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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 47, 61, 63, and 65

[Docket No. FAA-2006-26714; Amendment Nos. 47-28, 61-118, 63-36, and 65-51]

RIN 2120-A143

Drug Enforcement Assistance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is implementing changes to its airmen certification and aircraft registration requirements. Two years after this rule becomes effective, paper pilot certificates may no longer be used to exercise piloting privileges. Five years after this rule becomes effective, certain other paper airmen certificates, such as those of flight engineers and mechanics, may no longer be used to exercise the privileges authorized by those certificates. To exercise the privileges after those respective dates, the airmen must hold upgraded, counterfeit-resistant plastic certificates. Student pilot certificates, temporary certificates, and authorizations are not affected. In addition, those who transfer ownership of U.S.-registered aircraft have 21 days from the transaction to notify the FAA Aircraft Registry. Those who apply for aircraft registration must include their printed or typed name with their signature. These changes are responsive to concerns raised in the FAA Drug Enforcement Assistance Act. The purpose of the changes is to upgrade the quality of data and documents to assist Federal, State, and local agencies to enforce the Nation's drug laws.

DATES: These amendments become effective on March 31, 2008. Affected parties, however, do not have to comply with the information collection requirements of this rule until the OMB approves the FAA's request for this information collection requirement. The FAA will publish a separate document notifying you of the OMB Control Number and the compliance date(s) for the information collection requirements of this rule.

FOR FURTHER INFORMATION CONTACT: John Bent, Civil Aviation Registry, Mike

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SUPPLEMENTARY INFORMATION:

Discussion of the Final Rule

Pilot Identification and Certification

The FAA Drug Enforcement Assistance Act of 1988 (Pub. L. 100-690) (the DEA Act) amended 49 U.S.C. 44703 to direct the FAA to modify the system for issuing airman certificates to pilots to make the system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances. The DEA Act identified a number of deficiencies and abuses that the modifications must address, including the use of counterfeit and stolen airman certificates by pilots and the submission of unidentifiable names of individuals on applications for registration of aircraft. The DEA Act also amended section 44703 to require the FAA to prescribe regulations to address the abuses and deficiencies. Additional background information appears in the notice of proposed rulemaking (72 FR 489, Jan. 5, 2007).

In 2002, the FAA revised the pilot certificate requirements of part 61 to require a person to carry photo identification when exercising the privileges of the pilot certificate and to present photo identification when requested by law enforcement officials. See 67 FR 65858, October 28, 2002. These changes address security and law enforcement concerns regarding the identification of pilots. Also, in July 2003, the Civil Aviation Registry (the Registry) discontinued issuing paper airman certificates and began issuing permanent airman certificates that incorporate a number of security features. The new certificates are made of high-quality plastic card stock and include micro printing, a hologram, and an ultraviolet-sensitive layer that contains certain words and phrases. These new certificates greatly reduce the ability to create counterfeit airman certificates.

This final rule provides that the holder of a paper pilot certificate, other than a temporary pilot certificate or a student pilot certificate, may not exercise the privileges of the paper certificate after two years from the date of adoption of this final rule. After the two-year period, only an FAA-issued plastic pilot certificate may be used to exercise piloting privileges. The final rule does not revoke or otherwise cancel a paper certificate. It simply requires, after this final rule becomes effective,

that the pilot have the plastic certificate to exercise the attendant privileges.

Two years is a reasonable time to allow for the replacement of pilot certificates by those who want to act as a pilot after the two-year period without interruption. (A person who holds an older-style paper pilot certificate may apply for a plastic certificate after the two-year period, but he or she would not be able to exercise piloting privileges until he or she obtained the plastic certificate.) We are assuming that applications for the plastic replacement certificate would be evenly spread out through the two-year period. If all pilots wait until close to the end of the two-year period to apply for the replacement certificate, there would undoubtedly be delays in processing and receipt of the new certificate. The two-year period balances our ability to receive and process applications for replacement certificates, to maintain our existing range of services, and to reduce the risk of counterfeiting of paper certificates.

