training is for an airplane category, stall awareness, spin entry, spins, and spin recovery techniques.

(13) Air traffic control system and procedures for instrument flight operations.

(14) IFR navigation and approaches by use of navigation systems.

(15) Use of IFR en route and instrument approach procedure charts.

(16) Aeronautical decision making and judgment.

(17) Preflight action that includes—

(i) How to obtain information on runway lengths at airports of intended use, data on takeoff and landing distances, weather reports and forecasts, and fuel requirements.

(ii) How to plan for alternatives if the planned flight cannot be completed or delays are encountered.

(iii) Procurement and use of aviation weather reports and forecasts, and the elements of forecasting weather trends on the basis of that information and personal observation of weather conditions.

4. *Flight training.*

(a) Each approved course must include at least 70 hours of training, as described in section 4 and section 5 of this appendix, on the approved areas of operation listed in paragraph (d) of section 4 of this appendix that are appropriate to the aircraft category and class rating of the course:

(b) Each approved course must include at least the following flight training:

(1) *For an airplane single engine course:* 70 hours of flight training from an authorized instructor on the approved areas of operation in paragraph (d)(1) of this section that includes at least—

(i) Except as provided in § 61.111 of this chapter, 3 hours of cross-country flight training in a single engine airplane.

(ii) 3 hours of night flight training in a single-engine airplane that includes—

(A) One cross-country flight of more than 100 nautical miles total distance.

(B) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(iii) 35 hours of instrument flight training in a single-engine airplane that includes at least one cross-country flight that is performed under IFR and—

(A) Is a distance of at least 250 nautical miles along airways or air traffic control-directed (ATC-directed) routing with one segment of the flight consisting of at least a straight-line distance of 100 nautical miles between airports.

(B) Involves an instrument approach at each airport.

(C) Involves three different kinds of approaches with the use of navigation systems.

(iv) 3 hours of flight training in a single-engine airplane in preparation for the practical test within 60 days preceding the date of the test.

(2) *For an airplane multiengine course:* 70 hours of training from an authorized instructor on the approved areas of operation in paragraph (d)(2) of this section that includes at least—

(i) Except as provided in § 61.111 of this chapter, 3 hours of cross-country flight training in a multiengine airplane.

(ii) 3 hours of night flight training in a multiengine airplane that includes—

(A) One cross-country flight of more than 100 nautical miles total distance.

(B) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(iii) 35 hours of instrument flight training in a multiengine airplane that includes at least one cross-country flight that is performed under IFR and—

(A) Is a distance of at least 250 nautical miles along airways or ATC-directed routing with one segment of the flight consisting of at least a straight-line distance of 100 nautical miles between airports.

(B) Involves an instrument approach at each airport.

(C) Involves three different kinds of approaches with the use of navigation systems.

(iv) 3 hours of flight training in a multiengine airplane in preparation for the practical test within 60 days preceding the date of the test.

(3) *For a rotorcraft helicopter course:* 70 hours of training from an authorized instructor on the approved areas of operation in paragraph (d)(3) of this section that includes at least—

(i) Except as provided in § 61.111 of this chapter, 3 hours of cross-country flight training in a helicopter.

(ii) 3 hours of night flight training in a helicopter that includes—

(A) One cross-country flight of more than 50 nautical miles total distance.

(B) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(iii) 35 hours of instrument flight training in a helicopter that includes at least one cross-country flight that is performed under IFR and—

(A) Is a distance of at least 100 nautical miles along airways or ATC-directed routing with one segment of the flight consisting of at least a straight-line distance of 50 nautical miles between airports.

(B) Involves an instrument approach at each airport.

(C) Involves three different kinds of approaches with the use of navigation systems.

(iv) 3 hours of flight training in a helicopter in preparation for the practical test within 60 days preceding the date of the test.

(4) *For a powered-lift course:* 70 hours of training from an authorized instructor on the

approved areas of operation in paragraph (d)(4) of this section that includes at least—

(i) Except as provided in § 61.111 of this chapter, 3 hours of cross-country flight training in a powered-lift.

(ii) 3 hours of night flight training in a powered-lift that includes—

(A) One cross-country flight of more than 100 nautical miles total distance.

