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RE: FAA Notice of Proposed Rulemaking, Regulatory Review: Aviation Training Devices; Pilot Certification, Training, and Pilot Schools; and Other Provisions
Docket No. FAA-2016-6142, Notice No. 16-02 (May 12, 2016)

To Whom It May Concern:

The Aircraft Owners and Pilots Association (AOPA), the world's largest aviation membership association, applauds the Federal Aviation Administration (FAA) for its efforts in responding to industry demands and preparing the notice of proposed rulemaking (NPRM), "Regulatory Relief: Aviation Training Devices; Pilot Certification, Training, and Pilot Schools; and Other Provisions," published in the *Federal Register* on May 12, 2016. The NPRM addresses a wide-range of critical issues which have hindered the general aviation (GA) community, and AOPA is pleased to see the agency taking the necessary correction action.

AOPA and its members have long supported the FAA's efforts to strengthen, clarify, and address pressing rulemaking issues in the GA community. The NPRM covers a diverse area of issues in pilot training and certification, and each one is important and receives special attention. AOPA appreciates the opportunity to provide comments and feedback to the FAA on these new proposals that will tremendously benefit pilots and the community as a whole. AOPA's recommendations are meant to, among other things, accomplish the following:

- Ensure that a pilot can use any combination of an appropriate aircraft, full flight simulator (FFS), flight training device (FTD), or an aviation training device (ATD) for purposes of satisfying the instrument currency requirements in 14 CFR § 61.57(c)(1).¹
- Ensure that a pilot serving as a second-in-command (SIC) in a part 135 operation under IFR may still comply with the instrument currency requirements in part 61.
- Expand the proposed SIC professional development program (PDP) in a part 135 operation to include single-engine turbine-powered airplanes, not just multi-engine airplanes.

¹ All references to parts or sections shall hereinafter refer to Title 14 of the Code of Federal Regulations, unless otherwise stated.

- Restore the ability for a pilot—serving as SIC in an airplane required to have more than one pilot flight crewmember by the airplane’s flight manual, type certificate, or regulations under which the flight is being conducted—to credit such SIC flight time toward the 1,500 hours of total time required for airline transport pilot (ATP) certification under § 61.159.
- Ensure the definition of “technically advanced airplane (TAA)” in § 61.1 is not prescriptive, encourages the retrofitting of existing GA airplanes, benefits the flight training community, and improves safety.
- Ensure that a commercial pilot or flight instructor applicant may *combine* the use of a TAA, complex airplane, or turbine-powered airplane during their flight training.
- Preclude sport pilot flight instructors (certificated under subpart K), who also hold at least a private pilot certificate with a single-engine airplane rating, from being required to obtain the endorsement under proposed § 61.412.
- Allow sport pilot flight instructors (certificated under subpart K) to use an ATD for meeting the flight training requirements necessary for the endorsement under proposed § 61.412.
- Allow *all* flight training received from sport pilot flight instructors (certificated only under subpart K) to be credited toward a recreational or private pilot certificate.
- Make available an online service for *all* pilots and airmen to request and obtain a temporary document confirming medical certification, not just for airmen operating on behalf of part 119 certificate holders.
- Restore the ability of operators and pilots to conduct flight training and practical tests necessary for the issuance of a type rating in a restricted category aircraft without obtaining a letter of deviation authority (LODA).
- Ensure the proposed regulatory amendments are clear, unambiguous, and accomplish the FAA’s purpose and intent identified in the preamble.

Recommendations to the Proposed Amendments

The FAA has proposed twelve (12) categories of changes to a number of sections in 14 CFR parts 61, 63, 91, 121, 135, and 141. AOPA is pleased to provide the FAA with the following recommendations to each of the twelve types of changes being proposed.

Issue 1: Instructor Requirement When Using an FFS, FTD, or ATD to Complete Instrument Recency

Recommendation: Adopt proposed § 61.51(g)(4) and (5) without amendment.

Under current § 61.51(g)(4), an instructor must be present in order for a pilot to accomplish instrument recency experience in a flight simulation training device (FSTD) or an aviation training device (ATD). In contrast, pilots who perform such instrument recency experience in an *aircraft* do not need an instructor present. In 2009, when the FAA finalized rule changes to part 61, the FAA stated in its preamble that it did not intend for an instructor to be present during the performance of instrument currency requirements in an ATD. (74 Fed. Reg. 42500, 42518 (Aug. 21, 2009).) However, that intention was not properly implemented in the regulatory language.

Proposed § 61.51(g)(4) and (5) would require an instructor to be present when using a FSTD or ATD for instrument aeronautical experience, but not for accomplishing instrument recency experience. AOPA agrees with and supports the proposed changes and appreciates the agency's correction of this inadvertent result from the 2009 final rule. The change would reduce the cost of meeting the instrument currency requirements by not having to pay for an instructor, encourage further use of ATDs for practicing instrument procedures beyond the minimum requirements set out in part 61, and enhance safety in the national airspace system.

Recommendation: Modify the definition of “aviation training device” in § 61.1(b).

The FAA has proposed a definition in § 61.1(b) for aviation training device. AOPA recommends removing the language “evaluated, qualified,” which is redundant to “approve,” to read as follows:

Aviation training device means a training device, other than a full flight simulator or flight training device, that has been ~~evaluated, qualified, and~~ approved by the Administrator.

In certain circumstances, the FAA may also need the ability to approve an ATD without “evaluating” and/or “qualifying” the ATD. For instance, if an ATD model has already been approved, then identical reproductions of that same model may not need to be evaluated and qualified. This minor modification will ensure the FAA has the ability to approve an ATD without an evaluation or qualification, if the need arises.

Issue 2: Instrument Recency Experience Requirements

Recommendation: Allow ATDs to be used in an equivalent manner as an aircraft, FFS, or FTD, to satisfy instrument currency requirements in § 61.57(c).

Under current § 61.57(c), the FAA sets the minimum instrument currency requirements for instrument-rated pilots. Section 61.57(c) sets more restrictive standards for meeting instrument currency in an ATD than satisfying currency requirements in an aircraft, FFS, FSTD,

or any combination thereof. When § 61.57(c) was promulgated in 2009, the FAA based this distinction on the conclusion that the ATD was a “relatively new concept” that the FAA wanted to “further evaluate” before allowing its use to be equivalent to the use of FFS or FTDs. (*See* 74 Fed. Reg. at 42517.)

AOPA strongly agrees with the FAA that this conclusion is no longer true and ATDs have progressed significantly since 2009. As the agency notes, “ATD development has advanced to an impressive level of capability.” (81 Fed. Reg. 29720, 29723 (May 12, 2016).) The FAA should allow the use of ATDs in an equivalent manner as aircraft, FFS, or FTD, for the purpose of meeting the existing instrument currency requirements required in current § 61.57(c). Therefore, AOPA recommends the FAA adopt proposed § 61.57(c)(2) in accordance with the corrections provided below.

Recommendation: Modify proposed § 61.57(c) to enable the *combined* use of aircraft, FFS, FTD, and ATD for meeting instrument currency requirements.

Within six months of any given IFR flight or flight in instrument meteorological conditions (IMC), current § 61.57(c) requires the instrument-rated pilot to perform six instrument approaches, holding procedures and tasks, and intercepting and tracking courses through the use of navigational electronic systems. The FAA’s intent is for pilots to satisfy these currency requirements regardless of whether the pilot uses an aircraft, FFS, FTD, or ATD. As the agency stated in the NPRM, “As proposed, a pilot would be permitted to complete instrument recency experience in *any combination of* aircraft, FFS, FTD, or ATD.” (81 Fed. Reg. at 29725 (emphasis added).) AOPA agrees with the FAA’s stated approach.

