

(2) The certificate holder who trained the person had the same will-carry or will-not-carry status as the certificate holder using the exception.

Example B explains how this exception would apply:

Example B: Employees at a repair station perform work for 10 will-carry certificate holders. As part of the workers' duties, they package COMAT for these certificate holders and load the packages onto aircraft for transport. All these employees performing any function involving packaging, loading, or unloading COMAT would have to be trained according to Appendix N of part 121 under at least one certificate holder's approved training program and then receive the policy and procedure training (module 13 of Appendix N of part 121) for each of the remaining nine certificate holders. The employees would have to receive this training on an annual basis. However, if a worker performing loading and unloading functions for a will-not-carry certificate holder, and then were to be used for a will-carry operator, the will-carry certificate holder could not use the exception. This employee would have to be fully trained under the will-carry certificate holder's approved hazmat training program.

The exception would minimize the training burden on certificate holders. Given the curriculum mandated, the core of each certificate holder's training program would be substantially the same. The only differences would be a certificate holder's policies and procedures for implementing the regulations. Thus, a certificate holder using a person trained by another certificate holder would only have to train that person in the way it complies with the regulations.

6. Recurrent Training (§§ 121.803 and 135.503—Paragraphs (d))

As noted above, the definition of the term "recurrent hazardous materials training" would be similar to the definition of "recurrent training" used in part 121, subpart O, for flight training. Under the proposed rule, recurrent hazardous materials training would have to be completed within a year. Thus, all persons affected by these rules would have to receive hazardous materials training once a year. However, a person would be allowed to receive recurrent hazardous materials training earlier than it is due or before the end of the month after it is due. This exception would be similar to that currently in § 121.433a(a). Thus, if recurrent hazmat training were due in January, but were completed in February, it would be considered as having been accomplished in January, and recurrent training would be due again before the end of the following January. If the training occurred before

January, the anniversary month would be the month in which it occurred.

7. Notice to Repair Stations— (§§ 121.803 and 135.503—Paragraphs (e))

Based on the NTSB's report on ValuJet Flight 592 and the FAA's experience with repair stations, the FAA has concluded that there should be better communication between repair stations and the certificate holders regarding the will-carry or will-not-carry status of the certificate holder. This proposed requirement would ensure that communication. Under proposed §§ 121.803(e) and 135.503(e), certificate holders would be responsible for providing written notification to each repair station that performed work on its behalf and that used or replaced consumable materials, aircraft parts, or other items regulated by 49 CFR parts 171 through 180, of its will-carry or will-not-carry status, and its policies and procedures. Additionally, the certificate holder would have to verify that the repair station was "aware of" its status and policies and procedures. The words "aware of" would mean that the certificate holder could not take care of its responsibilities under this rule simply by mailing a letter to the repair station stating whether it was a will-carry or will-not-carry operator. The certificate holder would have to communicate this policy to the repair station and ensure that management were actually aware of the certificate holder's policies and procedures regarding hazmat.

8. Foreign Locations (§§ 121.803 and 135.503—Paragraphs (f))

Proposed §§ 121.803(f) and 135.503(f) would maintain the current exception in § 121.433a for certificate holders operating at foreign locations. Under this exception, part 121 or part 135 certificate holders operating in foreign locations where they are required to use persons working in that country to load and unload aircraft could use persons even if they have not received the required hazmat training, but only if they are under the direct visual supervision of someone who has received the required initial or recurrent training. This exception would apply to those persons loading or unloading an item onto or off of an aircraft.

"Direct visual supervision" in paragraph (f) would mean the same as it would for the new hire/new job function exception.

9. Recordkeeping Requirements (§§ 121.804 and 135.504)

Current §§ 121.433a(b) and 135.333(b) require records to be maintained for initial and recurrent hazmat training given to crewmembers and ground personnel "who perform assigned duties and responsibilities for the handling and carriage of dangerous articles and magnetized materials."

Paragraph (a): Proposed §§ 121.804(a) and 135.504(a) would require each certificate holder to maintain training records of all initial and recurrent training received within the preceding 3 years for all categories of persons listed in Appendix N of part 121 performing or supervising a TRF for 90 days after they stop performing or supervising TRFs. This length of time would be identical to that required by 49 CFR 172.704(d). The certificate holder would be responsible for maintaining records of anyone who performed work for the certificate holder including direct employees, contractors, subcontractors, and any other person performing or supervising a TRF.

Paragraph (b): Proposed paragraph (b) would require that these records be maintained at the current location the trained person performs or supervises the TRF. When that person ceases to perform such a function, the records must be maintained at the last location for 90 days.

Paragraph (c): Under proposed §§ 121.804(c) and 135.504(c), the information maintained would be more specific than that required by 49 CFR 172.704(d). In addition to the person's name, the proposed rule would require the following:

(1) The function performed or supervised;

(2) The dates of each training course successfully completed for the preceding 3 years;

(3) A statement signed and dated by a person designated by the Director of Training certifying that the person has completed training in accordance with the certificate holder's approved hazardous materials training program; and

(4) A description of each training course successfully completed by that person that would include for each course:

- The date of the course,
- Its subject matter of the course or training area covered;
- The number of course hours;
- The instructor's name and signature indicating the person's successful completion of the course, and the person's name and signature indicating the person's attendance; and