

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 67, 141, and 142

[Docket No. FAA-1998-4518-1; Amendment Nos. 61-105, 67-18, 141-11, & 142-3]

RIN 2120-AG66

Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on final rule.

SUMMARY: This document is a summary and disposition of comments received on a final rule published by the Federal Aviation Administration (FAA) on October 5, 1998. That final rule removed language from Title 14 of the Code of Federal Regulations that restricted the licensing of foreign persons outside of the United States and that restricted the operation of pilot schools and training centers that are located outside of the United States.

ADDRESSES: The complete docket for the final rule titled "Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States" may be examined at the U.S. Department of Transportation Dockets, Docket No. FAA-98-4518, 400 Seventh Street, SW, Washington, DC 20591, in Room Plaza 401 between 10:00 a.m. and 5:00 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Warren Robbins, Certification Branch (AFS-840), General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8196.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1998, the FAA published a final rule titled "Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States" (63 FR 53531). That final rule removed language from the FAA regulations that restricted the licensing of foreign pilots, flight instructors, and ground instructors outside of the United States. In addition, that final rule removed language from the FAA regulations that restricted the operation of pilot schools and training centers located outside of the United States. The FAA concluded that the restrictive language should be removed after it determined that the administrative concerns for the restrictive language were no longer applicable and after the restrictive language was identified during harmonization efforts between the FAA and the European Joint Aviation Authorities (JAA) as an obstruction to harmonization. The FAA determined that a failure to remove the restrictive language on licensing and training could be detrimental to FAA pilot schools and training centers seeking to train students from JAA member States. Further, the FAA removed the restrictive language as part of a commitment to reducing restrictions that are not safety driven.

This document addresses comments received on the above final rule.

Discussion of Comments

The FAA received three comments on the final rule title "Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States" (the final rule). The three comments were from the Air Line Pilots Association (ALPA), Battle Creek Unlimited, Inc. (BCU), and the International Brotherhood of Teamsters Airline Division (IBT). ALPA and BCU support the final rule citing harmonization with the JAA and free trade. IBT opposes the final rule for the four reasons discussed below.

IBT Comment-First. IBT objects to the process by which the final rule was adopted, stating that there seems to be insufficient reason and a lack of urgency to issue the final rule without prior notice.

FAA Response-At the time of this rulemaking the FAA was facing the imminent implementation of new JAA regulations for European countries regarding flight crew licensing. The new JAA regulations included language that would restrict pilot training in the United States and would not permit the conversion of FAA pilot certificates to

JAA pilot licenses absent an arrangement (e.g. Bilateral Aviation Safety Agreement (BASA)). As a result, U.S. pilot schools and training centers that seek to continue to train foreign students from the JAA member states, both inside and outside of the U.S., could face economic losses: The JAA indicated that it might remove the restrictive language in the JAA regulations if the FAA removed the restrictive language in the FAA regulations. Accordingly, the FAA had to act expeditiously in order to implement a rule that would encourage a more favorable treatment of FAA pilot certificates and the training received at FAA pilot schools and training centers. After a review of the restrictive language in the FAA regulations, its original intent and purpose, the FAA determined that the restrictive language was no longer needed and its removal would have no unfavorable impact on U.S. pilots, pilot schools, or training organizations. Therefore, the FAA adopted the final rule without prior notice as it was determined to be unnecessary and impracticable.

On February 26, 1999, in response to the final rule, the JAA issued a Notice of Proposed Amendment (NPA) No. 10 that proposed, among other things, to remove some of the restrictions on pilot training outside of JAA member states. While the FAA cannot say whether NPA No. 10 will be adopted, this is a positive sign and the FAA stands ready to work with the JAA.

IBT Comment-Second, IBT raises concerns that the final rule "appears not to ensure that in application the FAA would restrict the licensing of foreign pilots to the organizations and countries discussed." IBT is concerned that the FAA will lose its ability to monitor and control the quality of training.

FAA Response-The final rule removes restrictive language concerning the licensing of foreign persons outside of the United States and the operation of U.S. pilot schools and training centers located outside of the United States. IBT is correct that the removal of the above restrictive language does not apply only to the licensing of pilots and the operation of U.S. pilot schools and training centers in JAA member states. The FAA may choose to allow the certification of pilots or the operation of U.S. training organizations anywhere. Regardless of the location, the certification of U.S. pilots, or training organizations providing training to pilots outside of the United States, requires approval from the FAA and oversight by the FAA to ensure quality control of licensing and training.

IBT Comment-Third, IBT states that United States citizens potentially are disadvantaged through the loss of employment resulting from the operation of U.S. registered aircraft by foreign nationals because the rule appears to enhance the ability of operators to hire, train, and employ foreign flight deck crewmembers.

FAA Response-The final rule does not address interchange of crewmembers or code sharing arrangements. As a result, the comment is outside of the purview of the rule.

IBT Comment-Finally, IBT asserts that the FAA acted out of economic and administrative considerations as opposed to correcting perceived operational and safety problems.

FAA Response-The FAA agrees that the implementation of the final rule removes an economic and administrative burden from non-U.S. citizen certificate applicants and from pilot training organizations outside of the United States. The FAA disagrees, however, that any operational or safety problems were overlooked with the adoption of the final rule. The restrictive language in the FAA regulations was placed there because of administrative concerns of the FAA that are no longer applicable. The restrictive language was not placed in the FAA regulations to address safety concerns. It is the FAA's commitment to reduce restrictions in our regulations that are not safety driven and to further harmonize our regulations with our European neighbors. As a result, the FAA adopted the final rule.

Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. Amendment Numbers 61-105, 67-18, 141-11, and 142-3 remain in effect as adopted.

Issued in Washington, DC, January 10, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

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[4910-13]

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This document addresses comments received on the above final rule.

Discussion of Comments

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support the final rule citing harmonization with the **JAA** and **free** trade. **IBT** opposes the **final** rule for the four reasons discussed below.

IBT Comment - First, **IBT** objects to the process by which the final rule was adopted, stating that there seems to be insufficient reason and a lack of urgency to issue the final rule without prior notice.

FAA Response – At the time of this rulemaking the FAA was facing the imminent implementation of new **JAA** regulations for European countries regarding flight crew licensing. The new **JAA** regulations included language that would restrict pilot training in the United States and would not permit the conversion of **FAA** pilot certificates to **JAA** pilot licenses absent an arrangement (e.g. Bilateral Aviation Safety Agreement (**BASA**)). **As** a result, U.S. pilot schools and training centers that seek to continue to train foreign students **from** the **JAA** member states, both inside and outside of the U.S., **could face** economic losses. The **JAA** indicated that it might remove the restrictive language in the **JAA** regulations if the FAA removed the restrictive language in the FAA regulations. Accordingly, the FAA had to act expeditiously in order to implement a rule that would encourage a more favorable treatment of FAA pilot certificates and the training received at FAA pilot schools and training centers. **After** a review of the restrictive language in the FAA regulations, its original intent and purpose, the FAA determined that the restrictive language was no longer needed and its removal would have no unfavorable impact on U.S. pilots, pilot schools, or training organizations. Therefore, the FAA adopted the final rule without prior notice **as it** was determined to be unnecessary and impracticable.

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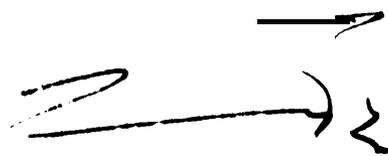
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Issued in Washington, DC. JAN 10 2000

A handwritten signature in black ink, appearing to read 'L. Nicholas Lacey', with a horizontal line above it.

L. Nicholas Lacey

Director, Flight Standards Service