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Commuter Pilot-in-Command Operating
Experience Requirements and Extension
of Compliance Date for Instrument
Rating Requirement

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 135**

[Docket No. 21134; Amdt. No. 135-9]

Commuter Pilot-in-Command Operating Experience Requirements and Extension of Compliance Date for Instrument Rating Requirement**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This amendment clarifies the commuter pilot-in-command operating experience requirement which became effective on March 1, 1980. The intent is to require commuter pilots to meet certain operating experience requirements in the make and basic model aircraft to be flown during commuter passenger-carrying operations prior to being designated as pilot in command. It became apparent, during its implementation, that clarification of the rule is necessary to ensure that the required operating experience is acquired. This amendment also extends the compliance date for the instrument rating requirement for pilots in command of aircraft operating under Part 135 to give the agency adequate time to consider alternatives and determine a course of action.

DATES: Effective date: December 1, 1980. Comments must be received on or before January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. H. E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

ADDRESS: Comments on this amendment may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21134, 800 Independence Avenue, S.W., Washington, D.C. 20591; or be delivered in duplicate to Room 916, 800 Independence Ave., S.W., Washington, D.C. 20591. All comments must be marked "Docket No. 21134." Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:**Background***Operating Experience for Commuter Pilots in Command*

On January 30, 1980, the FAA issued Amendment Number 135-3, which contains commuter pilot-in-command operating experience requirements. These changes were necessary to upgrade pilot experience to provide a higher level of safety for commuter operations. During the implementation of these changes, which affect all passenger-carrying commuter operators, it became evident that a clarification of certain requirements is necessary.

The preamble for Amendment 135-3 cites the need for a pilot in command to obtain operating experience in commuter passenger-carrying operations while being observed by a check airman. This is similar to the Part 121 pilot-in-command operating experience requirement. The intent was to upgrade safety standards and to make passenger-carrying commuter operating experience as consistent as possible with that required by Part 121 as mandated by the Airline Deregulation Act of 1978.

Section 135.244, Operating experience, contains the increased pilot-in-command qualifications for commuter operations. Section 135.244(b)(2) states that the experience must be acquired during operations "under this Part." The intent of this requirement is to require pilots to acquire operating experience under the supervision of a check airman during commuter passenger-carrying operations prior to designation as pilot in command. However, some certificate holders interpret the phrase "under this Part" to mean that the operating experience may be flown under commuter and/or on-demand passenger or cargo air taxi operations.

Since the purpose of the commuter operating experience requirement is to give the pilot in command pilot time in the aircraft under operational conditions peculiar to commuter operations, it was not the intent to allow for experience accrued during charter or on-demand operations because of the differences in those types of operations from scheduled operations. For example, in contrast with scheduled commuter operations over predetermined routes, charter operations are not normally conducted in accordance with a schedule or established route schedules and do not require the great number of takeoffs, instrument approaches, and landings normally associated with scheduled operations. Another example is the greater exposure to adverse weather experienced in scheduled operations because of the increased

frequency of flights as opposed to infrequent charter flights.

Since many of the functions of a commuter operation, such as scheduling, flight planning, weight and balance, passenger and cargo loading, and fueling are not performed by the pilots, their ability to assess these functions in the commuter operating environment is critical. This makes it necessary for a prospective pilot in command to obtain the experience in passenger-carrying commuter operations. These examples clearly show the increased safety level by having the pilot meet the commuter passenger pilot-in-command experience requirement in commuter-type operations.

The acquisition of operating experience in commuter passenger-carrying operations only is imperative. With the growth of commuter air carriers, an ever-increasing number of aircraft that can carry a higher number of passengers are being introduced into service. Many of the pilots being designated to be pilots in command on these operations have very little experience in the make and basic model of aircraft. It is important that these pilots be well acquainted with the aircraft, its operating procedures, and its limitations before acting as pilot in command. The operating experience requirement provides this exposure.

This experience, similar to that required in Part 121, provides the pilot experience flying the line with an experienced check airman on board to supervise the operation prior to the pilot being designated as a pilot in command. Such experience can only be adequately acquired on scheduled passenger operations. It provides familiarization with the aircraft in these circumstances, which includes operations at maximum gross weights and during critical performance conditions, which are important areas that need attention in accident prevention. Familiarization with the aircraft systems, operating limitations, performance characteristics and other pertinent procedures are ensured by the check airmen. When the pilot is designated as a pilot in command after the operating experience requirements are met, that pilot is better prepared to assume these duties.

