

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61 and 63

[Docket No. 19300; Amdt. Nos. 61-67 and 63-20]

Certification: Pilots and Flight Instructors and Certification: Flight Crewmembers Other Than Pilots; Special Purpose Pilot, Flight Engineer, and Flight Navigator Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: These regulations provide for the issuance of special purpose airman certificates to foreign pilots and other

foreign flight crewmembers. They permit those persons to operate certain U.S.-registered civil airplanes, leased to persons not citizens of the United States, for the carriage of persons and property for compensation or hire. They are being issued in response to numerous petitions for exemptions requesting that foreign pilots and other flight crewmembers be eligible for the issuance of U.S. airman certificates to enable them to operate these airplanes.

EFFECTIVE DATE: February 25, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch (AVS-24), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Background

The FAA has received numerous petitions for exemptions requesting that foreign pilots and other foreign flight crewmembers be eligible for the issuance of U.S. airman certificates, so that they may act as flight crewmembers on certain U.S.-registered civil airplanes, leased to persons not citizens of the United States, for the purpose of carrying persons and property for compensation or hire. Although these foreign airmen hold current appropriate certificates, licenses, or authorizations issued by contracting States to the Convention on International Civil Aviation, they may not operate U.S. registered aircraft, because under section 610(a) of the Federal Aviation Act of 1958 (the Act) only persons

holding appropriate U.S. airman certificates may serve as required flight crewmembers on U.S.-registered aircraft in air commerce.

While §§ 61.75 and 63.42 of the Federal Aviation Regulations allow the holders of current foreign pilot and foreign flight engineer licenses issued by contracting States to the Convention on International Civil Aviation to have certificates issued to them for the operation of U.S.-registered civil aircraft, certificates issued under these sections do not allow the airmen to operate aircraft if they carry persons or property for compensation or hire.

Notice of Proposed Rule Making No. 79-12 (44 FR 38563; July 2, 1979) proposed regulations to provide for the issuance of special purpose airman certificates to allow these foreign airmen to operate certain U.S.-registered civil aircraft carrying persons or property for compensation or hire. By facilitating the lease of these aircraft the FAA is acting within its statutory

mandate, under section 305 of the Act, to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad.

Discussion of Comments

The FAA received 12 public comments in response to Notice 79-12. Six commenters, consisting of three air carriers, two aviation organizations, and one individual, supported the proposal. They agreed that the proposal would reduce administrative delay and facilitate arrangements between U.S. and foreign operators.

One of these commenters argued that the issuance of special purpose certificates should not be limited to airplane types that can have a maximum passenger seating configuration, excluding any flight crew seat, of more than 30 seats or a maximum payload capacity of more than 7,500 pounds. It contended that this would limit the ability of foreign air carriers using smaller aircraft to lease aircraft to meet their short-term, peak season needs. As an example, the carrier, which uses some DC-3 aircraft, noted that many DC-3 aircraft of U.S. registry are configured for 30 passenger seats or less.

However, the FAA is not aware of a significant demand for the lease of smaller U.S.-registered aircraft to foreign operators, for which special purpose certificates would be needed. If a need arises for issuance of special purpose certificates to operate these aircraft, and this need cannot be

efficiently met through the exemption process, the FAA will consider expanding the applicability of these regulations to meet such a need.

Moreover, in the commenter's case, special purpose certificates would be available for the operation of DC-3 aircraft configured for 30 passenger seats or less, since the aircraft can be configured for more than 30 passenger seats. The rule is keyed to the possible, not the actual, seating configuration of the aircraft.

Three commenters opposed the proposed regulations because they do not limit the issuance of special purpose certificates to pilots from countries that offer the same privilege to U.S. pilots. It is true that some countries do not offer special purpose airman certificates to foreign pilots for operating an aircraft registered in those countries. However, the FAA expects that this regulation will encourage other countries to extend this privilege to U.S. pilots, while at the same time facilitating the lease of U.S.-owned aircraft.

Two commenters took the position that special purpose certificates should

not be issued unless these airmen are first examined by the FAA. However, the requirements imposed on an applicant for pilot, flight engineer, and flight navigator licenses issued by contracting States to the Convention on International Civil Aviation are now substantially the same as those which must be met for certificates issued under Parts 61 and 63 of the Federal Aviation Regulations. Accordingly, it is not necessary for the FAA to require examinations for these airmen in addition to those required by the contracting State for the issuance and retention of its license.