Unfortunately, the actual amended language proposed does not match the FAA’s intent and needs to be revised. Proposed § 61.57(c)(1) and (2), if adopted, would read as follows (FAA’s proposed amendment highlighted in red):

(c) *Instrument experience.* Except as provided in paragraph (e) of this section, a person may act as pilot in command under IFR or weather conditions less than the minimums prescribed for VFR only if:

(1) *Use of an airplane, powered-lift, helicopter, or airship for maintaining instrument experience.* Within the 6 calendar months preceding the month of the flight, that person performed and logged at least the following tasks and iterations in **an airplane, powered-lift, helicopter, or airship, as appropriate**, for the instrument rating privileges to be maintained in actual weather conditions, or under simulated conditions using a view-limiting device that involves having performed the following—

- (i) Six instrument approaches.
- (ii) Holding procedures and tasks.
- (iii) Intercepting and tracking courses through the use of navigational electronic systems.

(2) *Use of a full flight simulator, flight training device, or aviation training device for maintaining instrument experience.* A pilot may accomplish the requirements in paragraph (c)(1) of this section in **an approved full flight simulator, flight**

training device, or aviation training device provided the device represents the category of aircraft for the instrument rating privileges to be maintained and the pilot performs the tasks and iterations in simulated instrument conditions. (Bold emphasis added.)

AOPA interprets this proposed language to allow a pilot to perform the required tasks of § 61.57(c)(1) in an appropriate aircraft, FFS, FTD, or ATD. AOPA does not interpret the language, as proposed, to allow for instrument currency requirements to be satisfied through the *combination of an aircraft, FFS, FTD, or ATD.*

As the FAA intended, AOPA recommends that proposed § 61.57(c)(2) be modified so that a pilot may accomplish the instrument experience requirements in an aircraft, FFS, FTD, ATD, *or any combination thereof.* Under the proposed language, the same experience requirements apply regardless of whether the pilot uses an aircraft or approved FSTD or ATD. AOPA has proposed an example of language which may be used to correct the problem (AOPA's proposed amendments to current § 61.57(c)(1) highlighted in red):

(c) *Instrument experience.* Except as provided in paragraph (e) of this section, a person may act as pilot in command under IFR or weather conditions less than the minimums prescribed for VFR only if:

(1) *Use of an airplane, powered-lift, helicopter, or airship for maintaining instrument experience.*

(i) Within the 6 calendar months preceding the month of the flight, that person performed and logged at least the following tasks and iterations ~~in an airplane, powered-lift, helicopter, or airship, as appropriate,~~ for the instrument rating privileges to be maintained in actual weather conditions, or under simulated conditions using a view-limiting device that involves having performed the following—

- (A) Six instrument approaches.
- (B) Holding procedures and tasks.
- (C) Intercepting and tracking courses through the use of navigational electronic systems.

(ii) **A pilot may only accomplish the requirements in paragraph (c)(1)(i) of this section in:**

- (A) An airplane, powered lift, helicopter, or airship, as appropriate;
- (B) **Any of the following approved training devices provided the device represents the category of aircraft for the instrument rating privileges to be maintained and the pilot performs the tasks and iterations in simulated instrument conditions:**

- (1) Full flight simulator;**
- (2) Flight training device;**
- (3) Aviation training device; or**

(C) Any combination of (A) and (B).

Section 61.57(c) is an extremely important requirement for instrument-rated pilots, with thousands of pilots relying upon the language each day for meeting their instrument currency

requirements. AOPA urges the FAA to ensure that the language is as clear as possible to prevent pilots from having to second-guess whether or not they are in compliance with the regulations.

Recommendation: Withdraw proposed § 135.245(c) and restore current § 135.245(a). Enable persons serving as SIC in a part 135 operation under IFR to use ATDs for instrument currency.

Current § 135.245(a) requires a person serving as SIC in a part 135 operation conducted under IFR to “meet the recent instrument experience requirements of part 61[.]” Current § 61.57(c) specifically permits the use of ATDs for maintaining instrument currency, albeit at a more restrictive level than if a pilot were to use an aircraft, FFS, or FTD. Thus, FAA regulations and policy have long permitted persons serving as a SIC in a part 135 operation under IFR to meet the instrument currency requirements of part 61, which includes the use of ATDs.

Instead of continuing to require compliance with part 61, the FAA proposes to incorporate different instrument currency requirements for pilots serving as SIC in a part 135 operation into a new proposed § 135.245(c). In its brief discussion on the change, the FAA explained its reasoning: “The use of aviation training devices is not currently permitted to satisfy requirements in part 135.” This rationale, however, is not accurate. As explained above, current § 135.245(a) requires a person serving as SIC in a part 135 operation conducted under IFR to “meet the recent instrument experience requirements of part 61[.]” Because § 61.57(c)(3) and (4) allow the use of ATDs to satisfy instrument currency requirements in part 61, the requirements of current § 135.245(a) are satisfied by the use of ATDs.

AOPA believes that the FAA should continue requiring persons serving as a SIC in a part 135 operation under IFR to satisfy current § 135.245(a) because the underlying rationale for creating a new § 135.245(c) is not accurate. If the FAA is uncomfortable with certain ATDs being used by a SIC of a part 135 operation for maintaining instrument currency, a limitation can be added to the FAA’s letter of authorization (LOA) when approving that particular ATD. However, to completely eliminate the use of ATDs for SICs serving in a part 135 operation is a step backward, particularly in light of the FAA’s own admission of the advances in ATDs. (*See, e.g.,* 81 Fed. Reg. at 29723.)

Recommendation: Withdraw the proposal for an instructor to be present while a pilot serving as a SIC of a part 135 operation conducts instrument currency in a FSTD.

If proposed § 135.245(c) is adopted, subparagraph (c)(2) would require an instructor to be present if a person serving as a SIC in a part 135 operation wants to use a FSTD for maintaining instrument currency. AOPA opposes this requirement.

In 2009, when the FAA modified the instrument currency requirements for part 61, the FAA indicated that it did not want to require an instructor to be present when using an approved training device. (74 Fed. Reg. at 42518.) However, in 2010, a FAA legal interpretation found that while the FAA may have intended to change the rule, the change was not reflected in the regulatory language. (81 Fed. Reg. at 29724.) If the FAA’s intent had been implemented, an

instructor would not currently need to be present for a SIC in a part 135 operation to maintain instrument currency in a FSTD. That is because current § 135.245(a) requires pilots serving as an SIC in a part 135 operation under IFR to comply with the recent instrument experience requirements of part 61. In short, if the FAA's intent in 2009 had been properly implemented, SICs would have been permitted to meet the instrument currency requirements in part 61 without an instructor present.

Similarly, the FAA is proposing to allow pilots, who are complying with the instrument currency requirements in part 61, to not have an instructor present when using a FSTD or ATD. To require an instructor to be present for persons serving as a SIC in a part 135 operation would be a step backward. The FAA has presented no explanation for requiring an instructor to be present for SICs in a part 135 operation, but not for all other pilots maintaining compliance with part 61. There is no discussion about this distinction in the FAA's preamble and AOPA does not believe pilots serving as a SIC in a part 135 operation should be required to have an instructor present while maintaining instrument currency in a FSTD.

Recommendation: Modify proposed § 135.245(c) to enable the *combined* use of aircraft and an FSTD for meeting instrument currency requirements.

In the event the FAA is inclined to adopt different instrument currency standards for persons serving as a SIC in a part 135 operation, AOPA recommends one important correction to proposed § 135.245(c). Specifically, proposed § 135.245(c) would not permit a pilot serving as SIC in a part 135 operation to combine the use of an aircraft with one or more approved FSTDs to meet the proposed instrument currency requirements. As proposed, the FAA would only allow a pilot to meet the requirements in proposed § 135.245(c) in an airplane or helicopter, as appropriate, *or* an approved FSTD. Nothing in the proposed language permits a pilot to combine the use of an appropriate airplane or helicopter, and an approved FSTD.

This issue is identical to the correction needed and discussed above in proposed § 61.57(c). AOPA recommends that a person serving as SIC in a part 135 operation be permitted to use an appropriate airplane or helicopter, or an approved FSTD, or any combination thereof, for purposes of meeting the requirements of proposed § 135.245(c).

Recommendation: Amend the definition of FSTD in § 1.1.

