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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 119, 125, 133, 137, 141, 142, 145, and 147

[Docket No. FAA–2008–1154; Amendment Nos. 91–325, 119–5, 125–61, 133–14, 137–16, 141–16, 142–8, 145–29, and 147–7]

RIN 2120–AJ36

Restrictions on Operators Employing Former Flight Standards Service Aviation Safety Inspectors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will prohibit any person holding a certificate from knowingly employing, or making a contractual arrangement with, certain individuals to act as an agent or a representative of the certificate holder in any matter before the FAA under certain conditions. These restrictions will apply if the individual, in the preceding 2-year period directly served as, or was directly responsible for the oversight of, a Flight Standards Service Aviation Safety Inspector, and had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder. This rule will also apply to persons who own or manage fractional ownership program aircraft that are used to conduct operations under specific regulations described in this document. This rule will establish these restrictions to prevent potential organizational conflicts of interest which could adversely affect aviation safety.

DATES: *Effective Date:* This amendment becomes effective October 21, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule, contact Nancy Lauck Claussen, Federal Aviation Administration, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8166; e-mail *Nancy.L.Claussen@faa.gov*. For legal questions concerning this final rule, contact Paul G. Greer, Federal Aviation Administration, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202–267–3073; e-mail *Paul.G.Greer@faa.gov*.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator, to include the authority to issue, rescind, and revise regulations. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, part A, chapter 447, Safety Regulation. Under section 44701(a) the FAA is charged with promoting the safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

I. Background

On March 5, 2008, the FAA proposed a $10.2 million civil penalty against a major airline for operating 46 airplanes without performing mandatory inspections for fuselage fatigue cracking. The FAA alleged that the airline operated 46 Boeing 737 airplanes on almost 60,000 flights from June 2006 to March 2007 while failing to comply with an existing FAA Airworthiness Directive (AD) that required repetitive inspections of certain fuselage areas to detect fatigue cracking.

Based on this event, on June 30, 2008, the Department of Transportation (DOT) Office of Inspector General issued a report on its review of the FAA's oversight of airlines and use of regulatory partnership programs. The report concluded that the FAA Certificate Management Office (CMO) overseeing the airline that failed to perform the required inspections had developed an overly collaborative relationship with the airline. The report recommended that the FAA should enhance management controls by implementing post-employment guidance that includes a ''cooling-off'' period to prohibit an air carrier from hiring an FAA Flight Standards Service Aviation Safety Inspector (AFS ASI) who previously inspected that air carrier from acting in any type of liaison capacity between it and the FAA. A full copy of the report is contained in the docket for this rulemaking.

On September 2, 2008, an independent review team, appointed by former Secretary of Transportation Mary E. Peters on May 1, 2008 to examine the FAA's safety culture and its implementation of safety management systems, issued its report titled, ''Managing Risks in Civil Aviation: A Review of the FAA's Approach to Safety.'' The report stated that ''[t]he FAA, like all other regulators, faces the danger of regulatory capture. Capture occurs when a regulatory agency draws so close to those with whom it deals on a daily basis (*i.e.* the regulated) that the agency ends up elevating their concerns at the expense of the agency's core mission.'' A full copy of the report may be found in the docket for this rulemaking.

A. Summary of the NPRM

The NPRM was published in the **Federal Register** on November 20, 2009 (74 FR 60218) and the comment period closed on February 18, 2010. The NPRM proposed to prohibit any person holding a certificate to conduct operations under parts 121, 125, 133, 135, 137, 141, 142, 145 or 147 from knowingly employing, or making a contractual arrangement with, certain individuals to act as an agent or a representative of the certificate holder in any matter before the FAA under certain conditions. These restrictions would apply if the individual, in the preceding 2-year period: (1) Directly served as, or was directly responsible for the oversight of, an AFS ASI; and (2) had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder. The NPRM also proposed to apply to persons who own or manage fractional ownership program aircraft that are used to conduct operations under subpart K of part 91. The FAA proposed to establish these restrictions to prevent potential organizational conflicts of interest which could adversely affect aviation safety.

