

fiberboard core, hardboard core, or special core or special back material joined with an adhesive.

(g) *Manufacturing* means the process of transforming logs into hardwood lumber, or the process of creating hardwood lumber products, value-added hardwood lumber products, or hardwood plywood.

(h) *Order* means the Hardwood Lumber Promotion, Research and Information Order.

(i) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term “partnership” includes, but is not limited to:

(1) A spouse who has title to, or leasehold interest in, a hardwood lumber manufacturing entity as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So called “joint ventures” wherein one or more parties to an agreement, informal or otherwise, contributed land, facilities, capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the manufacturing of covered hardwood lumber and the authority to transfer title to the hardwood lumber so manufactured.

(j) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(k) *Representative period* means the period designated by the Department.

(l) *United States* means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

#### **§ 1211.102 Voting.**

(a) Each eligible manufacturer of covered hardwood lumber shall be entitled to cast only one ballot in the referendum. However, each manufacturer in a landlord/tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to manufacture covered hardwood lumber, in which more than one of the parties is a manufacturer, shall be entitled to cast one ballot in the referendum covering only such manufacturer's share of ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate manufacturer, or an administrator, executor or trustee of an eligible entity may cast a ballot on behalf of such entity. Any individual so

voting in a referendum shall certify that such individual is an officer or employee of the eligible entity, or an administrator, executive, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) A single entity who manufactures covered hardwood lumber may cast one vote in the referendum.

(d) All ballots are to be cast by mail or other means, as instructed by the Department.

#### **§ 1211.103 Instructions.**

The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, consistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast;

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter;

(c) Give reasonable public notice of the referendum:

(1) By using available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible manufacturers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot;

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process;

(f) Prepare a report on the referendum; and

(g) Announce the results to the public.

#### **§ 1211.104 Subagents.**

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in

performing such agent's functions of this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

#### **§ 1211.105 Ballots.**

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

#### **§ 1211.106 Referendum report.**

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

#### **§ 1211.107 Confidential information.**

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

#### **§ 1211.108 OMB control number.**

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. is OMB control number 0581–NEW.

Dated: November 6, 2013.

**Rex A. Barnes,**  
*Associate Administrator.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 121**

**[Docket No. FAA–2013–0944]**

#### **Proposed Legal Interpretation**

**AGENCY:** Federal Aviation Administration (FAA)

**ACTION:** Proposed legal interpretation.

**SUMMARY:** The FAA is proposing to clarify the qualification requirements for the pilot assigned as second in command on a flight in part 121 operations that requires three or more pilots and the pilot who provides relief to the assigned second in command during the en route cruise portion of the flight.

**DATES:** Comments must be received on or before January 13, 2014.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2013–0944 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Bring comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202–493–2251.

**FOR FURTHER INFORMATION CONTACT:** Sara Mikolop, Attorney, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–3073.

**SUPPLEMENTARY INFORMATION:** The Federal Aviation Administration’s Office of the Chief Counsel has received multiple requests for a legal interpretation regarding (1) the qualification requirements for both an assigned SIC on a part 121 flight requiring three or more pilots and (2) the qualification requirements for the pilot who relieves the assigned second in command (SIC) during the en route cruise portion of a flight. This proposed legal interpretation addresses the qualification requirements for the assigned SIC and the pilot relieving the assigned SIC. The agency is seeking comments on this proposed legal interpretation because, while the existing interpretations with respect to the requirements of § 121.432(a) are clear, these interpretations may not be consistently applied and the agency is considering whether they are still appropriate.

Part 121 requires a minimum of two pilots for every operation and states that “the certificate holder shall designate

one pilot as pilot in command and the other second in command.” See 14 CFR 121.385(c). However, certain part 121 operations require more than two pilots due to the operating rules that address pilot flight duty and rest, limiting the amount of time a pilot may be aloft or at the controls. See 14 CFR part 121, subparts R and S. By assigning one or more additional pilots to a long range flight, a certificate holder can ensure that the assigned pilot in command (PIC) and assigned SIC may each have an opportunity to rest during the flight if needed or if required to comply with the flight duty and rest requirements of part 121.

