[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. FAA-2002-13744; SFAR No. 73-1)

RIN: 2120-AH94

Robinson R-22/R-44 Special Training And Experience Requirements

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to extend the expiration date of Special Federal Aviation Regulation (SFAR) 73. SFAR 73 establishes special training and experience requirements for pilots operating the Robinson model R-22 or R-44 helicopters in order to maintain the safe operation of Robinson helicopters. It also proposes special training and experience requirements for certified flight instructors conducting student instruction or flight reviews.

DATES: Comments must be received by [Insert date that is 30 days after date of publication in the Federal Register.]

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2002-13744 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal

holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Robert J. O'Haver, Operations Branch, AFS-820, General Aviation and Commercial Division, 800 Independence Ave. SW., Washington, DC 20591; Telephone: (202) 267-7031.

SUPPLEMENTARY INFORMATION: The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the ADDRESSES section of this preamble between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the ADDRESSES section.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so

without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

(2) On the search page type in the last five digits (13744) of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's web page at http://www.faa.gov/avr/armhome.htm or the Government Printing Office's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

Part 61 of Title 14 of the Code of Federal Regulations (14 CFR part 61) details the certification requirements for pilots and flight instructors. Particular requirements for pilots and flight instructors in rotorcraft are found in Subparts C through G, and Appendix B of part 61. These requirements do not address any specific type or model of rotorcraft. However, the FAA determined in 1995 that specific training and experience requirements are necessary for the safe operation of Robinson R-22 and R-44 model helicopters.

The R-22 is a 2-seat, reciprocating engine powered helicopter that is frequently used as a low-cost initial student training aircraft. The R-44 is a 4-seat helicopter with operating characteristics and design features that are similar to the R-22. The R-22 is the smallest helicopter in its class and incorporates a unique cyclic control and rotor system. Certain aerodynamic and design features of the aircraft cause specific flight characteristics that require particular pilot awareness and responsiveness.

The FAA found that the R-22 met 14 CFR part 27 certification requirements and issued a type certificate in 1979. The small size and relatively low operating costs of this helicopter made it popular as a training or small utility aircraft. Thus, a significant number of the pilots operating R–22 helicopters were relatively inexperienced. Prior to issuance of SFAR 73, the Robinson R-22 experienced a higher number of fatal accidents due to main rotor/airframe contact than other piston-powered helicopters. Many of these accidents were caused by low rotor revolutions per minute (RPM) or low "G" conditions that resulted in mast bumping or main rotor-airframe contact accidents. Aviation safety authorities attributed this to pilot error by inexperienced pilots.

In its analysis of accident data, the FAA found that apparently qualified pilots may not be properly prepared to safely operate the R-22 and R-44 helicopters in certain flight conditions. The FAA has determined that additional pilot training, originally established by SFAR 73, as modified in SFAR 73-1, continues to be needed for the safe operation of these helicopters.

Previous Regulatory Action

To address the safety issues, on March 1, 1995, the FAA published SFAR 73 (60 FR 11256). This SFAR required certain experience and training to perform pilot-in-command (PIC) and/or certified flight instructor (CFI) duties. SFAR 73 was issued on an emergency basis, with an expiration date of December 31, 1997. On November 21, 1997 (62 FR 62486), the FAA published an NPRM to extend SFAR 73 to December 31, 2002, with a minor amendment. The Final Rule extending SFAR 73 to December 31, 2002 was published on January 7, 1998 (63 FR 660).

Why the FAA is proposing to extend SFAR 73

Since the issuance of SFAR 73, there has been a drop in the accident rate of Robinson helicopters associated with low "G" manuevers (low rotor RPM) resulting in main rotor/tailboom contact. Between the publication of SFAR 73 in 1995 and the first extension of the SFAR in 1997 no accidents occurred in the R-22 or R-44 that were related to low rotor RPM and tailboom/main rotor contact. There have been two accidents since the first extension in 1997. The FAA believes that SFAR 73 has been effective in improving the safe operation of these helicopters.

