



**[4910-13]**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 61 and 121**

**Pilot Age Limit Crew Pairing Requirement**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of policy.

**SUMMARY:** This document notifies the public of the Federal Aviation Administration's policy regarding enforcement of the pilot pairing requirement in the "Part 121 Pilot Age Limit" final rule. Currently, while the International Civil Aviation Organization (ICAO) standards allow a person between the age of 60 and 65 to serve as pilot in command (PIC) of an airplane with two or more pilots, in international commercial air transport operations, the PIC must be paired with a pilot younger than 60 years of age. Parts 61 and 121 of title 14, of the Code of Federal Regulations contain similar limitations. However, a recent amendment to the ICAO standards would remove this pilot pairing requirement. Instead, all pilots serving on airplanes in international commercial air transport operations with more than one pilot may serve beyond 60 years of age (until age 65) without being paired with a pilot under 60 years of age. This ICAO amendment triggers the sunset of the statutory authority that provides the basis for the crew pairing limitations in title 14.

**DATES:** Effective November 13, 2014. If implementation by the International Civil Aviation Organization of Amendment 172 to Annex 1 is delayed, the FAA will publish notification of the date changes.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this document, contact Nancy Lauck Claussen, email: Nancy.L.Claussen@faa.gov; Air Transportation Division (AFS-200), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267-8166. For legal questions concerning this document, contact Sara Mikolop, email: Sara.Mikolop@faa.gov; Office of Chief Counsel (AGC-200), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC, 20591; telephone (202) 267-3073.

**SUPPLEMENTARY INFORMATION:**

Fair Treatment of Experienced Pilots Act

On December 13, 2007, the Fair Treatment of Experienced Pilots Act (Public Law 110-135) amended title 49 of the United States Code by adding section 44729. Section 44729(a) raised the age limit for pilots serving in operations under part 121<sup>1</sup> from age 60 to age 65, subject to the limitations in section 44729(c) applicable to pilots in command on international flights.

Section 44729(c) specified a pilot pairing limitation for PICs serving on international flights. Specifically, section 44729(c)(1) provides, “A pilot who has attained 60 years of age may serve as pilot-in-command in covered operations between the United States and another country only if there is another pilot in the flight deck crew who has not yet attained 60 years of age.” The pilot pairing requirement in section 44729(c)(1) is consistent with the pilot pairing standard in ICAO Annex 1 (Personnel Licensing), Chapter 2 (Licenses and Ratings for Pilots), Standard 2.1.10.

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<sup>1</sup> The statute uses the term “covered operations” to describe part 121 operations. See 49 U.S.C. 44729(b).

The crew pairing requirement in section 44729(c)(1) will sunset in accordance with section 44729(c)(2), on the date that ICAO removes the pilot pairing limitation in Standard 2.1.10. Section 44729(c)(2) states, “Paragraph [c](1), shall cease to be effective on such date as the Convention on International Civil Aviation provides that a pilot who has attained 60 years of age may serve as pilot-in-command in international commercial operations without regard to whether there is another pilot in the flight deck crew who has not attained age 60.”

During a meeting of the ICAO Council on March 3, 2014, Council members adopted Amendment 172 to Annex 1, Personnel Licensing. The amendment removes the requirement in Standard 2.1.10 to pair a pilot in command over age 60 with a pilot under age 60. Without the pairing requirement, all pilots on multi-pilot crews serving in international air transport commercial operations may continue to serve as long as they have not reached 65 years of age.<sup>2</sup> The Council anticipates implementation of Amendment 172 to Annex 1, Personnel Licensing, to be November 13, 2014.<sup>3</sup> Accordingly, on November 13, 2014, the pilot pairing limitation in 49 U.S.C. 44729(c)(1) ceases to be effective.

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<sup>2</sup> Amendment 172 to Annex 1, Personnel Licensing, does not affect the maximum age permitted for pilots of engaged in single-pilot operations. Pilots serving in single-pilot operations must be below 60 years of age.

<sup>3</sup> On March 25, 2014, ICAO notified the FAA that the date of implementation is anticipated to be November 13, 2014, to the extent the majority of ICAO contracting States have not registered their disapproval before July 14, 2014. On October 1, 2014, the FAA confirmed that ICAO has not amended the implementation date of November 13, 2014.

