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[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 21, and 25

[Docket No. FAA-2001-8994 (formerly Docket No. 28903); Amdt. No. 11-45, 21-77, 25-99]

RIN 2120-AF68

Type Certification Procedures for Changed Products

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on final rule.

SUMMARY: This document is a summary and disposition of comments received on a final rule published by the FAA on June 7, 2000. That final rule amended the procedural regulations for the certification of changes to type certificated products. These amendments affect changes accomplished through either an amended type certificate or a supplemental type certificate.

ADDRESSES: In order to give the public greater access to docketed information, the FAA Rules Docket has moved this docket file to the Department of Transportation's electronic Docket Management System (DMS) and assigned a new docket number to this project, Docket No. FAA-2001-8994; previously Docket No. 28903.

The complete docket file may be examined electronically through the DMS via the Internet at <http://dms.dot.gov>. See access instructions in section "Availability of Rulemaking Documents." You may also review the public docket in person by visiting the public access room at the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. The Dockets Office is open between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*Buck: 5/30/01
Part: III*

FOR FURTHER INFORMATION CONTACT: Randall Petersen, Certification Procedures Branch (AIR-110), Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267-9583.

SUPPLEMENTARY INFORMATION

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

- (1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>).
- (2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."
- (3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number for the item you wish to view.

You can also get an electronic copy using the Internet through FAA's web page at <http://www.faa.gov/avr/armhome.htm> or the Federal Register's web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

Background

On June 7, 2000, the FAA published a final rule titled "Type Certification Procedures for Changed Products" (65 FR 36244). That final rule amended the procedural regulations for the certification of changes to type certificated products, accomplished through either an amended type certificate or a supplemental type certificate. The rule requires that major changes to transport category airplanes and restricted category airplanes that have been type certificated using transport category standards, be evaluated under the new rules beginning December 10, 2001 (18 months from the date of publication ^{10/7 June 7, 2000} in the Federal Register). Major changes to all

other category aircraft and engines and propellers are required to be evaluated under the new rules beginning December 9, 2002 (30 months from the date of publication in the ~~Federal~~ ^{of June 7, 2000} Register).

In the NPRM, the FAA certified that the proposed rule would not have a significant economic impact on a substantial number of small entities. In the final rule, the FAA revisited the question of the potential impact on small entities and determined that an analysis under the Regulatory Flexibility Act of 1980, as amended, was required. Also noted in the final rule was the FAA determination that implementation of the rules would pose increased information collection requirements. The final rule contained a Regulatory Flexibility Analysis and an information collection review as required by the Paperwork Reduction Act. The FAA requested public comments on the Regulatory Flexibility Analysis and the information collection requirements.

This document addresses comments received on the above final rule.

Discussion of Comments

The FAA received 12 comments. The comments were from individuals, manufacturers, repair stations, and associations. We thank the industry for taking the time to respond to our request for comments.

Several commenters state that the FAA had not complied with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The FAA does not agree. The regulatory flexibility analysis did discuss the impact on small entities and we briefed the Small Business Administration on the rule, to its apparent satisfaction.

One commenter suggested that the cost of compliance would exceed \$15,000 dollars per Supplemental Type Certificate application, compared with the numbers used in the regulatory

flexibility analysis. Another commenter raised similar concerns suggesting the compliance cost estimate of \$3,198 dollars was unreasonably low. The FAA compliance costs were developed through use of statistical analysis and, therefore, are an estimate of average costs. The FAA recognizes that some projects may exceed the estimated average, but believes the averages are the result of a valid statistical analysis. Because the commenters did not supply data to support the \$15,000 dollar estimate, nor any other estimate, we are neither modifying our analysis nor the rule.

Two commenters are concerned that costs will increase because the certification basis cannot absolutely be determined until final FAA review. They state that limitations on FAA resources will cause extensive delays and increased costs. The FAA discussion of costs and benefits in the final rule acknowledges that there may be some additional administrative and compliance costs. Those costs were considered in the regulatory flexibility analysis.

One commenter states that the Paperwork Reduction Act burden is not justified. The commenter submitted no data to support a change in the information collection analysis and no change has been made.

Changes have not been made to the rule as a result of consideration of these comments. Many other comments addressed issues beyond the scope requested and these were not considered, except as described below.

The FAA understands the industry concerns with the implementation of this rule and the certification process. On August 22, 2000, we published in the Federal Register (65 FR 51052) a Notice of Availability and Request for Comments on the associated guidance material, Proposed Advisory Circular (AC) No. 21.101-XX. Comments to this rule and the AC were valuable and assisted the FAA in clarifying the new certification process. When issued, the advisory circular

will be harmonized with guidance issued by the Joint Aviation Authorities (JAA) and Transport Canada. The final AC should be available in the near future.

Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. Amendment Numbers 11-45, 21-77, and 25-99 remain in effect as adopted.

Issued in Washington, DC, on MAY 22 2001


Jane F. Garvey
Administrator