The FSTD is not defined anywhere in part 135, and different definitions are provided in § 1.1 and appendix F to part 60. Section 1.1 defines "FSTD" as "a flight simulator or a flight training device." However, appendix F to part 60 defines "FSTD" as "a full flight simulator or a flight training device." Therefore, the definition in § 1.1 should be amended to read: "*Flight simulation training device (FSTD)* means a *full* flight simulator or a flight training device." This would harmonize the definition of FSTD in section 1.1 with the definition in appendix F to part 60 and the proposed changes to § 61.57 in the NPRM.

Issue 3: Second in Command for Part 135 Operations

Recommendation: Implement a SIC Professional Development Program (PDP), as proposed in § 135.99.

Under existing regulations, a pilot may log SIC flight time when more than one pilot is required either (1) under the type certification of the aircraft, or (2) by the regulations under which the flight is being conducted. The NPRM proposes to add a third scenario when SIC flight time may be logged. Under proposed § 135.99(c), a part 135 operator may receive approval of an SIC PDP via Ops Specs in order to allow the certificate holder's pilots to log SIC in accordance with the SIC PDP.

Pilots serving as SIC may count the flight time logged in accordance with an approved SIC PDP toward the *total flight time* required for an ATP certificate. However, these pilots could not apply the time to meet the *specific flight time* requirements for ATP certification. Pilots who rely on flight time logged under an SIC PDP to meet the requirements for an ATP certificate would have a limitation on their ATP certificates indicating that they do not meet the pilot-in-command (PIC) aeronautical experience requirements of International Civil Aviation Organization (ICAO).

AOPA supports the agency's proposal to create the SIC PDP and provide opportunities for pilots to both gain hours toward ATP certification and experience in a professional environment. AOPA encourages the FAA to adopt proposed § 135.99(c), which prescribes the requirements for a SIC to log flight time under a SIC PDP.

Recommendation: Expand the SIC PDP to single-engine turbine-powered airplanes, not only multi-engine airplanes.

Proposed § 135.99(c)(2) would limit the applicability of the SIC PDP to only multi-engine airplanes that have an independent set of controls for a second pilot flightcrew member, among other requirements. AOPA recommends that the FAA expand the scope of the SIC PDP to single-engine turbine-powered airplanes. There are a number of cases where a single-engine turbine-powered airplane is more complex than certain multi-engine airplanes. For instance, a person serving as SIC in a single-engine turbine-powered airplane may actually receive more beneficial flight experience and training than serving as SIC in a multi-engine piston-powered airplane. AOPA encourages the FAA to amend proposed § 135.99(c)(2) and expand the SIC PDP to incorporate single-engine turbine-powered airplanes.

Recommendation: Permit pilots to apply *all* SIC time toward the requirements for ATP certification in § 61.159 and § 61.160.

To implement the purpose and benefits of the SIC PDP, the FAA has proposed amendments in part 61 to ensure that the SIC flight time is correctly logged and applied as credit toward obtaining the ATP certificate. The specific amendments proposed are to § 61.51(f) and § 61.159(c)(1), and would read as follows (FAA's proposed amendments highlighted in red):

[§ 61.51](f) *Logging second-in-command flight time.* A person may log second-in-command time only for that flight time during which that person:

- (1) Is qualified in accordance with the second-in-command requirements of § 61.55 of this part, and occupies a crewmember station in an aircraft that requires more than one pilot by the aircraft's type certificate; ~~or~~
- (2) Holds the appropriate category, class, and instrument rating (if an instrument rating is required for the flight) for the aircraft being flown, and more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is being conducted; ~~or~~
- (3) Serves as second in command in operations conducted under part 135 of this chapter when a second pilot is not required under the type certification of the aircraft or the regulations under which the flight is being conducted, provided the requirements in § 61.159(c)(1) are satisfied.

[§ 61.159](c) A commercial pilot may log ~~credit~~ the following second-in-command ~~pilot flight~~ time or flight-engineer flight time toward the 1,500 hours of total time as a pilot required by paragraph (a) of this section ~~and the total flight time requirements in § 61.160:~~

- (1) ~~Second-in-command time, provided the time is acquired in an airplane—~~
 - ~~(i) Required to have more than one pilot flight crewmember by the airplane's flight manual, type certificate, or the regulations under which the flight is being conducted;~~
 - ~~(ii) Engaged in operations under subpart K of part 91, part 121, or part 135 of this chapter for which a second in command is required; or~~
 - ~~(iii) That is required by the operating rules of this chapter to have more than one pilot flight crewmember.~~

~~Second-in-command pilot time in operations conducted under part 135 of this chapter when a second pilot is not required under the type certification of the aircraft or the regulations under which the flight is being conducted, provided—~~

- ~~(i) The experience is accomplished as part of a second-in-command professional development program approved by the Administrator under § 135.99 of this chapter;~~
- ~~(ii) The pilot in command of the operation certifies in the pilot's logbook that the second-in-command pilot time was accomplished under this section; and~~
- ~~(iii) The pilot time may not be logged as pilot-in-command time even when the pilot is the sole manipulator of the controls and may not be used to meet the aeronautical experience requirements in paragraphs (a)(1) through (a)(5) of this section.~~

(2) * * *

AOPA is very concerned with the proposed change to § 61.159(c)(1) for several reasons. First, in revising § 61.159(c)(1), the FAA eliminated the ability for a pilot—serving as SIC in an airplane required to have more than one pilot flight crewmember by the airplane's type certificate or regulations under which the flight is being conducted—to receive credit for such SIC flight time toward the 1,500 hours required by § 61.159(a).

To illustrate the problem, suppose a pilot serves as SIC of an aircraft which requires more than one pilot flight crewmember for the flight being conducted. Under the current framework, the pilot would be permitted to log that SIC flight time under § 61.51(f) *and* have it credited toward an ATP certificate under § 61.159(c)(1). Under the proposed amendments, the pilot would still be able to log that SIC flight time under § 61.51(f), but *would not* be permitted to receive credit for such SIC flight time toward the 1,500 of total time required for the ATP certificate.

Second, AOPA disagrees with the fundamental reasoning for the change. The FAA eliminated the current language in § 61.159(c)(1) based upon the following explanation:

“Because that paragraph [§ 61.159(c)(1)] provides the same allowance for logging SIC flight time as is currently reflected in § 61.51(f), the FAA is proposing to revise § 61.159(c)(1) to address the logging requirements for SICs in part 135 operations who are not required by type certification or the regulations under which the flight is being conducted.” (81 Fed. Reg. at 29728.)

Current § 61.159(c)(1) and § 61.51(f) serve two entirely different purposes. Section 61.51(f) determines when a pilot may log SIC flight time, whereas § 61.159(c)(1) dictates the types of SIC flight time that may be credited toward the 1,500 hours of total time required for the ATP certificate under 61.159(a). The provisions are not duplicative, as the FAA seems to imply.

Third, as the NPRM states, “The FAA is proposing to revise § 61.159(c)(1) to set forth the requirements for logging SIC pilot time in an operation that does not require an SIC by type certification of the aircraft or the regulations under which the flight is being conducted.” (81 Fed. Reg. 29728.) The FAA’s decision to put the requirements for logging SIC pilot time under a SIC PDP in § 61.159(c)(1) instead of § 61.51(f), which deals directly with logging SIC time, is confounding two separate and distinct regulatory requirements.

AOPA respectfully requests the FAA reconsider its approach to revising § 61.51(f) and § 61.159(c)(1). AOPA and the FAA must ensure that pilots logging SIC time are still able to credit that SIC time toward ATP certification requirements. To correct this issue, AOPA believes § 61.51(f) should identify the circumstances under which a person may log SIC time, including under an approved SIC PDP. Section 61.159(c) should then identify the types of SIC flight time that may be applied toward the 1,500 hours of total time required by § 61.159(a) or the total flight time requirements in § 61.160 for ATP certification.

