

The current regulations in parts 121 and 135 do not provide specific details on the hazmat training curriculum. Nor do the hazmat training requirements in 49 CFR part 172 provide a specific curriculum; they simply provide a general training outline that requires general awareness training, function-specific training, and safety training. As noted above, the FAA historically has provided guidance to certificate holders in the form of ACs on the suggested content of the training curriculum. This guidance has been designed to enable the certificate holders to develop a program that will be suitable for FAA approval. Under this proposal, however, the curriculum would be mandated by regulation.

Paragraph (a): Proposed §§ 121.802(a) and 135.502(a) would require all hazmat training programs to include, at a minimum, the hazmat training curriculum contained at Appendix N of part 121. (See discussion of Appendix N under II.F.) The training programs would ensure that each person performing or supervising a TRF is trained to comply with 49 CFR parts 171 through 180, and would enable trained persons to recognize items that contain, or may contain, hazmat.

Paragraph (b): The proposal envisions that a certificate holder would develop an organized training program that would build upon a person's knowledge of hazmat regulations, keep up with current requirements, and focus on any problem areas. This is consistent with current requirements. "Initial hazardous materials training" would be similar to initial flight and proficiency training in part 121, subpart N, except that it would apply to a broader category of persons, and the training curriculum would be hazmat-focused. With certain exceptions, each person performing or supervising a TRF would be required to receive initial hazardous materials training prior to performing or supervising that function.

Paragraph (c): Sections 121.802(c) and 135.502(c) would require the certificate holder to obtain FAA approval of the hazmat training program prior to implementing the program. This requirement would be consistent with the current training requirements in §§ 121.401 and 135.323.

3. Training Requirement (§§ 121.803 and 135.503—Paragraphs (a))

Proposed paragraphs (a) of §§ 121.803 and 135.503 would provide that no certificate holder could use any person to perform or supervise a TRF, unless that person had satisfactorily completed the certificate holder's FAA-approved initial or recurrent hazardous materials

training program within the past year. (See discussion of recurrent training under II.E.6.) A person would be satisfactorily trained when that person understood the relevant training material and was capable of performing his or her job in compliance with both 49 CFR parts 171 through 180 and part 121, subpart Y, or part 135, subpart K, as applicable.

Under the proposed requirement, the certificate holder would have to ensure that each person performing or supervising a TRF completed the certificate holder's initial or recurrent hazardous materials training program within the past year. A person who has not received this training could not be used to perform or supervise a TRF, unless the conditions of an exception (discussed below) were satisfied. Example A explains how this general training requirement would work.

Example A: A flight attendant is employed by Certificate Holder A (a will-carry operator under part 121) and receives initial hazmat training appropriate for the job on March 1. On August 1 of the same year, the flight attendant leaves Certificate Holder A to work for Certificate Holder B (also a will-carry operator under part 121) as a flight attendant. Certificate Holder B cannot use the initial hazmat training provided by Certificate Holder A to satisfy its training obligation. Certificate Holder B must ensure that the flight attendant completes its approved hazmat training program before permitting the flight attendant to work in that capacity, unless the certificate holder uses the flight attendant as permitted by the exception in § 121.803(b).

4. New Hire/New Job Functions— (§§ 121.803 and 135.503—Paragraphs (b))

There would be two exceptions to §§ 121.803(a) and 135.503(a). The exceptions would apply to persons who are new hires or who are changing job functions and have not received the required initial or recurrent hazmat training for the new job function. The new hire/new job function exception would apply only to persons performing a function involving storage incidental to transport, or loading or unloading of items on an aircraft for transport. This exception could not be used for persons performing or supervising any other TRF. The exception would not apply to persons supervising a function, nor would the exception apply to someone performing a function involving a task other than storage incidental to transport, loading, or unloading. The new hire/new job function exception would apply for a period of not more than 30 days from either the date of hire or, for a change in functions, the date

the person began performing the new job function.

To use this exception, the person would have to be under the direct visual supervision of another person authorized to supervise him or her by the certificate holder. The supervisor would have to have successfully completed the certificate holder's approved initial or recurrent hazardous materials training program. In addition, the certificate holder would have to comply with the recordkeeping requirements in § 121.804(b) or § 135.504(b), as appropriate. The supervisor would have to observe the untrained person's performance to ensure that the function is performed in compliance with both the FAA's regulations and the DOT's HMRs. The supervisor-to-worker ratio would be approved by the principal operations inspector or the principal security inspector. Use of a video camera would not satisfy the direct visual supervision requirement.

The proposed new hire/new job function exception would be similar to the exception in 49 CFR 172.704(c)(1) for multi-modal training in that it would apply to new hires or persons changing job functions. However, unlike the exception in 49 CFR, the proposed exception would apply only to persons performing storage, loading, or unloading functions and would be valid only for 30 days from the date of employment or a change in job function. This is more limited than the new hire/new job function exception now in 49 CFR is not limited by job function and applies for 90 days after employment or a change in job function.

5. Persons Working for More Than One Certificate Holder (§§ 121.803 and 135.503—Paragraphs (c))

The second exception to the proposed rule (proposed §§ 121.803(c) and 135.503(c)) would apply to workers who perform or supervise a TRF for more than one certificate holder. Under this exception, a certificate holder using a person to perform or supervise a TRF would need only to train that person in its own policies and procedures, in accordance with its own hazardous materials training program. The certificate holder could use this exception only if:

(1) It received written verification from an authorized, knowledgeable person representing the other certificate holder for whom the person works that the person has satisfactorily completed the other certificate holder's required initial or annual approved hazardous materials training for that specific function.