B. Discussion of the Comments

The FAA received five comments on the proposed rule, all from individual commenters. The FAA did not receive comments from airlines, trade associations, or labor organizations. The three adverse comments addressed the applicability of the rule, and the potential burdens the rule could create. Two comments expressed support for the rule. Commenters also suggested changes, as discussed more fully in this section.

1. Applicability of Employment Prohibition to Additional FAA Employees

Two individual commenters stated that the provisions in the proposed rule should be expanded to include FAA

regional and headquarters personnel. They commented that individuals in regional and headquarters positions exert power and influence and should also be covered by the provisions in the rule. Another individual noted the challenge of trying to regulate integrity and that, using the same justification as stated in the NPRM, all former FAA employees should never be allowed to become FAA Designees, such as Designated Engineering Representatives, Designated Airworthiness Representatives, Designated Manufacturing Inspection Representatives, Organizational Designated Airworthiness Representatives.

In the final rule, the FAA has limited the scope of employment restrictions to certain types of operations. The restrictions will apply to those persons conducting operations under parts 121, 125, 133, 135, 137, 141, 142, 145, 147, and subpart K of part 91 employing former FAA personnel who had oversight responsibilities for the operator [*e.g.* Office Managers, Assistant Office Managers, Branch Managers, Unit Supervisors, and Aviation Safety Inspectors assigned to a Flight Standards District Office (FSDO) or a CMO]. AFS ASIs directly engaged in certificate management typically develop close working relationships with other AFS ASIs with whom they share direct oversight responsibilities for a particular operator. The FAA believes that aviation safety could be compromised if a former AFS ASI, acting on behalf of the operator, is able to exert undue influence on current FAA employees with whom he or she had established close working relationships while working at a FSDO or a CMO.

In the final rule the FAA has not extended the restrictions to the employment of all former FAA regional and headquarters personnel. However, these individuals are not without restrictions regarding post-FAA employment, as there are currently restrictions that apply to FAA managers and executives. Section 207(a)(1) of Title 18, United States Code (18 U.S.C.) generally places a permanent restriction on former executive branch employees (including FAA employees) regarding their ability to represent a person in connection with a particular matter in which the United States government has a direct and substantial interest and in which that person participated personally and substantially.

The FAA has determined that the scope of the restrictions in the final rule is appropriate. FAA employees not directly engaged in certificate management typically do not develop those close working relationships that the agency believes would necessitate the imposition of post-employment restrictions on certificate holders set forth in this final rule. Operators can still employ former AFS ASIs in numerous positions. However, these former AFS ASIs may not represent the operator in any matter before the FAA if in the preceding 2-year period that person (1) directly served as, or was directly responsible for the oversight of an AFS ASI, and (2) had direct responsibility to inspect, or oversee the inspection of that operator.

Although a commenter stated that the rule should impose restrictions that would prohibit former FAA employees from becoming designees, FAA designees do not represent the interest of certificate holders, but rather serve as representatives of the Administrator. Additionally, the NPRM did not propose the establishment of such restrictions and the agency considers the comments to be outside the scope of the notice.

2. Burden on Former AFS Employees

One commenter stated that the provisions in the proposed rule create a hardship for FAA employees who are leaving the agency, and suggested that the restriction on employment be reduced to 6 months, instead of the proposed 2 years. The same commenter also suggested that the restriction not be applied to anyone who was fired or has retired, and also suggested that the restriction be limited to part 121 operators since the FAA has no data indicating that this action is warranted for certificate holders engaged in activities under other parts.