In those instances in which a part 121 operation requires three or more pilots, § 121.432(a)<sup>1</sup> establishes additional qualification standards for the assigned SIC. Section 121.432(a) requires a pilot who serves as SIC of an operation that requires three or more pilots to meet all PIC qualification requirements except for PIC operating experience. See Legal Interpretation 1978–27. The agency explained in the preamble to the provision now codified at § 121.432(a) that this provision is not limited to one particular aspect of PIC qualification. See 35 FR 84, 87 (Jan. 3, 1970); Legal Interpretation 1978–27. Rather, it covers broad PIC qualification requirements, inclusive of PIC proficiency checks. See 30 FR 6725, 6725 (May 18, 1965) (requiring the second in command in a crew requiring three or more pilots to complete the same semi-annual proficiency checks as the pilot in command); 34 FR 6112, 6113 (April 4, 1969) (proposing 121.432(c), the predecessor to 121.432(a), to remove the repetitious stating of requirements for the second in command of a crew of three or more pilots); 35 FR 84, 87 (Jan. 3, 1970); Legal Interpretation 1978–27 (discussing regulatory history of § 121.432(a) including requirements for PIC proficiency checks in § 121.441).

The assigned SIC is a required flightcrew member and as such may only leave his or her duty station for purposes of rest during the en route cruise portion of the flight, if relief is provided by a pilot who meets the requirements identified in § 121.543(b)(3)(ii) to act as SIC of the aircraft during the en route cruise portion of the flight.<sup>2</sup> See 42 FR 37417,

<sup>1</sup> Section 121.432(a) states, “Except in the case of operating experience under § 121.434, a pilot who serves as second in command of an operation that requires three or more pilots must be fully qualified to act as pilot in command of that operation.”

<sup>2</sup> Section 121.543(b)(3)(ii) allows a required flightcrew member to leave the assigned duty station if the crewmember is taking a rest and relief is provided, “In the case of the assigned second in

37420 (July 21, 1977). Once a relief pilot assumes the responsibilities of the assigned SIC, the relief pilot becomes a “required” flightcrew member within the meaning of § 121.543 and must remain at that duty station until relief is provided in accordance with § 121.543(b)(3)(ii).

To relieve the assigned SIC during the en route portion of a flight (the only time the assigned SIC may leave their duty station), a pilot must meet the part 121 SIC qualification requirements, except for the recency of experience requirement in § 121.439 (three takeoffs and landings within 90 days). See § 121.543(b)(3)(ii). In contrast with § 121.432(a), which adds PIC qualification requirements to serve as the assigned SIC in a crew of three or more pilots, the relief pilot requirements in § 121.543(b)(3)(ii) do not identify any additional qualification requirements for service as SIC en route. Accordingly, the pilot relieving the assigned SIC during the en route portion of the flight need not meet the additional SIC qualification requirements identified § 121.432(a).

Finally, the agency notes that § 121.543(b)(3)(ii) does not serve as a substitute for the qualification requirements in § 121.432(a), applicable to the assigned SIC of a part 121 operation that requires three or more pilots. Thus, the exception to the recency requirement in § 121.543(b)(3)(ii) applies only to a pilot who relieves the SIC during the en route cruise portion of the flight.

Issued in Washington, DC, on November 4, 2013.

**Mark W. Bury,**

*Assistant Chief Counsel for International Law, Legislation and Regulations.*

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command, by a pilot qualified to act as second in command of that aircraft during en route operations. However, the relief pilot need not meet the recent experience requirements of § 121.439(b).” The agency notes that the requirements for PIC relief are independent from the requirements for SIC relief. Requirements for PIC relief for purposes of rest during the en route cruise portion of the flight can be found in a separate paragraph, § 121.543(b)(3)(i). An assigned PIC may only be relieved by a pilot who holds an ATP and appropriate type rating. See 14 CFR 121.543(b)(3)(i). Further, the PIC relief pilot may be either a fully qualified PIC or an SIC qualified to act as PIC en route. See *id.* An SIC qualified to act as PIC en route means an SIC who has completed all PIC qualification requirements except for the following: 6-month recurrent training required by § 121.433(c)(1)(iii); the operating experience required by § 121.434; the takeoffs and landings required by § 121.439; the line check required by § 121.440; and the 6-month proficiency check or simulator training required by § 121.441(a)(1). See *id.*