To effect this change, we are adopting new paragraph (h) in 14 CFR 61.19 "Duration of pilot certificates," as proposed. Readers should note that this final rule does not require a holder of a paper pilot certificate to surrender the certificate when getting the new plastic certificate. The paper certificate would not authorize the holder to exercise piloting privileges, but those who wish to retain it may do so. Currently, the fee for replacing an existing paper certificate is \$2.00. This nominal fee defrays part of the Registry's cost of replacing the existing paper pilot certificates. At the same time, the \$2.00 fee will not be an undue burden on individuals. To make the replacement process as quick and easy as possible, the Registry has recently set up a system that allows a certificate holder to request a replacement certificate using the Internet. Certificate holders may access this system by going to the following address: <https://amsrvs.registry.faa.gov/amsrvs>.

This final rule does not apply to student pilot certificates or flight instructor certificates. Under existing regulations, these certificates expire 24 calendar months from the month in which they are issued or renewed. See 14 CFR 61.19(b) and (d).

This final rule also provides that ground instructors, flight crewmembers other than pilots (regulated under 14 CFR part 63), and airmen other than flight crewmembers (regulated under 14 CFR part 65) who hold paper airmen certificates (other than temporary certificates) may not exercise the privileges of the paper certificates after five years from the effective date of the

final rule. After the five-year period, only an FAA-issued plastic airman certificate could be used to exercise these privileges. This rule does not revoke or otherwise cancel a paper certificate. It simply requires the airman to have the plastic certificate to exercise the attendant privileges.

Although the DEA Act only addressed pilot certificates, we are adopting a parallel change for these other airman certificates under the FAA's general rulemaking authority. Ground instructors and part 63 and part 65 airmen play an essential role in the functioning of the civil aviation system. We must address any potential problems associated with accurate identification of these airman certificate holders. A mechanic or flight engineer would have access to aircraft and have opportunities to participate in drug smuggling activities, such as concealment of drugs on the aircraft.

To effect these changes, we are adopting the revisions to existing 14 CFR 61.19(e) and new 14 CFR 63.15(d) and 65.15(d) as proposed. Replacement of these certificates will cost the holder \$2.00. To make the replacement process as quick and easy as possible, the Registry has recently set up a system that allows a certificate holder to request a replacement certificate using the Internet. Certificate holders may access this system by going to the following address: <https://amsrvs.registry.faa.gov/amsrvs>. Readers should note that a plastic airman certificate issued under this final rule to replace a paper certificate will also contain the language proficiency endorsement needed for international operations under the International Civil Aviation Organization's Annex 1.

Aircraft Registration

The DEA Act authorizes the FAA to modify the system for registering and recording conveyances to make the system more effective in serving the needs of buyers and sellers of aircraft and of officials responsible for enforcement of laws relating to the regulation of controlled substances. See 49 U.S.C. 44111. The DEA Act identified a number of deficiencies, including the submission of unidentifiable names of individuals on applications for registration of aircraft. The DEA Act also authorized the FAA to prescribe regulations to address the deficiencies. The FAA has undertaken a number of non-regulatory actions to address the deficiencies outlined in the DEA Act. A discussion of these actions appears in the notice of proposed rulemaking (72 FR 489, Jan. 5, 2007) and the notice withdrawing the 1990 notice

of proposed rulemaking (70 FR 72403, Dec. 5, 2005).

Notwithstanding the many improvements made by the Registry, we still have a concern about the accuracy of ownership information contained in the Registry. Those who transfer ownership of U.S.-registered aircraft do not always notify the Registry of the transfer in a timely fashion. The effectiveness of the Registry's document index and aircraft registry database depends on the accuracy and timeliness of the information they contain. For this reason, we are amending 14 CFR 47.41(b) to require the person selling, or otherwise transferring ownership of, a U.S.-registered aircraft to return the certificate of aircraft registration to the Registry within 21 days of sale or transfer.

We had proposed to require reporting of aircraft sale within five days of sale or transfer, but are adopting a 21-day period in response to comments, discussed below. Twenty-one days is a reasonable amount of time to complete the reverse side of the certificate and ensure its arrival at the Registry. It achieves a balance between the need to have accurate, up-to-date information in the Registry for the use of law enforcement agencies and our desire not to unduly burden individuals.