This regulation simplifies the regulatory process by eliminating the requirements that those individuals wishing to utilize the authority contained herein from having to submit petitions for exemptions each time the authority was sought. This will also lessen the agency's regulatory workload and enable the agency to concentrate on safety related issues. This is part of the continuing effort to review and simplify the agency's regulations and procedures. This is consistent with Executive Order 12044.

Discussion of the Amendments

These amendments add two new sections to the Federal Aviation Regulations. Section 61.77 provides for special purpose pilot certificates, and

(As published in the Federal Register (45 F.R. 5670) on January 24, 1980)

§ 63.23 provides for special purpose flight engineer and flight navigator certificates. To avoid confusion, § 63.42 has been amended to change its title from "Special purpose flight engineer certificate" to "Flight engineer certificate issued on basis of a foreign flight engineer license." The title change more accurately reflects the contents of the section and makes it consistent with § 61.75, a parallel section for pilot certificates.

Under these rules, the pilot, flight engineer, or flight navigator (or a representative of that person) applying for the special purpose certificate must present to the Administrator a current foreign pilot, flight engineer, or flight navigator certificate, license, or authorization issued by a foreign contracting State, or a facsimile acceptable to the Administrator. The applicant must present a current certification by the lessee of the airplane stating: (1) that the applicant is employed by the lessee; (2) the airplane type on which the applicant will perform the flight crewmember duties; and (3) that the applicant has received appropriate ground and flight instruction. Finally, the applicant (or a representative of the applicant) must submit documentation showing that the applicant currently meets the medical standards required by the foreign certificate, license, or authorization on which the application is based, and, in the case of a pilot, that the applicant has not reached the age of 60.

The special purpose certificate will be based solely upon the applicant's foreign certificate, license, or authorization. They are valid only while that document is valid and current, and while the holder meets the medical requirements for that document. Issuance of a medical certificate under Part 67 of the Federal Aviation Regulations does not meet this requirement unless the State issuing the foreign certificate, license, or authorization accepts a Part 67 medical certificate as evidence of the applicant's medical fitness.

The holder of a special purpose certificate may exercise the same privileges as those shown on his or her foreign certificate or license.

The certificate holder is not required to comply with § 61.55 (Second in command qualifications: Operation of large airplanes or turbojet-powered multiengine airplanes), § 61.57 (Recent flight experience: Pilot in command), and § 61.58 (Pilot in command proficiency check: Operation of aircraft requiring more than one required pilot). The FAA has determined that it is not necessary to prescribe currency and checking requirements, in addition to

those prescribed by the contracting State for the issuance and retention of a pilot license, in order to maintain a level of safety equivalent to that provided by these sections.

A special purpose certificate issued under proposed § 61.77 or § 63.23 is only valid for flights between foreign countries and for flights in foreign air commerce. These certificates may not be used for operating U.S.-registered airplanes, leased to persons not citizens of the U.S., for flights in interstate, intrastate, or overseas air commerce. Flights of these airplanes within a foreign country are covered in §§ 61.3(a) and 63.3 (a) and (b) which permit those flights if the pilot, flight engineer, or flight navigator has a current appropriate license issued by the country in which the airplane is operated.

A special purpose certificate is conditioned on the validity of the airman's foreign certificate, license, or authorization and on the existence of the lease agreement. A special purpose certificate is valid while the holder: (1) has in his or her personal possession the special purpose pilot certificate and the current foreign certificate, license, or authorization upon which the special purpose certificate is based; (2) is employed by the person to whom the aircraft is leased; (3) is performing the duties of a pilot, flight engineer, or flight navigator, as appropriate, on the specific airplane type described in the certification required for issuance of the certificate; and (4) has in his or her personal possession the current medical documentation required for the issuance of the certificate. The certificate issued contains a specific reference to these limitations. Finally, the certificate is subject to any necessary additional limitations placed on the certificate by the Administrator.

The certificates issued under proposed §§ 61.77 and 63.23 automatically terminate when one of the following occurs: (1) when the lease agreement terminates; (2) when the foreign certificate, license, or authorization, or the medical documentation is suspended, revoked, or no longer valid for whatever reason; (3) after 24 months after the month in which the special purpose certificate was issued; or (4), in the case of a pilot, when the certificate holder reaches the age of 60. The requirements for renewal of a special purpose certificate are the same as for issuance of the original certificate.

Finally, the certificate holder is required to surrender the special purpose certificate to the Administrator within 7 days after the date it terminates.