To carry out this approach, AOPA proposes to amend proposed § 61.51(f) and § 61.159(c)(1) as follows (AOPA’s proposed amendments highlighted in red):

[§ **61.51**](f) *Logging second-in-command flight time.* A person may log second-in-command time only for that flight time during which that person:

- (1) Is qualified in accordance with the second-in-command requirements of § 61.55 of this part, and occupies a crewmember station in an aircraft that requires more than one pilot by the aircraft’s type certificate;

- (2) Holds the appropriate category, class, and instrument rating (if an instrument rating is required for the flight) for the aircraft being flown, and more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is being conducted; or
- (3) Serves as second in command in operations conducted under part 135 of this chapter when a second pilot is not required under the type certification of the aircraft or the regulations under which the flight is being conducted, provided—
~~the requirements in § 61.159(e)(1) are satisfied.~~
 - (i) ~~The experience is accomplished as part of a second-in-command professional development program approved by the Administrator under § 135.99 of this chapter;~~
 - (ii) ~~The pilot in command of the operation certifies in the pilot's logbook that the second-in-command pilot time was accomplished under this section and subparagraph;~~ and
 - (iii) ~~The pilot time may not be logged as pilot-in-command time even when the pilot is the sole manipulator of the controls and may not be used to meet the aeronautical experience requirements in paragraphs (a)(1) through (a)(5) of this section § 61.159.~~

[§ 61.159](c) A commercial pilot may ~~credit log~~ the following second-in-command ~~pilot~~ time or flight-engineer flight time toward the 1,500 hours of total time as a pilot required by paragraph (a) of this section and the total flight time requirements in § 61.160:

- (1) ~~Second-in-command time that has been logged in accordance with § 61.51(f) of this part. Second-in-command pilot time in operations conducted under part 135 of this chapter when a second pilot is not required under the type certification of the aircraft or the regulations under which the flight is being conducted, provided—~~
 - (i) ~~The experience is accomplished as part of a second-in-command professional development program approved by the Administrator under § 135.99 of this chapter;~~
 - (ii) ~~The pilot in command of the operation certifies in the pilot's logbook that the second-in-command pilot time was accomplished under this section; and~~
 - (iii) ~~The pilot time may not be logged as pilot-in-command time even when the pilot is the sole manipulator of the controls and may not be used to meet the aeronautical experience requirements in paragraphs (a)(1) through (a)(5) of this section.~~
- (2) * * *

In summary, AOPA requests that the FAA continue to allow all SIC flight time to be applied toward the total flight time requirements in § 61.159(a) or § 61.160 when the person is serving as SIC in an airplane required to have more than one pilot flight crewmember by the airplane's flight manual, type certificate, or regulations under which the flight is being conducted. AOPA strongly believes that a commercial pilot should be able to credit all SIC time logged in accordance with § 61.51(f) toward the requirements for an ATP certificate.

Issue 4: Completion of Commercial Pilot Training and Testing in Technically Advanced Airplanes (TAA)

Recommendation: Incorporate TAAs into commercial pilot and flight instructor training.

AOPA strongly recommends incorporating TAAs into commercial pilot and flight instructor training. The FAA has raised a number of factors for making the proposed amendments to part 61 and the appendix D to part 141. AOPA agrees with many of the justifications raised by the FAA for increasing the use of TAAs, particularly:

- Increased production of TAAs relative to production of airplanes without electronic flight displays;
- Decline in production of complex airplanes because of improved airframes and engines that allow for better performance without retractable gear;
- Increased maintenance costs for the complex airplanes in the flight training community;
- Increased demand from the GA community for flexibility in commercial pilot certificate flight training; and
- Requirements in § 61.31(e) to obtain an endorsement before operating a complex airplane ensure pilots are competent to operate a complex airplane.

A few additional reasons justify the proposed change. First, AOPA believes incorporating TAA into commercial pilot training will incentivize flight instruction and rental businesses to upgrade their aging airplanes to airplanes with advanced avionics. Oftentimes these instruction airplanes are simultaneously used for non-instructional purposes. Any upgrades to the avionics systems in the existing GA fleet would enhance safety when being used for purposes other than instructional flights, such as recreational use.

Second, the change will result in cost savings for students. Older complex airplanes have tendencies to need maintenance with more frequency than newer airplanes. The required maintenance, along with the already limited supply, makes complex airplanes sparingly available for students. The student is then forced to maintain skills in other areas of his or her training while waiting for a complex airplane to become available for a practical test. This can add hundreds, if not thousands of dollars in additional training.

AOPA encourages the FAA to adopt its proposed change to § 61.129(a)(3)(ii) and appendix D to part 141 and allow the use of TAA for commercial pilot training and testing. AOPA also supports the corresponding amendments proposed to the commercial pilot and flight instructor practical test standards (eventually airman certification standards). Such amendments are necessary to carry out the proposed regulatory changes.

Recommendation: Improve the proposed definition of “technically advanced airplane” in § 61.1(b).

To eliminate confusion and improve clarity, AOPA urges the agency to adopt the following amendments to the proposed definition in § 61.1(b) for “technically advanced airplane” (AOPA’s proposed amendments highlighted in red):

Technically Advanced Airplane (TAA) means an airplane equipped with an electronically ~~ally advanced~~ avionics system that includes the following installed components:

- (i) An electronic ~~display Primary Flight Display (PFD)~~ that includes, at a minimum, an airspeed indicator, turn coordinator, attitude indicator, heading indicator, altimeter, and vertical speed indicator; and
- (ii) An ~~independent additional~~ electronic ~~display Multifunction Display (MFD)~~ that includes, at a minimum, a Global Positioning System (GPS) with moving map navigation and an integrated two axis autopilot.

AOPA believes that the terms “Primary Flight Display (PFD)” and “Multifunction Display (MFD),” which are not defined anywhere, will cause confusion. The area of electronic avionics systems is still evolving; those terms have not been clearly defined in the industry; and hence, they do not provide any added value to the definition. The same argument applies to removing “advanced” from “electronically advanced avionics system.” The addition of “advanced,” without any clarification, will generate questions over whether a particular system qualifies as advanced or not. If a particular airplane is equipped with the items in (i) and (ii), then the airplane should be considered equipped as a TAA with the appropriate electronic avionics system.

AOPA further suggests that “independent additional” be removed from subparagraph (ii). The airplane avionics industry is constantly evolving and there is no certainty that future systems will have separate electronic displays for the fundamental flight instruments—airspeed indicator, turn coordinator, attitude indicator, heading indicator, altimeter, and vertical speed indicator—and the GPS with moving map navigation. These two types of equipment may very well be incorporated onto a single larger screen. AOPA cautions the FAA to not be too prescriptive in the definition of TAA and ensure the definition is broad enough to cover anticipated changes in the avionics industry.

Recommendation: Clarify proposed § 61.129(a)(3)(ii) and appendix D of part 141 to enable the combined use of complex, turbine-powered, and technically advanced airplanes.

Proposed § 61.129(a)(3)(ii) and appendix D to part 141 would not allow a pilot to complete the 10 hours in any *combination* of the three types of airplanes identified. These provisions should be amended to allow for the combined use of complex, turbine-powered, and technically advanced airplanes. Hence, proposed § 61.129(a)(3)(ii) should be amended as follows (AOPA’s proposed amendment highlighted in red):

(ii) 10 hours of training in a complex airplane, a turbine-powered airplane, or a technically advanced airplane (TAA), **or any combination thereof**; or for an applicant seeking a single-engine seaplane rating, 10 hours of training in a seaplane that has flaps and a controllable pitch propeller;

Appendix D to part 141 should be modified as follows:

(ii) Ten hours of training in a complex airplane, a turbine-powered airplane, or a technically advanced airplane, **or any combination thereof**;

AOPA's recommendations would be consistent with the FAA's stated intent in the NPRM, which states: "With this amendment, a pilot seeking a commercial pilot certificate with a single engine class rating could complete all 10 hours in a complex airplane, a turbine-powered airplane, or a TAA, **or could complete the 10 hours of training in any combination of these three airplanes.**" (81 Fed. Reg. at 29731 (emphasis added).)

