

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

N 8900.295

National Policy

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5/5/15

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5/5/16

SUBJ: Pilot Training and/or Certification Events Conducted in Restricted
Category Aircraft

1. Purpose of This Notice. This notice outlines the policy pertaining to pilot training and/or certification events that take place in restricted category aircraft. Title 14 of the Code of Federal Regulations (14 CFR) part 91, § 91.313 outlines the specific operating limitations that apply to the operation of a restricted category aircraft. This notice also describes several options that allow pilot training and/or certification events in restricted category aircraft.

2. Audience. The primary audience for this notice includes all aviation safety inspectors (ASI) that oversee pilot training, checking, and/or certification events for pilots operating restricted category aircraft. Also included are those ASIs that oversee designees who conduct pilot certification events via practical test (to include the issuance of a type rating) in restricted category aircraft. The secondary audience is personnel working in the Air Transportation Division (AFS-200), the Regulatory Support Division (AFS-600), and the Civil Aviation Registry (AFS-700).

3. Where You Can Find This Notice. You can find this notice on the MyFAA employee Web site at https://employees.faa.gov/tools_resources/orders_notices. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at <http://fsims.avs.faa.gov>. Operators can find this notice on the Federal Aviation Administration's (FAA) Web site at <http://fsims.faa.gov>. This notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices.

4. Background. Recent inquiries have been made to the General Aviation and Commercial Division (AFS-800) regarding the conduct of pilot training, certification events, and/or pilot-in-command (PIC) proficiency checks required by 14 CFR part 61, § 61.58 in aircraft certificated in the restricted category. The operations in question included pilot certification events, along with the practical test required for an aircraft type rating. The key regulatory sections associated with these are issues are found in 14 CFR parts 21 and 91.

a. Basic Aircraft Certification Requirements Under Part 21. Part 21, § 21.25(a) states that "An applicant is entitled to a type certificate for an aircraft in the restricted category for special purpose operations if... no feature or characteristic of the aircraft makes it unsafe when it is operated under the limitations prescribed for its intended use, and that the aircraft—

(1) Meets the airworthiness requirements of an aircraft category except those requirements that the FAA finds inappropriate for the special purpose for which the aircraft is to be used; or

(2) Is of a type that has been manufactured in accordance with the requirements of and accepted for use by, an Armed Force of the United States and has been later modified for a special purpose.”

b. Special Purpose Operations Under § 21.25(b). The special purpose operations for restricted category aircraft are outlined in § 21.25(b), which states: “For the purposes of this section, ‘special purpose operations’ includes—

(1) Agricultural (spraying, dusting, and seeding, and livestock and predatory animal control);

(2) Forest and wildlife conservation;

(3) Aerial surveying (photography, mapping, and oil and mineral exploration);

(4) Patrolling (pipelines, power lines, and canals);

(5) Weather control (cloud seeding);

(6) Aerial advertising (skywriting, banner towing, airborne signs and public address systems); and

(7) Any other operation specified by the FAA.”

c. Type Certificate Data Sheets (TCDS). The special purpose operation that the restricted category aircraft was certificated for can be found on the applicable TCDS in the “Certification Basis” section. This will list the applicable special purpose operation(s) as described in § 21.25(b) and provide the only operations for which the restricted category aircraft can be utilized. These special purpose operations are further explained in the current edition of FAA Order 8110.56, Restricted Category Type Certification, Chapter 5, Special-Purpose Operations.

d. Basic Operational Requirements Under Part 91. Restricted category aircraft are required to be operated under the limitations found in § 91.313. Section 91.313(a) states that “no person may operate a restricted category civil aircraft—

(1) For any purpose other than the special purpose for which it is certificated; or

(2) In an operation other than one necessary to accomplish the work activity directly associated with that special purpose.”