The Amendment

Accordingly, Parts 61 and 63 of the Federal Aviation Regulations (14 CFR Parts 61 and 63) are amended, effective February 25, 1980, as follows:

1. By adding a new § 61.77 to read as follows:

§ 61.77 Special purpose pilot certificate: Operation of U.S.-registered civil airplanes leased by a person not a U.S. citizen.

(a) *General.* The holder of a current foreign pilot certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation, who meets the requirements of this section, may hold a special purpose pilot certificate authorizing the holder to perform pilot duties on a civil airplane of U.S. registry, leased to a person not a citizen of the United States, carrying persons or property for compensation or hire. Special purpose pilot certificates are issued under this section only for airplane types that can have a maximum passenger seating configuration, excluding any flight crewmember seat, of more than 30 seats or a maximum payload capacity (as defined in

§ 135.2(e) of this chapter) of more than 7,500 pounds.

(b) *Eligibility.* To be eligible for the issuance or renewal of a certificate under this section, an applicant or a representative of the applicant must present the following to the Administrator:

(1) A current foreign pilot certificate or license, issued by the aeronautical authority of a foreign contracting State to the Convention on International Civil Aviation, or a facsimile acceptable to the Administrator. The certificate or license must authorize the applicant to perform the pilot duties to be authorized by a certificate issued under this section on the same airplane type as the leased airplane.

(2) A current certification by the lessee of the airplane—

(i) Stating that the applicant is employed by the lessee;

(ii) Specifying the airplane type on which the applicant will perform pilot duties; and

(iii) Stating that the applicant has received ground and flight instruction which qualifies the applicant to perform the duties to be assigned on the airplane.

(3) Documentation showing that the applicant has not reached the age of 60 and that the applicant currently meets the medical standards for the foreign pilot certificate or license required by paragraph (b)(1) of this section, except that a U.S. medical certificate issued under Part 67 of this chapter is not evidence that the applicant meets those

standards unless the State which issued the applicant's foreign pilot certificate or license accepts a U.S. medical certificate as evidence of medical fitness for a pilot certificate or license.

(c) *Privileges.* The holder of a special purpose pilot certificate issued under this section may exercise the same privileges as those shown on the certificate or license specified in paragraph (b)(1), subject to the limitations specified in this section. The certificate holder is not subject to the requirements of §§ 61.55, 61.57, and 61.58 of this part.

(d) *Limitations.* Each certificate issued under this section is subject to the following limitations:

(1) It is valid only—

(i) For flights between foreign countries or for flights in foreign air commerce;

(ii) While it and the foreign pilot certificate or license required by paragraph (b)(1) of this section are in the certificate holder's personal possession and are current;

(iii) While the certificate holder is employed by the person to whom the airplane described in the certification required by paragraph (b)(2) of this section is leased;

(iv) While the certificate holder is performing pilot duties on the U.S.-registered civil airplane described in the certification required by paragraph (b)(2) of this section;

(v) While the medical documentation required by paragraph (b)(3) of this section is in the certificate holder's personal possession and is currently valid; and

(vi) While the certificate holder is under 60 years of age.

(2) Each certificate issued under this section contains the following:

(i) The name of the person to whom the U.S.-registered civil aircraft is leased.

(ii) The type of aircraft.

(iii) The limitation: "Issued under, and subject to, § 61.77 of the Federal Aviation Regulations."

(iv) The limitation: "Subject to the privileges and limitations shown on the holder's foreign pilot certificate or license."

(3) Any additional limitations placed on the certificate which the Administrator considers necessary.

(e) *Termination.* Each special purpose pilot certificate issued under this section terminates—

(1) When the lease agreement for the airplane described in the certification required by paragraph (b)(2) of this section terminates;

(2) When the foreign pilot certificate

or license, or the medical documentation, required by paragraph (b) of this section is suspended, revoked, or no longer valid;

(3) When the certificate holder reaches the age of 60; or

(4) After 24 months after the month in which the special purpose pilot certificate was issued.

(f) *Surrender of certificate.* The certificate holder shall surrender the special purpose pilot certificate to the Administrator within 7 days after the date it terminates.

(g) *Renewal.* The certificate holder may have the certificate renewed by complying with the requirements of paragraph (b) of this section at the time of application for renewal.

2. By adding a new § 63.23 to read as follows:

§ 63.23 Special purpose flight engineer and flight navigator certificates: Operation of U.S.-registered civil airplanes leased by a person not a U.S. citizen.