(B) 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport.

(iii) 35 hours of instrument flight training in a powered-lift that includes at least one cross-country flight that is performed under IFR and—

(A) Is a distance of at least 250 nautical miles along airways or ATC-directed routing with one segment of the flight consisting of at least a straight-line distance of 100 nautical miles between airports.

(B) Involves an instrument approach at each airport.

(C) Involves three different kinds of approaches with the use of navigation systems.

(iv) 3 hours of flight training in a powered-lift in preparation for the practical test, within 60 days preceding the date of the test.

(c) For use of flight simulators or flight training devices:

(1) The course may include training in a combination of flight simulators, flight training devices, and aviation training device, provided it is representative of the aircraft for which the course is approved, meets the requirements of this section, and the training is given by an authorized instructor.

(2) Training in a flight simulator that meets the requirements of § 141.41(a) of this part may be credited for a maximum of 35 percent of the total flight training hour requirements of the approved course, or of this section, whichever is less.

(3) Training in a flight training device or aviation training device that meets the requirements of § 141.41(b) of this part may be credited for a maximum of 25 percent of the total flight training hour requirements of the approved course, or of this section, whichever is less.

(4) Training in a combination of flight simulators, flight training devices, or aviation training devices, described in paragraphs (c)(2) and (c)(3) of this section, may be credited for a maximum of 35 percent of the total flight training hour requirements of the approved course, or of this section, whichever is less. However, credit for training in a flight training device and aviation training device, that meets the requirements of § 141.41(b), cannot exceed the limitation provided for in paragraph (c)(3) of this section.

(d) Each approved course must include the flight training on the approved areas of operation listed in this section that are appropriate to the aircraft category and class rating course—

(1) *For a combined private pilot certification and instrument rating course involving a single-engine airplane:*

(i) Preflight preparation.

(ii) Preflight procedures.

(iii) Airport and seaplane base operations.

(iv) Takeoffs, landings, and go-arounds.

(v) Performance maneuvers.

(vi) Ground reference maneuvers.

(vii) Navigation and navigation systems.

(viii) Slow flight and stalls.

(ix) Basic instrument maneuvers and flight by reference to instruments.

(x) Instrument approach procedures.

(xi) Air traffic control clearances and procedures.

(xii) Emergency operations.

(xiii) Night operations.

(xiv) Postflight procedures.

(2) *For a combined private pilot certification and instrument rating course involving a multiengine airplane:*

(i) Preflight preparation.

(ii) Preflight procedures.

(iii) Airport and seaplane base operations.

(iv) Takeoffs, landings, and go-arounds.

(v) Performance maneuvers.

(vi) Ground reference maneuvers.

(vii) Navigation and navigation systems.

(viii) Slow flight and stalls.

(ix) Basic instrument maneuvers and flight by reference to instruments.

(x) Instrument approach procedures.

(xi) Air traffic control clearances and procedures.

(xii) Emergency operations.

(xiii) Multiengine operations.

(xiv) Night operations.

(xv) Postflight procedures.

(3) *For a combined private pilot certification and instrument rating course involving a rotorcraft helicopter:*

(i) Preflight preparation.

(ii) Preflight procedures.

(iii) Airport and heliport operations.

(iv) Hovering maneuvers.

(v) Takeoffs, landings, and go-arounds.

(vi) Performance maneuvers.

(vii) Navigation and navigation systems.

(viii) Basic instrument maneuvers and flight by reference to instruments.

(ix) Instrument approach procedures.

(x) Air traffic control clearances and procedures.

(xi) Emergency operations.

(xii) Night operations.

(xiii) Postflight procedures.

(4) *For a combined private pilot certification and instrument rating course involving a powered-lift:*

(i) Preflight preparation.

(ii) Preflight procedures.

(iii) Airport and heliport operations.

(iv) Hovering maneuvers.

(v) Takeoffs, landings, and go-arounds.

(vi) Performance maneuvers.

(vii) Ground reference maneuvers.

(viii) Navigation and navigation systems.

(ix) Slow flight and stalls.