The FAA selected a 2-year period for the duration of this restriction. This regulation will mirror a corresponding requirement found in current AFS policy which provides for a 2-year ''cooling off'' period for newly employed AFS ASIs. This AFS policy prohibits new ASIs from having certificate management responsibilities for their former aviation employer during this 2-year period. The final rule will not change this longstanding FAA policy. It will, however, create a corresponding requirement applicable to operators who seek to employ certain former FAA AFS ASIs and those responsible for their oversight.

In response to the comment that the restriction not be applied to anyone who was fired or has retired, the FAA notes that the method by which an AFS ASI's employment is terminated does not have any bearing on potential conflicts of interest. Therefore, the restrictions apply regardless of the manner by which the AFS ASI terminates his or her employment with the agency.

In response to the comment that the provisions in the rule should be limited to part 121 certificate holders the FAA notes that close working relationships leading to potential conflicts of interest can occur regardless of the type of operation being conducted. Therefore, the FAA has determined these restrictions should apply to those persons conducting operations under parts 121, 125, 133, 135, 137, 141, 142, 145, and subpart K of part 91.

3. Necessity for Proposed Restrictions

Two commenters stated that the proposed rule is necessary. One individual commented that a former AFS ASI should not be able to work directly for the companies that were under the AFS ASI's oversight for 2 years, but should be able to work for companies that were not under the AFS ASI's oversight. A second individual commented that airlines should not be allowed to hire aviation safety inspectors because it is clearly a conflict of interest and a danger to passengers.

The FAA recognizes the adverse safety effects of ''regulatory capture'' and conflict of interest when certain former FAA employees leave the FAA and are employed by an operation for which that person formerly had oversight duties. However, the FAA is also required to evaluate the safety benefits of the final rule against potential regulatory burdens. To achieve the safety benefits of this final rule, the FAA does not find it necessary to prohibit a former FAA employee from being hired for positions such as a pilot, flight attendant, mechanic, training instructor, *etc.* for an operation for which they formally had oversight, as long as the former FAA employee does not represent that operator to the FAA. In addition, the FAA does not find it necessary to permanently bar a former FAA employee from any job for any aviation employer after that former FAA employee has completed a 2-year ''cooling off'' period.

Therefore, in the final rule, these restrictions would only apply if the individual, in the preceding 2-year period: Directly served as, or was directly responsible for the oversight of, an AFS ASI; and had direct responsibility to inspect, or oversee the inspections of the operator and that individual acts as an agent or a representative of the operator in any matter before the FAA. The restrictions would not apply to operators for whose oversight the AFS ASI was not directly responsible.

C. Summary of the Final Rule

This final rule will prohibit any person holding a certificate to conduct operations under parts 121, 125, 133, 135, 137, 141, 142, 145, or 147 from knowingly employing, or making a contractual arrangement with, certain individuals to act as an agent or a representative of the certificate holder in any matter before the FAA under certain conditions. These restrictions will apply if the individual, in the preceding 2-year period: directly served as, or was directly responsible for the oversight of, an AFS ASI; and had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder. This final rule will also apply to persons who own or manage fractional ownership program aircraft that are used to conduct operations under subpart K of part 91. This final rule will establish these restrictions to prevent potential organizational conflicts of interests which could adversely affect aviation safety. The final rule is identical to the proposal.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

III. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall 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 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for this determination follows:

Who Will Be Potentially Affected by This Final Rule

This final rule will affect current and future AFS ASIs and persons responsible for their oversight who would perform work after the effective date of the rule for an operator for which they had direct oversight responsibilities when employed by the FAA. It will also affect operators that would have hired former FAA employees who had direct oversight responsibilities for those operators. Finally, this rule will apply to fractional owners or fractional ownership program managers who conduct operations under subpart K of part 91.