(a) *General.* The holder of a current foreign flight engineer or flight navigator certificate, license, or authorization issued by a foreign contracting State to the Convention on International Civil Aviation, who meets the requirements of this section, may hold a special purpose flight engineer or flight navigator certificate, as appropriate, authorizing the holder to perform flight engineer or flight navigator duties on a civil airplane of U.S. registry, leased to a person not a citizen of the United States, carrying persons or property for compensation or hire. Special purpose flight engineer and flight navigator certificates are issued under this section only for airplane types that can have a maximum passenger seating configuration, excluding any flight crewmember seat, of more than 30 seats or a maximum payload capacity (as defined in § 135.2(e) of this chapter) of more than 7,500 pounds.

(b) *Eligibility.* To be eligible for the issuance, or renewal, of a certificate under this section, an applicant must present the following to the Administrator:

(1) A current foreign flight engineer or flight navigator certificate, license, or authorization issued by the aeronautical authority of a foreign contracting State to the Convention on International Civil Aviation or a facsimile acceptable to the Administrator. The certificate or license must authorize the applicant to perform the flight engineer or flight navigator duties to be authorized by a certificate issued under this section on the same airplane type as the leased airplane.

(2) A current certification by the lessee of the airplane—

(i) Stating that the applicant is employed by the lessee;

(ii) Specifying the airplane type on which the applicant will perform flight engineer or flight navigator duties; and

(iii) Stating that the applicant has received ground and flight instruction which qualifies the applicant to perform the duties to be assigned on the airplane.

(3) Documentation showing that the applicant currently meets the medical standards for the foreign flight engineer or flight navigator certificate, license, or authorization required by paragraph (b)(1) of this section, except that a U.S. medical certificate issued under Part 67 of this chapter is not evidence that the applicant meets those standards unless the State which issued the applicant's foreign flight engineer or flight navigator certificate, license, or authorization accepts a U.S. medical certificate as evidence of medical fitness for a flight engineer or flight navigator certificate, license, or authorization.

(c) *Privileges.* The holder of a special purpose flight engineer or flight navigator certificate issued under this section may exercise the same privileges as those shown on the certificate, license, or authorization specified in paragraph (b)(1), subject to the limitations specified in this section.

(d) *Limitations.* Each certificate issued under this section is subject to the following limitations:

(1) It is valid only—

(i) For flights between foreign countries and for flights in foreign air commerce;

(ii) While it and the certificate, license, or authorization required by paragraph (b)(1) of this section are in the certificate holder's personal possession and are current;

(iii) While the certificate holder is employed by the person to whom the airplane described in the certification required by paragraph (b)(2) of this section is leased;

(iv) While the certificate holder is performing flight engineer or flight navigator duties on the U.S.-registered civil airplane described in the certification required by paragraph (b)(2) of this section; and

(v) While the medical documentation required by paragraph (b)(3) of this section is in the certificate holder's personal possession and is currently valid.

(2) Each certificate issued under this section contains the following:

(i) The name of the person to whom the U.S.-registered civil airplane is leased.

(ii) The type of airplane.

(iii) The limitation: "Issued under, and subject to, § 63.23 of the Federal Aviation Regulations."

(iv) The limitation: "Subject to the privileges and limitations shown on the holder's foreign flight (engineer or navigator) certificate, license, or authorization."

(3) Any additional limitations placed on the certificate which the Administrator considers necessary.

(e) *Termination.* Each special purpose flight engineer or flight navigator certificate issued under this section terminates—

(1) When the lease agreement for the airplane described in the certification required by paragraph (b)(2) of this section terminates;

(2) When the foreign flight engineer or flight navigator certificate, license, or authorization, or the medical documentation required by paragraph

(b) of this section is suspended, revoked, or no longer valid; or

(3) After 24 months after the month in which the special purpose flight engineer or flight navigator certificate was issued.

(f) *Surrender of certificate.* The certificate holder shall surrender the special purpose flight engineer or flight navigator certificate to the Administrator within 7 days after the date it terminates.

(g) *Renewal.* The certificate holder may have the certificate renewed by complying with the requirements of paragraph (b) of this section at the time of application for renewal.

3. By amending § 63.42 by deleting the words "Special purpose flight engineer certificate" in the title and substituting in their place the words "Flight engineer certificate issued on basis of a foreign

flight engineer license."

(Secs. 313(a), 601, and 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves regulations which are not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT:".

Issued in Washington, D.C., on January 18, 1980.

Langhorne Bond,
Administrator.

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