(x) Basic instrument maneuvers and flight by reference to instruments.

(xi) Instrument approach procedures.

(xii) Air traffic control clearances and procedures.

(xiii) Emergency operations.

(xiv) Night operations.

(xv) Postflight procedures.

5. *Solo flight training.* Each approved course must include at least the following solo flight training:

(a) *For a combined private pilot certification and instrument rating course involving an airplane single engine:* Five hours of flying solo in a single-engine airplane on the appropriate areas of operation in paragraph (d)(1) of section 4 of this appendix that includes at least—

(1) One solo cross-country flight of at least 100 nautical miles with landings at a minimum of three points, and one segment of the flight consisting of a straight-line distance of at least 50 nautical miles between the takeoff and landing locations.

(2) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(b) *For a combined private pilot certification and instrument rating course involving an airplane multiengine:* Five hours of flying solo in a multiengine airplane or 5 hours of performing the duties of a pilot in command while under the supervision of an authorized instructor. The training must consist of the appropriate areas of operation in paragraph (d)(2) of section 4 of this appendix, and include at least—

(1) One cross-country flight of at least 100 nautical miles with landings at a minimum of three points, and one segment of the flight consisting of a straight-line distance of at least 50 nautical miles between the takeoff and landing locations.

(2) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(c) *For a combined private pilot certification and instrument rating course involving a helicopter:* Five hours of flying solo in a helicopter on the appropriate areas of operation in paragraph (d)(3) of section 4 of this appendix that includes at least—

(1) One solo cross-country flight of more than 50 nautical miles with landings at a minimum of three points, and one segment of the flight consisting of a straight-line distance of at least 25 nautical miles between the takeoff and landing locations.

(2) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

(d) *For a combined private pilot certification and instrument rating course involving a powered-lift:* Five hours of flying solo in a powered-lift on the appropriate areas of operation in paragraph (d)(4) of section 4 of this appendix that includes at least—

(1) One solo cross-country flight of at least 100 nautical miles with landings at a minimum of three points, and one segment of the flight consisting of a straight-line distance of at least 50 nautical miles between the takeoff and landing locations.

(2) Three takeoffs and three landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport with an operating control tower.

6. *Stage checks and end-of-course tests.*

(a) Each student enrolled in a private pilot course must satisfactorily accomplish the stage checks and end-of-course tests in accordance with the school's approved training course that consists of the approved areas of operation listed in paragraph (d) of section 4 of this appendix that are

appropriate to the aircraft category and class rating for which the course applies.

(b) Each student must demonstrate satisfactory proficiency prior to receiving an endorsement to operate an aircraft in solo flight.

PART 142—TRAINING CENTERS

■ 20. The authority citation for 14 CFR part 142 continues to read as follows:

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

■ 21. Amend § 142.3 by revising the definition of *Flight training equipment* to read as follows:

§ 142.3 Definitions.

* * * * *

Flight training equipment means flight simulators, as defined in § 61.1(b)(6) of this chapter, flight training devices, as defined in § 61.1(b)(8) of this chapter, and aircraft.

* * * * *

Issued in Washington, DC, on August 19, 2011.

J. Randolph Babbitt,

Administrator.

[FR Doc. 2011–22308 Filed 8–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 55

[CRT Docket No. 121; A.G. Order No. 3291–2011]

Attorney General's Guidelines on Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups

AGENCY: Civil Rights Division, Department of Justice.

ACTION: Final rule.

SUMMARY: This rule updates the Attorney General's interpretative guidelines under the language minority provisions of the Voting Rights Act, which require certain states and political subdivisions to conduct elections in the language of certain ''language minority groups'' in addition to English. The rule reflects 2006 statutory amendments extending the time period for which covered jurisdictions must adhere to the minority language requirements in sections 4(f)(4) and 203 of the Voting Rights Act. The rule also amends the Appendix to the guidelines to reflect 2002 coverage determinations based upon the 2000 Census made by the Director of the Census pursuant to section 203(b) of the Act. It also makes technical changes to conform the guidelines to the 2006 and 2008 amendments to the Voting Rights Act, the 2002 Census determinations, and a 2009 Supreme Court decision, as well as to add or correct statutory citations.