To accomplish the necessary clarifying change, the phrase "operations under this Part" in § 135.244(b)(2) is amended to read "commuter passenger-carrying operations under this Part."

Section 135.244(a) requires that the pilot acquire the operating experience in each make and model aircraft to be flown by the pilot as a pilot in command in commuter passenger-carrying

operations. The intent of make and model aircraft in this section is to permit the pilot to acquire the necessary experience in any make and basic model of the aircraft involved. For instance, all series models of Piper PA-31, Cessna 310, Beech 99, or DeHavilland DHC-6 aircraft can be flown to meet the operating experience in that particular make and model aircraft. Clarification of this requirement is necessary because it is interpreted by some to mean that the operating experience in that make and model is limited to one specific model, that is, a Cessna 310A. To accomplish this clarifying change, the words "basic model" are substituted for the word "model" whenever it appears in § 135.244(a).

In regard to cost factors, some operators will incur higher costs as a result of obtaining this operating experience only during commuter passenger-carrying operations. However, relaxation of the requirement to permit this experience to be obtained in the basic model of each make and model of aircraft results in a substantial cost reduction but with no derogation in safety.

The operating experience requirement needs to be met only one time for another particular make and basic model aircraft. It can be transferred by the pilot to another certificate holder provided satisfactory documentation is provided to the new certificate holder and the experience is obtained in the same make and basic model aircraft.

Compliance Date for Instrument Rating Requirements

On October 10, 1978, Part 135 was revised under the Regulatory Review Program. This revision became effective on December 1, 1978. The requirement for all pilots in command to hold an instrument rating was to be effective no later than June 1, 1979. Numerous petitions were received by the FAA requesting exemption from the instrument rating requirement. As a result, the FAA determined that additional rulemaking regarding that requirement should be initiated before compliance with the instrument rating became mandatory. In response, Amendment No. 135-1, effective May 7, 1979, changed the compliance date in § 135.10 for the instrument rating requirement to December 1, 1980.

Additional studies and rulemaking actions are being conducted at the present time. These studies disclose that additional limited exceptions to the pilot-in-command instrument rating requirement may be appropriate. To provide adequate time to determine a course of action, the FAA is issuing this

amendment to extend the compliance date for the instrument rating to February 1, 1981.

Need for Immediate Adoption

When § 135.244 was issued, there was an urgent need to effect the amendment as soon as possible. At that time, notice and public procedure were determined to be impracticable and contrary to public interest. Since clarification of that rule is necessary, the same need for immediate adoption is present. The purpose of § 135.244 is to upgrade commuter pilot competency and to require operating experience to be acquired during commuter passenger-carrying operations. The acquisition of this experience in other types of operations is not adequate. Section 135.10 has a compliance date of December 1, 1980, for all pilots in command to hold an instrument rating in Part 135 operations. Studies are in progress at this time to determine the feasibility of limited exceptions and will not be completed by December 1, 1980. By extending the compliance date to February 1, 1981, the FAA will have sufficient time to determine a course of action. Therefore, I find that notice and public procedure are impracticable and contrary to the public interest and good cause exists for making the amendments to §§ 135.244 and 135.10 effective in less than 30 days.

However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 21134." The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended effective December 1, 1980 as follows:

§ 135.244 [Amended]

1. Section 135.244(a) is amended by substituting the words "basic model" for the word "model" wherever it appears.

2. The first sentence of § 135.244(b)(2) is amended to read as follows:

§ 135.244 Operating experience.

* * * * *

(b) * * *

(2) The experience must be acquired in flight during commuter passenger-carrying operations under this Part. * * *

* * * * *

3. Section 135.10(c) is amended to read as follows:

§ 135.10 Compliance dates for certain rules.

* * * * *

(c) A certificate holder or pilot is allowed until February 1, 1981, to comply with the instrument rating requirements of § 135.243(b)(3).

* * * * *

(Secs. 313(a) and 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Policies and Regulatory Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of these regulations is so minimal that an evaluation is not required.

This is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C., on November 28, 1980.

Langhorne Bond,
Administrator.

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