Issue 5: Flight Instructors with Instrument Ratings Only

For a period of time, FAA regulations have permitted a pilot to obtain an initial flight instructor certificate *with only* an instrument-airplane or instrument-helicopter rating and *without* a corresponding category (airplane or rotorcraft) and class rating (single-engine, multi-engine, or helicopter) on the certificate. A FAA legal interpretation from January 2010, however, indicated that, under § 61.195(b), a flight instructor may not conduct instrument flight training without holding the appropriate category and class ratings on his or her flight instructor certificate for the aircraft in which the instrument flight training is provided.

AOPA fully supports the proposed amendment to § 61.195(b) and (c) to allow a flight instructor holding only an instrument-airplane rating or instrument-helicopter rating on his or her flight instructor certificate to provide instrument training under certain circumstances. AOPA has no recommended amendments to the proposed language, as the language accomplishes the intent of the agency.

Issue 6: Sport Pilot Flight Instructor Training Privilege

Recommendation: Permit sport pilot flight instructors to obtain an endorsement under proposed § 61.412 and provide training required under § 61.93(e)(12).

For a student seeking a sport pilot certificate with a single-engine airplane rating, the student must, among other requirements, complete a solo cross-country flight. § 61.313(a). To accomplish this solo cross-country flight, the student must have a student pilot certificate, receive flight training, and obtain an endorsement from an authorized instructor. § 61.93. If the student intends to complete the cross-country flight in an airplane with a V_h (maximum speed in level flight with maximum continuous power) greater than 87 knots CAS, the student must receive flight training on control and maneuvering the airplane solely by reference to the instruments. § 61.93(e)(12).

Currently, sport pilot flight instructors (certificated under subpart K) are not evaluated during practical tests on their instructional knowledge of basic instrument maneuvers. Thus, flight instructions with only a sport pilot rating are not permitted to provide the necessary flight training under § 61.93(e)(12) on control and maneuvering solely by reference to the instruments for the purpose of issuing a cross-country endorsement to a sport pilot student.

AOPA agrees with the addition of proposed § 61.412 to require sport pilot flight instructors to obtain an endorsement in order to give the flight training under § 61.93(e)(12). Sport pilot students will no longer be required to find a flight instructor certificated under subpart H to complete the necessary training for the cross-country endorsement, maintaining instructor continuity throughout their flight training.

Recommendation: Create an exception to proposed § 61.412 for sport pilot flight instructors who also hold at least a private pilot certificate.

The FAA proposes to create a new § 61.412, which lays out the requirements for sport pilot flight instructors to obtain the endorsement needed to give basic instrument training. AOPA recommends that the FAA add one exception to § 61.412: A sport pilot flight instructor should not have to get the endorsement under proposed § 61.412 if the instructor already has at least a private pilot certificate with a single-engine airplane rating.

Indeed, the sport pilot flight instructor/private pilot would have already received the necessary ground and flight training in a single-engine airplane from a subpart H flight instructor. *See* § 61.107(b)(1)(ix), § 61.109(a)(3) (requiring “3 hours of flight training in a single-engine airplane on the control and maneuvering of an airplane solely by reference to instruments”). Such an exception would eliminate duplicative training requirements and, for that same reason, not reduce the level of safety.

In summary, flight instructors with only sport pilot ratings, and no additional certificates, should be required to obtain the endorsement under proposed § 61.412. However, if the flight instructor with a sport pilot rating also holds at least a private pilot certificate with a single-engine airplane rating, that instructor should not have to get the endorsement in proposed § 61.412.

Recommendation: Allow the flight training required in proposed § 61.412 to be conducted in an ATD.

To provide a student sport pilot with training under § 61.93(e)(12), the FAA is requiring the sport pilot flight instructor to hold an endorsement under § 61.327, receive one hour of ground training and three hours of flight training from an authorized instructor, and receive a one-time endorsement. Proposed § 61.412 requires that the three hours of flight training from an authorized instructor be conducted in any of the following: (1) an airplane with a V_h greater than 87 knots CAS, (2) a FFS, or (3) a FTD that replicates an airplane with a V_h greater than 87 knots CAS.

For purposes of obtaining the endorsement under proposed § 61.412, AOPA recommends that the FAA allow sport pilot flight instructors to conduct the necessary three hours of flight training in an ATD for several reasons. First, there would be no decrease in the level of safety. The sport pilot flight instructor will have already been found proficient in an airplane with a V_h greater than 87 knots CAS by having obtained the required endorsement under § 61.327—which is an endorsement required for sport pilots who want to operate a light-sport aircraft that has a V_h *greater than 87 knots CAS*.

Second, none of the training performed by sport pilot flight instructors would be performed in actual IMC or under IFR given that neither the sport pilot flight instructor nor the sport pilot student would be rated to fly under IFR. All the training to be conducted pursuant to proposed § 61.412 and § 61.93(e)(12) will be performed under simulated IMC, not actual IMC.

Finally, if the FAA is concerned about certain ATDs being used for this type of flight training, those limitations can be imposed through the LOA process when the FAA evaluates and approves an ATD. AOPA strongly believes the three hours of flight training required under proposed § 61.412 could be safely performed in an ATD.

Recommendation: Improve the clarity of proposed § 61.412.

AOPA proposes the following amendments to proposed § 61.412 (AOPA's amendments highlighted in red):

To provide flight training **under § 61.93(e)(12)** on control and maneuvering an aircraft solely by reference to the instruments for the purpose of issuing a solo cross-country endorsement to a sport pilot applicant **under § 61.93(e)(12)**, a sport pilot instructor must:

(a) Holder an endorsement under § 61.327**(b)**.

* * *

AOPA has two suggested improvements to the proposed § 61.412 to improve clarity and avoid confusion. First, the proposed language suggests that the solo cross-country endorsement is being issued pursuant to § 61.93(e)(12), which is not accurate. Second, § 61.327 has two different endorsements. Section 61.327(a) is an endorsement for sport pilots who seek to operate a light-sport aircraft that is an airplane with a V_h *less than or equal to 87 knots CAS*. Section 61.327(b) is the endorsement required for sport pilots who want to operate a light-sport aircraft that has a V_h *greater than 87 knots CAS*. Proposed § 61.412 should refer to the latter endorsement identified in current § 61.327(b).

Issue 7: Credit for Training Obtained as a Sport Pilot

Recommendation: Allow a sport pilot to credit flight training received from a sport pilot flight instructor (certificated under subpart K) toward a higher certificate.

Under existing regulations, a pilot cannot count flight training received from a sport pilot flight instructor (under subpart K) toward the training requirements for a recreational or private

pilot certificate (other than for powered parachute and weight-shift control aircraft categories). The sport pilot can, however, count total hours accumulated as a sport pilot toward the total flight time requirements for a higher certificate, just not the specific training requirements.

AOPA fully supports reversing this policy and allowing a pilot to apply flight training received from a sport pilot flight instructor certificated only under subpart K toward the flight training requirements for a recreational or private pilot certificate. As stated in AOPA's original petition from January 2011, this change would incentivize more prospective pilots to obtain a sport pilot certificate as a stepping stone toward a higher certificate. Such a change establishes an incentive for a higher certificate, increasing safety and encouraging more involvement in aviation activities.

Recommendation: Allow *all* training received from sport pilot flight instructors to be credited toward a recreational or private pilot certificate.

Proposed § 61.99(b) and § 61.109(l) would only allow a sport pilot to credit *part* of the total flight training acquired from a sport pilot instructor toward a higher certificate, not the entire amount of flight training. For instance, current § 61.109(a) requires 20 hours of specific flight training for a private pilot certificate with an airplane single-engine rating. Proposed § 61.109(l) would only allow the holder of a sport pilot certificate to credit 10 hours of flight training received from a sport pilot flight instructor toward the private pilot certificate requirements, not the entire 20 hours.

AOPA strongly believes the FAA *should allow all training received* from a sport pilot flight instructor to be credited by an applicant seeking a recreational or private pilot certificate. Many of the flight training requirements for obtaining that higher certificate are the exact same as those required for the sport pilot certificate.