e. Consideration for Type Rating Practical Tests. Section 91.313(b) provides a limited allowance for training. In part, it states that “operating a restricted category civil aircraft to provide flight crewmember training in a special purpose operation for which the aircraft is

certificated is considered to be an operation for that special purpose.” Note that this allowance to conduct training is limited to training directly related to the special purpose (listed in § 21.25(b)(1)–(7)) for which the aircraft is certificated under part 21. Practical tests for the addition of a type rating designation to a pilot certificate, training in preparation for such practical tests, or other flights necessary for the conduct of such practical tests (such as observations required for Designated Pilot Examiner (DPE) designation and surveillance) are outside the scope of the restricted special purpose for which these aircraft were certificated and not allowed under § 91.313. Accordingly, the FAA has determined that several methods exist in which an operator may conduct practical tests and associated flights. These methods are consistent with existing regulation and policy and are discussed in paragraph 5.

f. Consideration for PIC Proficiency Checks Required by § 61.58. The FAA notes that the regulatory restriction under § 91.313(a) applies only to those flights associated with pilot certification and/or type rating requirements of part 61. This determination does not apply to proficiency flights conducted by those who already hold the requisite type rating and whose duties are to perform an operation described by § 91.313(a). These operations are governed by § 21.25 and the TCDS. These flights, such as flights needed to satisfy the PIC proficiency checks required by § 61.58 (and associated Pilot Proficiency Examiner (PPE) observations), are considered necessary to accomplish the work activity directly associated with the aircraft’s special purpose and can be conducted in accordance with § 91.313.

g. Summary. These general guidelines are not all inclusive. There are additional requirements outlined in § 91.313 that must be complied with when operating a restricted category aircraft. The following is a listing of the types of pilot training, checking, and/or certification events that are either permitted or not permitted under the provisions of § 91.313. This list is to be utilized as a general guideline and is not all inclusive. If further clarification is needed, use the contact information found in paragraph 7.

(1) Permitted Operations.

(a) Performing a special purpose operation that is outlined in § 21.25(b). This must match the “Certification Basis” section of the TCDS for the aircraft being flown.

(b) Training to perform a special purpose operation outlined in § 21.25(b). This must match the “Certification Basis” section of the TCDS for the aircraft being flown.

(c) Except as noted as a non-permitted operation below, designation of company pilots/instructors done in accordance with company procedures.

(d) For pilots who already hold a type rating in the aircraft, the flights required to meet the requirements of § 61.57(a)(1) and (b)(1).

(e) For pilots who already hold a type rating in the aircraft, a PIC proficiency check needed to meet the requirements of § 61.58 and any training necessary to prepare for that check.

Note: As outlined in § 61.56(d)(1), a person who completes a PIC proficiency check under § 61.58 since the beginning of the 24th calendar-month before the

month in which that pilot acts as PIC need not accomplish the flight review required by § 61.56.

(f) Designation/observation of PPEs.

(g) Relocation of the aircraft to perform special purpose operations. This includes the transportation of materials, cargo, and personnel directly related to the special purpose operation.

(h) Relocation of the aircraft for required maintenance.

(2) Non-Permitted Operations.

(a) Any training for those that do not conduct special purpose operations for that operator (e.g., those not employed by the operator).

(b) Training in preparation for a practical test that would result in the issuance of a higher grade certificate, an additional certificate (to include a flight instructor certificate), new category rating, new class rating, or new type rating.

(c) A practical test that would result in the issuance of a higher grade certificate, an additional certificate (to include a flight instructor certificate), a new category rating, a new class rating, or a new type rating.

(d) The observation of a DPE.

(e) For pilots who do not hold a type rating in the aircraft, use of a restricted category aircraft to obtain PIC recent flight experience (refer to § 61.57).

(f) Use of a restricted category aircraft to obtain instrument experience required by § 61.57(c) outside of the special purpose operations outlined in § 21.25(b).