Potential Benefits and Costs

The final rule's primary benefit will be to prevent potential organizational conflicts of interest. The non-quantifiable benefits resulting from this effect will be to minimize any potential public perception that: (1) An AFS ASI could compromise current aviation safety if that individual were to be promised post-FAA employment by an operator over which that individual has direct oversight responsibilities; and (2) a former FAA employee working for an operator were to attempt to exert undue influence on current FAA employees with whom that former employee had established close working relationships. This post-employment prohibition also applies to the more likely case of former AFS ASIs who would become consultants to the operator. By prohibiting such relationships, the public will have greater confidence in the FAA's independence from the aviation industry and in the integrity of the FAA inspection system. Such benefits from this increased public confidence in the integrity of the FAA inspection process cannot be quantified.

The final rule also creates some minor inefficiencies. An operator can benefit from employing a former AFS ASI who had direct oversight responsibilities for that operator because that AFS ASI not only knows more about FAA processes than someone who had not worked for the FAA, but also, would know more about the operator than other former AFS ASIs. Further, a former AFS ASI from a specific FSDO or CMO will have greater knowledge about that office (as well as be better acquainted with the people in that office) than would a former AFS ASI from a different office.

For example, some operators may believe that employing a former AFS ASI who recently had direct oversight responsibilities for their operations would reduce the time to obtain FAA approval for manual upgrades and revisions partially due to the personal relationships between the former AFS ASI and current FAA employees. In such a case, an operator would be more likely to employ this former AFS ASI than to employ a former AFS ASI who did not have direct oversight responsibilities for that operator. Due to the general similarities among the groups of operators, the potential inefficiencies from employing a former AFS ASI who did not have direct oversight responsibilities for that operator will not be significant. Thus, from the societal point of view, the overall losses to some individual former FAA inspectors will be largely offset by gains to other former FAA inspectors or other qualified personnel. Although the final rule will create income transfers among individuals, at this time, we cannot quantify this overall loss on an individual basis. From a societal basis, the safety differential paid for the incremental loss in knowledge will be very small. We received no public comments quantifying the amount of losses that any individual will face from this rule.

The number of former AFS ASIs who leave the FAA varies from year to year. We used fiscal year 2008 (October 1, 2008, through September 30, 2009), as a representative year-long period to evaluate the number of potentially

affected FAA employees. There were a total of 163 AFS ASIs who left FAA employment during this fiscal year. Fifteen of these were from FAA headquarters and not specifically assigned to a certificate holder. These AFS ASIs would not have been affected by the rule. As shown in Table 1, of the remaining 148 inspectors who left FAA employment, 103 voluntarily retired, 5 retired due to disability, 17 resigned, 1 was removed, 6 were terminated during their probation period, 2 had their appointments terminated, and 14 died. Thus, the maximum number of former inspectors who could have been affected had the rule been in effect are the 125 non-headquarters personnel who retired (voluntarily or with disability) or resigned.

TABLE 1—REASONS THAT THE 148 NON–HEADQUARTERS INSPECTORS LEFT FAA EMPLOYMENT BETWEEN 10/1/08 AND 9/30/09

Reason for separation	Number of inspectors
VOLUNTARY RETIREMENT	103
DISABILITY RETIREMENT	5
RESIGNATION	17
REMOVAL	1
TERMINATION DURING PROBATION PERIOD	6
TERMINATION OF APPOINTMENT	2
DEATH	14
TOTAL	148

As concluded in the NPRM, we stated that few of these former AFS ASIs will become involved in post-FAA retirement employment. We further stated that this overall economic impact will be minimal, with the potential benefits exceeding the costs. We requested comments on this economic analysis and received none.

Although the overall economic impact will be minimal, with the potential benefits exceeding the costs this rule is considered a ''significant regulatory action'' for other reasons as defined in section 3(f) of Executive Order 12866 and is ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.

To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' 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 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 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.

The final rule will only prevent an AFS ASI and persons responsible for their oversight from acting as an agent or representative of an operator before the FAA when those persons had direct oversight responsibilities for that operator in the preceding two years. The cost to an operator of being unable to employ a specific individual will be minimal because other individuals with similar professional qualifications as those possessed by the former AFS ASI will be available. Therefore the FAA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) 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 (in 1995 dollars) 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.'' The FAA currently uses an inflation-adjusted value of $140.8 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

V. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, will not have federalism implications.