Furthermore, there are more than sufficient safeguards in place to ensure that the sport pilot is properly qualified for a recreational or private pilot certificate. Part 61 establishes additional requirements that must be met at the recreational and private pilot certificate levels. For instance, even if *all* of the sport pilot's flight training was credited toward the private pilot certificate, the sport pilot would have to comply with the following additional requirements to obtain the private pilot certificate:

- Receive 3 hours of night training and 3 hours of basic instrument training;
- Complete additional cross-country flight requirements;
- Receive a minimum of 3 hours of training in preparation for the practical test (within the preceding 2 calendar months) from a flight instructor certificated under subpart H;
- Obtain endorsements from a flight instructor certificated under subpart H that the sport pilot is prepared for the private pilot knowledge test and practical test; and
- Complete a FAA private pilot knowledge test and private pilot practical test.

These additional requirements will ensure that there is no reduction in proficiency, experience, or safety from allowing a sport pilot to credit *all* his flight training from a sport pilot flight instructor toward the recreational or private pilot certificate. AOPA recommends that the

FAA permit a sport pilot to credit *all* of his flight training from a sport pilot flight instructor only certificated under subpart K toward the recreational or private pilot certificate.

Recommendation: Clarify the language in proposed § 61.109(l)(1).

AOPA proposes the following amendment to proposed § 61.109(l)(1) (AOPA's proposed amendment highlighted in red):

[§ 61.109](l) Permitted credit for flight training received from a flight instructor with a sport pilot rating. The holder of a sport pilot certificate may credit flight training received from a flight instructor with a sport pilot rating as follows:

- (1) For a private pilot certificate with an airplane category single engine class rating or private pilot certificate with a rotorcraft category gyroplane class rating, a person may credit 10 hours of flight training received from a flight instructor **with a sport pilot rating** provided the flight training is accomplished in the same category and class of aircraft for the rating sought;
- (2) For a private pilot certificate with a lighter-than-air category airship class rating, a pilot may credit 12.5 hours of flight training received from a flight instructor with a sport pilot rating provided that training was accomplished in an airship.
- (3) * * *

AOPA's recommendation harmonizes proposed § 61.109(l)(1) with proposed § 61.109(l)(2), and ensures that flight training can be properly credited when received from a flight instructor with a sport pilot rating.

Issue 8: Include Special Curricula Courses in Renewal of Pilot School Certificate

Recommendation: Adopt the proposed change to § 141.5(d).

Current § 141.53 provides general procedures for a part 141 school to obtain FAA approval of an outline of a course to be offered to its students. Most often these courses approved by the FAA are courses that lead to a certificate or rating, or are one of the special courses identified in appendix K to part 141.

Section 141.57 provides part 141 schools with the ability to receive FAA approval of a special curriculum course which is not identified in the appendices to part 141 under certain conditions. Special courses approved by the FAA include crew resource management, night vision goggles use, high-performance aircraft training, complex airplane training, turbo-prop transition training, and tail-wheel training.

Under current § 141.5(d), only graduates of FAA-approved training courses specified in appendix K of part 141 may be counted toward the 80 percent pass rate required for issuance or renewal of the part 141 school's certificate. Special courses approved under § 141.57 are not counted. The proposed amendment to § 141.5(d) would allow graduates from the special

curriculum courses approved under § 141.57 to be counted toward the 80 percent passage rate required for issuance or renewal of the part 141 school's certificate under § 141.5(d).

AOPA favors and recommends that the FAA adopt this proposal. The change would encourage existing part 141 schools to create more FAA-approved special curriculum courses, increasing the number of training programs available for the pilot community. The change would also encourage existing flight schools to pursue a part 141 certificate. AOPA believes this would lead to those part 141 schools adopting more courses, further benefiting the flight training community.

Issue 9: Temporary Validation of Flightcrew Members' Certificates

When serving as a required flightcrew member of an aircraft, the pilot must have, in his or her possession or readily accessible in the aircraft, a pilot certificate, appropriate medical certificate, and government-issued photo identification. § 61.3. If a pilot loses his or her pilot or medical certificate, the pilot may request from the FAA a temporary authorization to exercise the privileges of his or her certificate under § 61.29(e).

In the case of a lost or destroyed pilot certificate, the pilot may request a temporary authorization online through the Airman Online Services portal or by letter to the Airman Certification Branch. That authorization can be sent to the pilot via fax or email the same day. In contrast, there is no FAA online service available for pilots to obtain or request a temporary document confirming medical certification. The pilot must call the Aeromedical Certification Branch during normal business hours requesting a temporary document confirming certification.

Recommendation: Adopt the proposal for part 119 certificate holders to provide temporary validation of flightcrew members.

The FAA is proposing to allow part 119 certificate holders to provide temporary validation of flightcrew members' airman and medical certificates—valid for up to 72 hours—under an approved certificate verification plan. The temporary validation would allow the flightcrew member to engage in an operation within the United States for the part 119 certificate holder. This temporary validation has already been accepted in practice since 1992 through various exemptions granted by the FAA.

With the exception of the correction to proposed § 63.3(a)(2), discussed below, AOPA urges the FAA to adopt and codify the certificate verification plan for part 119 certificate holders without any further amendment. AOPA believes the proposal is in the public interest in ensuring that pilots are still able to serve as a required flightcrew member even though his or her pilot or medical certificate is physically unavailable.

Recommendation: Make available an online service for *all* pilots and airmen to request and obtain a temporary document confirming medical certification.

As referenced in the NPRM, the FAA's Airman Certification Branch has made available an online method—through the Airman Online Services portal—for allowing pilots and other

airmen to easily obtain a temporary authorization to exercise the privileges of his or her pilot certificate. To supplement the proposed certificate verification plan, AOPA recommends that the FAA implement an online method to allow *all* pilots and airmen to request and obtain a temporary document confirming medical certification.

Currently, any member of the public can search the “Airmen Inquiry” portion of the FAA Registry for a specific certificate holder. The search results show the certificate holder’s medical certificate information, including medical class held, date of medical examination, and any limitations associated with the certificate. AOPA believes the FAA could make that same kind of information available in a temporary document—perhaps even through the Airman Online Services portal—that can be used for purposes of meeting the requirements of § 61.3.

Allowing any pilot to request and obtain online a temporary document confirming medical certification would benefit the industry as a whole, reducing time and hassle for all parties involved. Unlike the certificate verification plan for part 119 certificate holders, AOPA’s recommendation would benefit all pilots, not just those flying on behalf of a part 119 certificate holder. Such a solution would also reduce the need and use of an approved certificate verification plan because most pilots would be able to retrieve the necessary documents online.

Recommendation: Correct the reference in proposed § 63.3(a)(2).

The FAA is proposing to amend § 63.3 and § 63.16 in this rulemaking. Proposed § 63.3(a)(2) mistakenly references § 63.16(d) instead of § 63.16(f). The reference to § 63.16(d) is to the current version of § 63.16, not the proposed amended version of § 63.16. As such, § 63.3(a)(2) should be amended as follows (AOPA’s proposed amendments highlighted in red):

- (a) Except as provided in paragraph (c), no person may act as a flight engineer of a civil aircraft of U.S. registry unless that person has in his or her personal possession or readily accessible in the aircraft:
- (1) * * *;
 - (2) A document conveying temporary authority to exercise certificate privileges issued by the Airman Certification Branch under ~~§63.16(d)~~ §63.16(f) of this part;
or
 - (3) * * *.

This amendment is consistent with the approach and references accomplished in proposed § 61.3(a)(1)(iv) and § 61.29(e), and will avoid confusion.

Issue 10: Military Competence for Flight Instructors

Recommendation: Adopt proposed amendment to § 61.197(a)(2)(iv).

A holder of an unexpired flight instructor certificate may renew that certificate for another 24 calendar months upon satisfying any of the methods listed in current § 61.197(a). One approved method for renewing the certificate is showing that, within the preceding 12

months from the time of application, the instructor passed an official U.S. Armed Forces military instructor pilot proficiency check. § 61.197(a)(2)(iv).

The FAA has proposed to increase the time frame to complete the military instructor pilot proficiency check from 12 months to 24 months. AOPA supports this change, as the 24-month time frame is consistent with the requirements for other methods of renewal found in current § 61.197(a)(2). AOPA believes the change would not lead to any decrease in the level of safety and recommends the changes be adopted without amendment.