5. Guidance. The FAA recognizes that the recent determination creates a regulatory barrier for operators needing to conduct flights to meet the type rating requirements of § 61.31(a) when a standard category aircraft with the same type rating designation is not available to the operator. There are several instances of there being no equivalent standard category aircraft for the aircraft certificated in the restricted category. Further, even when standard category aircraft exists for a particular aircraft type, the operator may only operate those aircraft that are certificated in the restricted category. The audience of this notice shall be aware of the following methods of compliance.

a. Receive Training in a Standard Category Aircraft or Full Flight Simulator (FFS).

An operator can provide its pilots with flight training and/or required checking in a standard category aircraft or qualified and approved FFS of the same type. This may be from a standard category aircraft owned by the operator or one owned by another operator or from a training center that offers training in the specific type of aircraft utilizing a qualified and approved FFS. A list of currently qualified FFSs may be found at http://www.faa.gov/about/initiatives/nsp/train_devices/media/Active_FSTD.pdf.

b. Request an Exemption from § 91.313. An operator may petition for an exemption from the requirements of § 91.313(a). A grant of exemption could permit the conduct of certification practical tests, training in preparation for those practical tests, and associated flights outside of those expressly permitted by § 91.313(a) in a restricted category aircraft.

(1) An operator may submit a petition online using the procedures found on the FAA's Office of Rulemaking Web site: https://www.faa.gov/regulations_policies/rulemaking/.

(2) FAA decisions regarding petitions for exemption can be found at <http://aes.faa.gov/>.

(3) Additional information concerning exemptions can be found in FAA Order 8900.1, Flight Standards Information Management System (FSIMS), Volume 3, Chapter 2, Section 1, Exemptions, Deviations, Waivers, and Authorizations.

c. Request Approval of an Additional Special Purpose Operation. Section 21.25(b)(7) allows, as a special purpose operation, "Any other operation specified by the FAA." Criteria for the approval of "any other operation specified by the FAA" is outlined in the current edition of FAA Order 8130.2, Airworthiness Certification of Products and Articles, subparagraph 408g, and is outlined below.

(1) Order 8130.2 states, in part, "When an applicant wishes to obtain approval for a new special purpose operation previously not approved under 14 CFR § 21.25(b)(7), application with supporting justification should be made by letter to the Design, Manufacturing and Airworthiness Division, Aircraft Engineering Division, Attn.: AIR-111. If accepted, AIR-111 will provide public notice with request for comment in the Federal Register on the new proposed special purpose operation and will consider all comments before making a final decision."

(2) The Certification Procedures Branch (AIR-110) has estimated that the process outlined above may take approximately 6 months to complete. There would be additional time requirements for the following items to occur after approval:

(a) The responsible Aircraft Certification Office (ACO) would have to amend the "Certification Basis" section of each applicable TCDS to add the new special purpose operation.

(b) The appropriate authority at the local level would have to issue a new Certificate of Airworthiness to each affected aircraft.

(3) Other special purpose operations under § 21.25(b)(7) that are already approved are listed and further explained in Order 8110.56, Chapter 5, paragraph 5-10.

6. Authorization in Lieu of a Type Rating. The provisions of § 61.31(b) allow for a person to operate an aircraft described in § 61.31(a) without the requisite type rating. While the FAA could issue an authorization to allow a pilot to serve as a PIC without the requisite type rating, this authorization would not provide exception to operational restrictions found in § 91.313. Thus, one of the methods outlined above would still be required if a practical test, training in preparation for those practical tests, and associated flights were to be conducted in a restricted category aircraft.

7. Disposition. We will incorporate the information in this notice into Order 8900.1 before this notice expires. In addition, Flight Standards Service (AFS) is exploring options that would provide a long-term solution to this problem outside of the methods discussed in this notice. Direct questions pertaining to the information in this notice to Shawn Hayes in the Airman Certification and Training Branch (AFS-810) at (202) 267-0863 or via email at shawn.hayes@faa.gov.

ORIGINAL SIGNED by

/s/ John Barbagallo
Deputy Director, Flight Standards Service