DATES: *Effective Date:* August 31, 2011.

FOR FURTHER INFORMATION CONTACT: T. Christian Herren, Jr., Chief, Voting Section, Civil Rights Division, United States Department of Justice, Room 7254–NWB, 950 Pennsylvania Avenue, NW., Washington, DC 20530, or by telephone at 800–253–3931.

SUPPLEMENTARY INFORMATION: Section 203 of the Voting Rights Act, which requires covered jurisdictions to use languages in addition to English in the electoral process, was added to the Voting Rights Act in 1975, and was amended and extended in 1982, 1992, and, most recently, on July 27, 2006. 120 Stat. 577, Public Law 109–246. The 2006 amendments to the Voting Rights Act extended the requirements of section 203 until August 6, 2032. Section 4(f)(4) of the Voting Rights Act, which requires certain jurisdictions covered by the other special provisions of the Act to use languages in addition to English in the electoral process, was added to the Voting Rights Act in 1975, and was extended in 1982 and in 2006. The 2006 amendments to the Voting Rights Act extended the requirements of section 4(f)(4) until 25 years from the July 27, 2006 date of the enactment of those amendments.

Pursuant to section 203(b) of the Voting Rights Act, 42 U.S.C. 1973aa–1a(b), the Director of the Census published in the **Federal Register** on July 26, 2002, new determinations of coverage based upon the 2000 Census. 67 FR 48871. Under the terms of section 203(b)(4), these determinations became effective upon publication in the **Federal Register** and are not subject to judicial review. Also, on July 26, 2002, the Assistant Attorney General of the Civil Rights Division sent a letter to each covered jurisdiction to notify the jurisdiction of the determinations of coverage, the language minority group or groups for which the jurisdiction is covered, and to provide suggestions to the jurisdiction for developing a successful program of compliance. These letters provided the jurisdictions with a copy of the Census determinations, as published on July 26, 2002, in the **Federal Register**, and a copy of the then-existing Attorney General's interpretative guidelines, 28 CFR part 55.

This rule conforms the Attorney General's language minority interpretative guidelines, 28 CFR part 55, to the new determinations of coverage. No new determinations of coverage have been made pursuant to section 4(f)(4) of the Act. Further information about the language minority requirements of the Act can be found on the Web site of the Voting Section of the U.S. Department of Justice Civil Rights Division at *http://www.justice.gov/crt/voting.*

The definition of ''Act'' in § 55.1 (describing the amendments to the Voting Rights Act) has been amended to reflect the fact of the enactment of the 2006 and 2008 amendments to the Voting Rights Act. Paragraph (a) of § 55.4 has been amended to add statutory citations. Paragraphs (a) and (b) of § 55.7 have been amended to reflect the extension of the time period for the requirements of sections 4(f)(4) and 203 contained in the 2006 amendments to the Voting Rights Act. These paragraphs also have been amended to clarify that earlier termination of these requirements is possible through a bailout action, and to incorporate the United States Supreme Court's interpretation of the bailout provision of section 4(a) of the Voting Rights Act contained in *Northwest Austin Municipal Utility District Number One* v. *Holder,* 557 U.S. ____, 129 S. Ct. 2504 (2009). Paragraph (b) of § 55.8 has been amended to reflect the change in the 2006 amendments to the Voting Rights Act repealing provisions relating to Federal examiners and substituting references to federal observers. The last sentence in § 55.11 has been amended to reflect the manner in which the Director of the Census reported the new coverage determinations under Section 203 after the 2000 Census. Paragraph (b) of § 55.23 is amended to correct an erroneous statutory citation. The Appendix to Part 55 has been revised to reflect the 2002 determinations of the Director of the Census based upon 2000 Census data.

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This rule amends interpretative rules and is therefore exempt from the notice requirement of 5 U.S.C. 553(b) and the opportunity for public participation requirement of 5 U.S.C. 553(c), and the delayed effective date requirement of 5 U.S.C. 553(d) is not mandatory. As provided in 28 CFR 55.24, comments and suggestions from interested persons on the Attorney General's language minority guidelines are always welcome.