Recommendation: Adopt proposed amendments to § 61.199.

If a flight instructor does not renew his or her certificate within the applicable time frame, the instructor must comply with current § 61.199(a) in order to have the certificate reinstated. To reinstate the certificate, the instructor must complete a flight instructor certification practical test for one of the ratings held on the expired certificate, or for an additional rating. The FAA has proposed to add two additional methods for reinstating an expired flight instructor certificate.

First, proposed § 61.197(a)(3) would allow military instructors to reinstate the expired certificate by showing that, within 6 calendar months from the time of application, the instructor passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check for an additional military instructor rating. Second, proposed § 61.197(c) would allow holders of an expired flight instructor certificate, originally issued before October 20, 2009, to reinstate their certificate by showing that he or she (1) passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check for an additional military rating after receiving his or her flight instructor certificate, and (2) passed a FAA knowledge test for military competence instructor.

AOPA recommends that the FAA adopt both changes without amendment. Both changes recognize the well-established FAA precedent that a flight instructor or proficiency check conducted by the military is equivalent to an FAA practical test for issuing initial flight instructor certificates, and adding ratings to and renewing such certificates. AOPA also agrees with the FAA that proposed § 61.197(c) would prevent the inequitable result emanating from the change in October 2009 when § 61.73(g) went into effect.

Issue 11: Restricted Category Aircraft Training and Testing Allowances

Recommendation: Withdraw the proposed LODA process and incorporate the operations from proposed § 91.313(h)(1) into proposed § 91.313(b).

Under current § 91.313(a), a person may operate a restricted category aircraft in either of the two following cases: (1) for the special purpose for which the aircraft was certificated; or (2) for an operation necessary to accomplish the work activity directly associated with that special purpose. Current § 91.313(b) provides guidance on what constitutes compliance with paragraph (a): “operating a restricted category civil aircraft to provide flight crewmember training in a special purpose operation for which the aircraft is certificated is considered to be an operation for that special purpose.”

The language in current § 91.313(a) went into effect on March 27, 1965. (81 Fed. Reg. at 29740–41; 30 Fed. Reg. 2531, 2532 (Feb. 26, 1965).) Several years later, the language in current § 91.313(b) went into effect on September 11, 1968. (81 Fed. Reg. at 29741; 33 Fed. Reg. 12825, 12826 (Sep. 11, 1968).) In other words, the two foundational provisions for operating limitations with regards to restricted category civil aircraft have been in effect unchanged for nearly 50 years. During much of this time, operators of restricted category aircraft have been permitted to use such aircraft for type rating training, type rating practical tests, and PIC proficiency checks per § 61.31 and § 61.58.

In early 2015, the FAA reversed long-standing precedent. On February 18, 2015, in granting a petition for exemption from § 91.313(a) and (b), which was filed by Billings Flying Service and referenced in the NPRM, the FAA stated:

“The FAA has *recently* determined that practical tests for the addition of a type rating designation to a pilot certificate, training in preparation for such practical tests, or other flights necessary for the conduct of such practical tests, would be contrary to the limitations described in § 91.313(a).” (Exemption No. 11180, at 2–3 (emphasis added).)

The FAA guidance for conducting pilot training and/or certification events in a restricted category aircraft was then outlined in Notice N 8900.295, effective May 5, 2015. The FAA found that flights necessary for PICs to obtain type rating designations in the restricted category aircraft, required under § 61.31(a), are not permitted by the operating limitations. AOPA’s review of N 8900.295, the proposed rulemaking, and other related documents have revealed no explanation from the FAA as to the reason for the recent change in interpretation of current § 91.313(b).

The FAA is now proposing to codify this new interpretation and implement a LODA process. Under proposed § 91.313(h), the FAA would allow certain flight operations to be conducted if the operator applied for and received a LODA. Those flight operations include flight training and practical tests required for the issuance of a type rating in the restricted category aircraft.

Regardless of whether current § 91.313(b) has been interpreted properly for the past 50 years, conducting type rating training and practical tests in restricted category aircraft under certain circumstances and without a LODA has been an accepted practice for at least several decades. The FAA has not presented any reason why these long-standing policies should not be codified in § 91.313 through this proposed rulemaking instead of implementing a LODA process to do what has already been permitted for decades.

AOPA’s recommendation is to incorporate the operations from proposed § 91.313(h)(1) into proposed § 91.313(b). This approach would permit, without having to obtain a LODA, flight operations in restricted category aircraft which are necessary for PICs to obtain type rating designations in that aircraft, as required under § 61.31(a). AOPA does not believe that the LODA approach adds any increased level of safety because the FAA has not articulated any reason for the recent reinterpretation of current § 91.313. The FAA has also not explained why the traditional interpretation—which had been in place for decades—should not be codified.

Recommendation: Revise proposed § 91.313(b)(1) to ensure operator employment is not necessary to receive training in a special purpose operation for which the aircraft is certificated.

The FAA’s proposed change to current § 91.313(b) appears to have made it more difficult for a pilot to receive flight crewmember training in a special purpose operation for which the restricted category aircraft is certificated. In order to receive that same training, proposed § 91.313(b)(1) would potentially require that the flight crewmember hold “the appropriate category, class, and type ratings and [be] employed by the operator to perform the appropriate special purpose operation.” This requirement is not included in current § 91.313(b).

Current § 91.313(b)	Proposed § 91.313(b)(1)
(b) For the purpose of paragraph (a) of this section, operating a restricted category civil aircraft to provide flight crewmember training in a special purpose operation for which the aircraft is certificated is considered to be an operation for that special purpose.	(b) For the purpose of paragraph (a) of this section, the following operations are considered necessary to accomplish the work activity directly associated with a special purpose operation: (1) Flights conducted for flight crewmember training in a special purpose operation for which the aircraft is certificated and flights conducted to satisfy proficiency check and recent flight experience requirements under part 61 of this chapter provided the flight crewmember holds the appropriate category, class, and type ratings and is employed by the operator to perform the appropriate special purpose operation

The FAA may have tried to combine two completely different flight operations into one paragraph: (1) flights conducted for flight crewmember training in a special purpose operation for which the aircraft is certificated; and (2) flights conducted to satisfy proficiency check and recent flight experience requirements under part 61 of this chapter provided the flight crewmember holds the appropriate category, class, and type ratings and is employed by the operator to perform the appropriate special purpose operation.

AOPA does not see any reason why a flight crewmember—who is receiving training in a special purpose operation for which the aircraft is certificated—needs to have an appropriate type rating and be employed by the operator. To correct this issue, AOPA recommends that the two flight operations identified in proposed § 91.313(b)(1) be split into two separate subparagraphs.

Recommendation: Allow pilots to train with a third-party in a restricted category aircraft if they are employed by *any* operator.

Proposed § 91.313(b)(1) would allow flights to be conducted in a restricted category aircraft to satisfy proficiency checks and recent flight experience requirements under part 61 if the pilot (1) held the appropriate category, class, and type ratings, and (2) *is employed by the operator* to perform the appropriate special purpose operation. Similarly, proposed § 91.313(h) would allow an operator to apply for and obtain a LODA for flight training necessary for issuance of a type rating provided the pilot being trained: (1) holds at least a commercial pilot certificate with the appropriate category and class ratings for the aircraft type, and (2) *is employed by the operator* to perform a special purpose operation.

AOPA recognizes the FAA's intent in establishing an employment connection. The FAA wants to prevent operators from establishing training schools for the sole purpose of issuing type ratings in restricted category aircraft without regard to the special purpose operation for which the aircraft is certificated. However, AOPA believes that there are circumstances where a pilot needs to be trained by a third party which is unaffiliated with the operator. Under the proposed changes, training from a third party, not just the operator of the restricted category aircraft, would not be permitted in a restricted category aircraft.

To correct this problem, AOPA recommends that the language in proposed § 91.313(b)(1) and proposed § 91.313(h) be changed from "is employed by the operator" to "is employed by an operator." This would allow a pilot to receive training in a restricted category aircraft from a third party so long as the pilot is employed by an operator.