## “Part 121 Pilot Age Limit” Final Rule

On July 15, 2009, the Federal Aviation Administration (FAA) published the “Part 121 Pilot Age Limit” final rule (74 FR 34229) to conform FAA regulations to the statutory requirements in the Fair Treatment for Experienced Pilots Act (codified at 49 U.S.C. 44729). Based on the statutory authority in 49 U.S.C. 44729, the 2009 final rule raised the pilot age limitation from 60 to 65 and added the pilot pairing requirement for pilots conducting part 121 operations and other multi-pilot operations between or over the territory of more than one country using U.S. registered airplanes.<sup>4</sup>

In the final rule preamble, the agency stated that it believed that the Fair Treatment for Experienced Pilots Act intended to harmonize FAA regulations with the ICAO standard pertaining to pilot age limitations and pilot pairing requirements, which would encompass international operations in addition to the part 121 operations identified by the Act. *See* 74 FR 34229, 34230 (July 15, 2009). The ICAO standard pertaining to pilot age limitations and pilot pairing applies to pilots serving in operations between his or her home state and another country as well as between two territories outside of his or her home state. Accordingly, to harmonize the agency’s regulations with the ICAO standard and further the intent of the Act, the 2009 final rule added the pilot age limitations and pilot pairing requirement for pilots conducting operations between two international territories using U.S. registered airplanes.<sup>5</sup> As a result, for multi-pilot

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<sup>4</sup> The 2009 final rule implemented the crew pairing requirements by amending part 121 as well as the regulations applicable to pilots with certificates issued under part 61, including a special purpose pilot authorization issued in accordance with § 61.77. As discussed in footnote 5, foreign air carrier operations and certain other operations conducted with U.S. registered aircraft solely outside of the U.S. must comply with ICAO standards in Annex 1 to the Convention on International Civil Aviation without further agency action.

<sup>5</sup> The agency notes that in accordance with 14 CFR 129.5(b), “Each foreign air carrier conducting operations within the United States must conduct its operations in accordance with the Standards contained in Annex 1 (Personnel Licensing), Annex 6 (Operation of Aircraft), Part I (International Commercial Air

operations, the final rule increased the maximum age for a pilot to serve and added the pilot pairing requirement for part 121 operations and certain other international air service and air transportation operations using airplanes on the U.S. registry (14 CFR 121.383(d) and (e), 61.3(j) and 61.77(g)).

Effect of ICAO Amendment and Sunset of 49 U.S.C. 44729(c)(1) on Enforcement of FAA Regulations

As discussed previously, 49 U.S.C. 44729(c)(2) states that the pilot pairing requirement in 49 U.S.C. 44729(c)(1) ceases to be effective when ICAO amends its standard to remove the pilot pairing limitation. Once the pilot pairing limitation of 49 U.S.C. 44729(c)(1) ceases to be effective, the statutory basis for pilot pairing in §§ 121.383(d)(2), 121.383(e)(2), 61.3(j)(2) and 61.77(g) of title 14 of the Code of Federal Regulations will no longer exist and those regulations will be contrary to 49 U.S.C. 44729. For this reason, beginning on the date the ICAO amendment is implemented, the FAA will no longer enforce the crew pairing requirements contained in 14 CFR 121.383(d)(2), 121.383(e)(2), 61.3(j)(2) and 61.77(g).

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Transport--Aeroplanes) or Part III (International Operations--Helicopters), as appropriate, and in Annex 8 (Airworthiness of Aircraft) to the Convention on International Civil Aviation.” Additionally, in accordance with 14 CFR 129.1(b), operations of U.S. registered aircraft solely outside of the U.S. in common carriage by a foreign person or a foreign air carrier must also be in compliance with the ICAO Standards identified in 14 CFR 129.5(b). Accordingly, for these operations, the ICAO amendment to the crew pairing limitation applies without further change to title 14 of the Code of Federal Regulations. The FAA further notes that beginning on the date of the ICAO amendment implementation, as an ICAO member state, no foreign air carrier conducting operations under part 129 may conduct operations to or from the United States with any pilot who has reached 65 years of age. This same limitation applies to operations covered by 14 CFR 129.1(b).

The FAA has initiated a rulemaking to conform applicable relevant regulations to the statute and anticipates publication of a final rule in 2015.<sup>6</sup>

Issued in Washington, DC, on November 5, 2014.

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<sup>6</sup> The FAA expects to make conforming changes to 14 CFR 61.3(j), 61.77(g) and 121.383(d)(2) and (e)(2).