VI. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this final rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

VII. Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

VIII. Availability of Rulemaking Documents

A. Rulemaking Documents

An electronic copy of a rulemaking document my be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or

3. Access the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the

comment, if submitted on behalf of an association, business, labor union, *etc.*).

IX. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects

14 CFR Part 91

Aircraft, Airmen, Airports, Aviation safety.

14 CFR Part 119

Air carriers, Aircraft, Aviation safety.

14 CFR Part 125

Aircraft, Aviation safety.

14 CFR Part 133

Aircraft, Aviation safety.

14 CFR Part 137

Aircraft, Aviation safety.

14 CFR Part 141

Educational facilities, Schools.

14 CFR Part 142

Educational facilities, Schools.

14 CFR Part 145

Aircraft, Aviation safety.

14 CFR Part 147

Aircraft, Educational facilities, Schools.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

■ 2. Add § 91.1050 to read as follows:

§ 91.1050 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no fractional owner or fractional ownership program manager may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the fractional owner or fractional ownership program manager in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the fractional owner or fractional ownership program manager.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a fractional owner or fractional ownership program manager in a matter before the agency if the individual makes any written or oral communication on behalf of the fractional owner or fractional ownership program manager to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a fractional owner or fractional ownership program manager from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the fractional owner or fractional ownership program manager in any matter before the Federal Aviation Administration if the individual was employed by the fractional owner or fractional ownership program manager before October 21, 2011.

PART 119—CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS

■ 3. The authority citation for part 119 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701–44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

■ 4. Add § 119.73 to read as follows:

§ 119.73 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder conducting operations under part 121 or 135 of this chapter may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 6. Add § 125.26 to read as follows:

§ 125.26 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder may knowingly employ or make a contractual arrangement which permits

an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

■ 7. The authority citation for part 133 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702.

■ 8. Add § 133.22 to read as follows:

§ 133.22 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

■ 9. The authority citation for part 137 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 44701–44702.

■ 10. Add § 137.40 to read as follows:

§ 137.40 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no certificate holder may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a certificate holder from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

PART 141—PILOT SCHOOLS

■ 11. The authority citation for part 141 continues to read as follows:

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

■ 12. Add § 141.34 to read as follows:

§ 141.34 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of a pilot school certificate or a provisional pilot school certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of a pilot school certificate or a provisional pilot school certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

PART 142—TRAINING CENTERS

■ 13. The authority citation for part 142 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44703, 44705, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 14. Add § 142.14 to read as follows:

§ 142.14 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of a training center certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of a training center certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

PART 145—REPAIR STATIONS

■ 15. The authority citation for part 145 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44709, 44717.

■ 16. Add § 145.160 to read as follows:

§ 145.160 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of a repair station certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of a repair station certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

■ 17. The authority citation for part 147 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707–44709.

■ 18. Add § 147.8 to subpart A to read as follows:

§ 147.8 Employment of former FAA employees.

(a) Except as specified in paragraph (c) of this section, no holder of an aviation maintenance technician certificate may knowingly employ or make a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2 years—

(1) Served as, or was directly responsible for the oversight of, a Flight Standards Service aviation safety inspector; and

(2) Had direct responsibility to inspect, or oversee the inspection of, the operations of the certificate holder.

(b) For the purpose of this section, an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the agency if the individual makes any written or oral communication on behalf of the certificate holder to the agency (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a Flight Standards Service aviation safety inspector.

(c) The provisions of this section do not prohibit a holder of an aviation maintenance technician school certificate from knowingly employing or making a contractual arrangement which permits an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual was employed by the certificate holder before October 21, 2011.

Issued in Washington, DC, on August 5, 2011.

J. Randolph Babbitt,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30798; Amdt. No. 3439]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 22, 2011. The compliance date for each