In accordance with the foregoing recommendations, AOPA urges the FAA to revise proposed § 91.313(b), (d), and (h) as follows (AOPA's recommendations highlighted in red):

[§ **91.313**](b) For the purpose of paragraph (a) of this section, the following operations are considered necessary to accomplish the work activity directly associated with a special purpose operation:

- (1) Flights conducted for flight crewmember training in a special purpose operation for which the aircraft is certificated; ~~and~~
- (2) Flight training and the practical test for issuance of a type rating provided the pilot being trained and tested holds at least a commercial pilot certificate with the appropriate category and class ratings for the aircraft type and is employed by ~~the~~ *an* operator to perform a special purpose operation;
- (3) Flights to designate an examiner or training center evaluator or qualify an FAA inspector in the aircraft type and flights necessary to provide continuing oversight and evaluation of an examiner or inspector;
- (4) Flights ~~flights~~ conducted to satisfy proficiency check and recent flight experience requirements under part 61 of this chapter provided the flight crewmember holds the appropriate category, class, and type ratings and is employed by ~~the~~ *an* operator to perform the appropriate special purpose operation; and
- (25) Flights conducted to relocate the aircraft for maintenance.

- (c) * * *
- (d) * * *

- (3) Performs an essential function in connection with a special purpose operation for which the aircraft is certificated;
- (4) Is necessary to accomplish the work activity directly associated with that special purpose; or
- (5) Is necessary to accomplish an operation under paragraph (b)(5) of this section.

- * * *

(h) Deviation authority:

~~(1) An operator may apply for deviation authority from the provisions of paragraph (a) of this section to conduct operations for the following purposes:~~

- ~~(i) Flight training and the practical test for issuance of a type rating provided the pilot being trained and tested holds at least a commercial pilot certificate with the appropriate category and class ratings for the aircraft type and is employed by the operator to perform a special purpose operation; and~~
- ~~(ii) Flights to designate an examiner or training center evaluator or qualify an FAA inspector in the aircraft type and flights necessary to provide continuing oversight and evaluation of an examiner or inspector.~~

~~(2) The FAA will issue this deviation authority as a letter of deviation authority.~~

~~(3) The FAA may cancel or amend a letter of deviation authority at any time.~~

~~(4) An applicant must submit a request for deviation authority in a form and manner acceptable to the Administrator at least 60 days before the date of intended operations. A request for deviation authority must contain a complete description of the proposed operation and justification that establishes a level of safety equivalent to that provided under the regulations for the deviation requested.~~

Recommendation: Clarify proposed § 91.313(c) to list specific subparagraphs for each of the operations identified.

Proposed § 91.313(c) identifies a number of operations not considered to be the carriage of persons or property for compensation or hire. To eliminate confusion, AOPA recommends breaking each of the three operations identified into three separate subparagraphs, as follows:

(c) No person may operate a restricted category civil aircraft carrying persons or property for compensation or hire. For the purposes of this paragraph, **the following operations are not considered to be the carriage of persons or property for compensation or hire:**

(1) A special purpose operation involving the carriage of persons or material necessary to accomplish that operation, such as crop dusting, seeding, spraying, and banner towing (including the carrying of required persons or material to the location of that operation);;

(2) An operation for the purpose of providing flight crewmember training in a special purpose operation;; and

~~(3) An an operation listed conducted under the authority provided in paragraph (b) of this section are not considered to be the carriage of persons or property for compensation or hire.~~

AOPA believes separating each operation into its own subparagraph will promote clarity and eliminate confusion in the field.

Recommendation: Reduce the implementation time from 180 days to 30 days.

The FAA has currently proposed to implement the changes to § 91.313 within 180 days of the final rule. (81 Fed. Reg. at 29745.) If AOPA’s recommendations are adopted, the implementation time frame should be reduced to 30 days. The proposed changes would be less complex to implement because the LODA process is eliminated and less coordination within the FAA is required.

Issue 12: Single Pilot Operations of Former Military Airplanes and Other Airplanes with Special Airworthiness Certificates

Recommendation: Adopt the proposed amendment to allow certain large airplanes to be operated without a SIC or a letter of authorization (LOA).

Current § 91.531(a) precludes pilots from operating certain airplanes without a SIC, including “large airplanes,” which are defined as airplanes weighing more than 12,500 pounds. Current § 91.531(b) allows the FAA to issue a LOA to operate an airplane without a SIC “if that airplane is designed for and type certificated with only one pilot station.” AOPA supports the two primary changes being made in proposed § 91.531.

First, a number of large airplanes, particularly warbirds and experimental airplanes with special airworthiness certificates, were designed for only one pilot station, but do not have a type certificate. Without a type certificate, the FAA cannot issue an LOA for those aircraft under current § 91.531(b). AOPA supports the FAA’s proposed § 91.531(b)(3), which would allow large airplanes and turbojet-powered multi-engine airplanes with special airworthiness certificates to be operated without a SIC in certain conditions and without obtaining a LOA.

Second, AOPA agrees with the FAA in removing the LOA requirement under current § 91.531(b) to operate large airplanes designed for and type certificated for one pilot. A pilot should be permitted to operate a large airplane without a SIC if the airplane has been type certificated for one pilot and the pilot has received the necessary type rating. As the FAA stated, the LOA process is redundant and adds no “demonstrable benefit” beyond the existing requirements. (81 Fed. Reg. at 29744.)

Therefore, AOPA encourages the FAA to adopt proposed § 91.531 in accordance with the recommendations provided below.

Recommendation: Ensure that proposed § 91.351(b) only outlines exceptions to proposed § 91.351(a), not an exhaustive list of airplanes that may be operated without a SIC.

The FAA has proposed an entire revision of § 91.351 to eliminate inconsistencies, redundancies, and obsolete provisions. As proposed, § 91.351 would read, in part, as follows:

(a) Except as provided in paragraph (b) of this section, no person may operate the following airplanes without a pilot designated as second in command:

* * *

(b) A person may operate the following airplanes without a pilot designated as second in command:

(1) A large airplane certificated under SFAR 41 if that airplane is certificated for operation with one pilot.

(2) A commuter category, that has a passenger seating configuration, excluding pilot seats, of nine or less if that airplane is type certificated for one required pilot.

(3) A large or turbojet-powered multi-engine airplane that holds a special airworthiness certificate, if:

* * *. (Bold emphasis added.)

AOPA recognizes that the FAA intended to make paragraph (b) the list of exceptions to the airplanes listed in paragraph (a). However, as currently proposed, AOPA is concerned that, if read in isolation, proposed § 91.351(b) may be interpreted as providing an exhaustive list of airplanes that may be operated without a pilot designated as SIC. That would be a detrimental unintended consequence because, for example, airplanes type certificated for one required pilot are not listed in proposed § 91.351(b).

AOPA agrees with the intent of what the FAA is trying to accomplish. AOPA only recommends the FAA make it very clear—through a modification of the paragraph or in the preamble—that proposed § 91.351(b) is not considered an exhaustive list of airplanes that can be operated without a SIC.

Recommendations: Clarify proposed § 91.351(b)(3).

Proposed § 91.351(b)(3) would allow a person to operate a “large or turbojet-powered multiengine airplane” with a special airworthiness certificate without a SIC. AOPA recommends that the language be clarified as follows: “(3) A large **airplane** or turbojet-powered multiengine airplane that holds a special airworthiness certificate, if:” The correction would prevent any confusion as to whether the paragraph reads “large airplane” or “large multiengine airplane.”

AOPA appreciates the opportunity to provide comments on the FAA's NPRM regarding aviation training devices, pilot certification, training, and pilot schools, and a number of other provisions in parts 61, 63, 91, 121, 135, and 141. AOPA applauds the FAA for tackling these important issues in pilot training and certification, and stand ready, willing, and able to assist the FAA in any way possible.

Sincerely,

A handwritten signature in black ink that reads "Justin T. Barkowski". The signature is written in a cursive style with a large initial "J" and "B".

Justin T. Barkowski
Director, Regulatory Affairs