To address the problem of the submission of illegible names of individuals on applications for registration of aircraft, we are requiring each applicant to provide a printed or typed name with his or her signature. The Registry has already included this requirement in the instructions for completing the aircraft registration application. We are adding it to our regulations to bolster our authority to reject applications that contain illegible names. To effect this change, we are adopting changes to a previously undesignated portion of 14 CFR 47.31 that appeared between paragraphs (a) and (b) as proposed. Currently, the FAA rejects an application if it is not completed or if the name and signature on the application are not the same throughout. Under this final rule, the currently undesignated provision becomes new 14 CFR 47.31(b) and includes the requirement for a printed or typed name under the signature. Existing paragraphs (b) and (c) are redesignated as paragraphs (c) and (d).

Temporary Paper Certificates and Authorizations

The FAA did not specifically address in the NPRM temporary certificates issued under §§ 61.17, 63.13, and 65.13. The process of temporary certification was not addressed in the proposal, and

we received no comments on this issue. The FAA will continue to issue paper temporary certificates as part of the FAA's established certification process. The final rule includes language in §§ 61.19, 63.15, and 65.15 to clarify that temporary certificates are not required to be plastic to allow the individual to exercise the privileges of these certificates.

The limited duration (120 days) of the temporary certificates is one reason that the FAA does not believe that the issuance of paper temporary certificates is a significant issue. Moreover, in the case of a pilot airman, the additional privilege accorded by a temporary certificate typically is attached to an existing pilot certificate. For example, adding a category, class, instrument or type rating to an existing pilot certificate means that the individual already holds a pilot certificate. At the point that the rule requires that the pilot certificate be plastic, the temporary paper certificate covering the new privileges will be associated with an existing plastic certificate. In addition, the FAA recognizes that airmen who have earned an additional privilege have a justifiable interest in immediately exercising that privilege.

There are two other paper documents, one issued under part 61 and the other issued under part 65, that provide authority to engage in certain aeronautical activities. These documents are not issued by the Civil Aviation Registry. The first document is a special purpose pilot authorization issued under § 61.77. This limited authorization is issued by letter to an individual to permit acting as a pilot aboard an aircraft of U.S. registry in foreign air commerce, subject to a variety of limitations and requirements. The FAA will continue to issue § 61.77 authorizations in letter format.

The second document is the inspection authorization issued under § 65.92. An inspection authorization is not an airman certificate per se, and to hold and exercise the privileges of the authorization, the individual must hold a current mechanics certificate with both an airframe rating and a powerplant rating. Thus, like temporary certificates that are related to an underlying pilot certificate, an inspection authorization will always be based on an FAA airman certificate. At the point under this rule when a plastic certificate is required for airmen other than pilots, the holder of an inspection authorization also will have to hold a plastic mechanics certificate that supports the inspection authorization authority.

Finally, the FAA will continue the practice of issuing paper student pilot certificates in the context of obtaining a medical certificate from an aviation medical examiner. This is consistent with the NPRM where we specifically excluded student pilot certificates from the proposed change. For the purposes of addressing the concerns of the DEA Act, the FAA concluded that changes to the student pilot certification process are not necessary.

Related Rulemaking Activities

This final rule addresses issues related to the FAA Drug Enforcement Assistance Act. The FAA will address the requirements of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) (Pub. L. 108-458) in a future rulemaking. IRTPA requires, among other things, the inclusion of a digital photograph on pilots' certificates. The FAA is currently evaluating its options with regard to the best method to meet this requirement while continuing to evaluate other changes to improve data quality of the Registry. The FAA is actively considering whether to propose a rule to require the periodic registration of aircraft. In a post-9/11 environment, there are important security and other benefits that would result from a more up-to-date and accurate aircraft Registry.

Discussion of Comments

General

The notice of proposed rulemaking (NPRM) was published on January 5, 2007, and the comment period closed on March 6, 2007 (72 FR 489). A total of 48 comments were received from commenters representing air transportation operators and their associations, pilots and pilot associations, aircraft owners and aircraft owners associations, and other individuals.

Several commenters opposed the proposals based on the incorrect notion that additional fees would be part of the rule. Some commenters were generally supportive of the changes proposed by the NPRM, but others did not see benefits from the proposed changes. With regard to the 5-day sale reporting proposal, some commenters objected to the short time period (5 days), but not to the concept of establishing a time certain.

The following discussion of comments includes the substantive issues raised by commenters.