The FAA has taken several steps to permanently improve the safety of Robinson helicopters. The FAA has improved the airworthiness of the R-22 and R-44 through the issuance of a number of airworthiness directives. The FAA is also working on regulations and policies to govern pilot and certified flight instructor training and experience, based on the experience gained from SFAR 73. The FAA intends to fully implement these regulations and policies prior to 2007. In the meantime, the FAA believes that the additional training required by SFAR 73 is necessary for safety. The FAA therefore proposes to extend the expiration date of SFAR 73 for 5 years.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that a Federal agency may propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531-2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting these analyses, FAA has determined this proposed rule: (1) would generate benefits that exceed costs, is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures; (2) would not have a significant economic impact on a substantial number of small entities; (3) would not constitute a barrier to international trade; and does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

This proposed rule would extend the requirements of SFAR 73-1, which will expire on December 31, 2002, for an additional 5 years. It would impose costs on those receiving instruction in Robinson model R-22 and R-44 helicopters. Before they can be certificated, affected individuals would be required to receive additional model-specific training and experience for each model of Robinson helicopter. The individuals affected include flight instructors and students seeking to be certified to operate Robinson model helicopters. These individuals can avoid the costs of this proposed rule by receiving their instruction in a helicopter other than a Robinson model. However, they would not be certificated for Robinson model helicopters.

Regarding benefits, the adoption of this proposal would continue the observed reduction in the number of fatal accidents that occur in Robinson helicopters associated with low "G" maneuvers that can result in main rotor contact with the airframe. Prior to the issuance of SFAR 73 there were 15 accidents and 24 fatalities due to main rotor contact with the airframe. Since the SFAR was issued in 1995, however, there have been only two accidents and only one fatality involving R-22 or R-44 aircraft associated with low "G" operations and main rotor contact with the airframe.

Even though two accidents involving low "G" operations have occurred since SFAR 73 was extended in 1997, the FAA finds that the potential safety benefits still exceed costs and justify the adoption of this proposed rule. The FAA seeks public comments regarding these benefits and costs.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposed rule would require students and rated pilots seeking to conduct student instructions or flight reviews in a Robinson helicopter to incur added costs. Thus, the requirements of the SFAR impact individuals rather than entities. For these reasons, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small operators. The FAA seeks public comments regarding this finding.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The NPRM proposes to impose costs on those receiving instruction on Robinson helicopters. These costs have been in effect for almost seven years and apparently have not affected sales of the aircraft. The FAA has assessed the potential effect of this proposed rule and determined that it would have a neutral impact on foreign trade and, therefore, create no obstacles to the foreign commerce of the United States.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Federalism Implications

The SFAR proposed herein will not have substantial direct effects on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that this proposed rule does not conflict with any international agreement of the United States.

Paperwork Reduction Act

The OMB control number assigned to the collection of information for this proposed rule is 2120-0021.

Conclusion

For the reasons previously discussed in the preamble, the FAA has determined that this SFAR is not significant under Executive Order 12866. Based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA certifies that this proposed rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This SFAR is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 61

Aircraft, Aircraft pilots, Airmen, Airplanes, Air safety, Air transportation, Aviation safety, Balloons, Helicopters, Rotorcraft, Students.

The Proposal

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 61 of Title 14 of the Code of Federal Regulations (14 CFR part 61) as follows:

PART 61 - CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

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

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

2. Revise section 3 of SFAR No. 73 to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS

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SPECIAL FEDERAL AVIATION REGULATION No. 73 - ROBINSON R-22/R-44 SPECIAL TRAINING AND EXPERIENCE REQUIREMENTS

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3. Expiration date. This SFAR terminates on December 31, 2007, unless sooner superceded or rescinded.

Issued in Washington, D.C. on November 7, 2002.

~~Director, Flight Standards Service~~

Louis C. Cusimano

Acting Director, Flight Standards Service

Certified to be a True Copy

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