User Fees

Of the 48 comments, there were 15 that opposed the NPRM because of their

belief that the NPRM contained new user fees. These commenters thought that this NPRM would implement additional fees for aircraft registration and the submission of the Form 337 that is used to report major repairs and alterations to aircraft. There were also some comments that establishing a user-fee system would add significant overhead costs.

These commenters read the NPRM incorrectly. We did not propose and are not adopting new or increased fees for aircraft registration and the submission of the Form 337. Nor does this final rule establish a user-fee system. The only fee associated with this final rule is the existing \$2 fee for replacing an airman certificate. Under the final rule, this is a one-time fee incurred when the paper certificate is replaced by plastic.

Return of Aircraft Registration Certificate

Some opposition to the NPRM centered on the proposed requirement that a person selling or otherwise transferring ownership of a U.S.-registered aircraft return the certificate of aircraft registration to the Registry within 5 days of sale or transfer. One commenter felt that the FAA should consider the fact that business transfers of ownership may involve securing of financial interests and financing and recommended increasing the time period to 14 business days. The National Air Transportation Association stated that aircraft transactions are complicated and frequently occur at sites away from the principals' primary residence or place of business and proposed a 10-day period. It also requested that the deadline be measured against the postmark or shipment date, not the delivery date. The National Business Aviation Association suggested a more reasonable time frame would be 14 days given the complex nature of most business aircraft transactions and the global travels of those involved in the transactions. Northwest Airlines requested we allow up to 21 days to return the old registration because the owner of an aircraft may not have immediate access to the old registration at the time of sale.

After considering the comments, we find that we do not disagree with the idea of allowing more than 5 days to report an aircraft sale or transfer. Although 5 days may be sufficient in relatively simple transactions, we do not wish to promulgate a regulation that may ensnare otherwise law-abiding entities in a violation. For this reason, of the alternatives proposed by the commenters, 10 days measured from shipping date, 14 "business" days, 14

days, and 21 days, we have chosen to adopt a 21-day period. Thus, the final rule requires reporting of aircraft sale or transfer within 21 days from the date of sale to the date we receive the aircraft registration certificate. This is fair to the commenter who requested we measure the 10-day time interval from the shipping date since a 21-day interval should easily encompass any lag between the shipping date and the delivery date. We chose not to express the time interval in "business" days because none of our other regulatory time frames make a distinction between "business" days and other days. See, for example, existing 14 CFR 47.15(f), 47.31(b), and 47.41(a)(6). We also note that 21 days (3 weeks) essentially corresponds to 14 "business" days.

The National Business Aviation Association recommended that we create a reasonable alternate means of compliance for fractional aircraft programs due to the potential increased volume of changes for aircraft in fractional programs.

Fractional aircraft programs can involve situations where there are large numbers of aircraft owners and where the ownership is constantly changing. Whenever an owner enters or leaves a fractional program, the event must be reported to the Registry through an application for an updated aircraft registration. The NPRM did not propose any change to the requirement to report changes in aircraft ownership; it simply proposed to establish a time frame in which the return of the registration certificate must be accomplished. For this reason, the change recommended by the National Business Aviation Association is beyond the scope of this rulemaking.

Replacing Paper Airmen Certificates With Plastic Certificates

A number of individual commenters expressed the view that the change from paper to plastic certificates will have no benefit on drug enforcement or improving aviation security. They opposed the expense, however modest, as an additional fee without a benefit. A smaller number of individual commenters supported the enhanced certificates, as did the Airline Pilots Association and the Aircraft Owners and Pilots Association.

The FAA is convinced that the plastic certificates provide a significantly higher level of integrity. The security features of the plastic certificates are significant. The out-of-pocket costs of two dollars coupled with the ability to easily obtain the new certificate through the Internet, makes this a significant improvement with minimal impact.

Some individual commenters, as well as the National Air Transportation Association and the Regional Airlines Association, suggested that this rulemaking be held in abeyance until such time that the FAA moves forward to address the requirement of IRTPA to add photographs to pilot certificates. They objected to the cost and inconvenience of obtaining a plastic certificate only to have to take another action related to a later rulemaking soon thereafter to implement IRTPA.

The initiative to address IRTPA, including requiring photographs on pilot certificates, will require additional rulemaking. It typically takes several years to complete a rulemaking project, and in the case of the photo ID requirement, we have not yet issued a proposal for public comment. Meanwhile, we have already issued plastic certificates to nearly 60 percent of pilots. The replacement of the remaining paper certificates with new plastic ones is a low-cost, easy way to improve the quality of certificates in the near term. In addition, the FAA currently has in place regulations that require pilots to provide a form of third-party photo identification to exercise the privileges of the airman certificate.

We are currently evaluating our options with regard to the best method of complying with the remaining IRTPA mandates, including putting a digital photo on pilot certificates. The FAA does intend ultimately to establish a digital photo requirement for pilot certificates. The rulemaking to implement additional security features on pilot certificates will give interested parties an opportunity to comment.

Properties of Existing Plastic Certificates

There were comments that the current plastic certificates would be as easy to counterfeit as the paper certificates.

The FAA disagrees with these comments as there a number of features of the new certificates that make them difficult to duplicate. Some of these features are the use of micro-printing, holograms, and an ultraviolet layer.

There were also comments that the printing on the plastic certificates could be easily rubbed off and replaced with false information.

The plastic certificates currently being issued have been enhanced with a protective layer on top of the printing that precludes this possibility. The FAA believes that the properties of the current plastic certificates make them difficult to counterfeit.

Applicability to Repairmen

An individual commenter asked if the proposed change would have the same

impact for repairmen as for certificated mechanics. In the commenter's view, the proposal did not address certificates issued under part 65 for repairmen.

The commenter must have misunderstood the proposal. The proposal included new § 65.15(d), which would apply to the holder of a paper certificate issued under part 65. Part 65 applies to airmen other than flight crew members, including air traffic control tower operators, aircraft dispatchers, mechanics, repairmen, and parachute riggers. However, § 65.15(d) does not apply to inspection authorizations issued under § 65.91 since an inspection authorization is not a certificate under § 61.15(d).

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. An agency may not collect or sponsor the collection of information, nor may it impose an information requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

As required by the Act, we submitted a copy of the new information requirements to OMB for their review when we published the NPRM. Additionally, in the NPRM, we solicited comments from the public on the proposed new information collection requirements. No comments relating to the proposed new information collection requirements were received. Affected parties, however, do not have to comply with the information collection requirements of this rule until the OMB approves the FAA's request for this information collection requirement. The FAA will publish a separate document notifying you of the OMB Control Number and the compliance date(s) for the information collection requirements of this rule.

Under this final rule, two years after the final rule becomes effective, paper pilot certificates may no longer be used to exercise piloting privileges. Five years after the final rule becomes effective, certain other paper airmen certificates, such as those of flight engineers and mechanics, may no longer be used to exercise the privileges authorized by those certificates. To exercise the privileges after those respective dates, the airmen would have to replace their paper certificates with upgraded, counterfeit-resistant plastic certificates. The FAA estimates that there are 900,000 active airmen, of which 450,000 are pilots.

Each airman having a paper certificate would need to provide the FAA, the Airmen Certification Branch at the Civil Aviation Registry, with the appropriate paperwork. This can be done either through the mail or electronically. The fee for this new replacement certificate is \$2. The FAA assumes that it will take no more than five minutes for each airman to process the paperwork; the total cost to each airman would be about \$5. Five-year costs range from \$1.51 million (\$1.31 million, discounted) for the low-cost scenario to \$3.45 million (\$2.96 million, discounted) for the high-cost scenario.

International Compatibility

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

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

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, this 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 final rule. We suggest readers seeking greater detail

read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this rule: (1) Has benefits that justify its costs, (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866, (3) is not "significant" as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Regulatory Evaluation Summary

Analysis of Costs

The FAA assumes that an equal number of paper airmen certificates will be replaced each year. The FAA projects that there will be about 335,800 pilots who still hold paper certificates, so the FAA assumes that about 167,900 will get their new plastic certificate in 2008 and in 2009. Excluding the certified flight instructors, about 399,600 other individuals with airman certificates will need to replace their certificates over a 5 year period, or about 79,900 a year.

The FAA has considered two cost scenarios. The first, low cost scenario, assumes that since some airmen have been replacing their paper certificates with the new plastic certificates, either because they have requested replacement certificates or because they have received new certificates after attaining additional ratings, they will continue to do so without the rule. The cost that these pilots will incur to replace their certificates cannot be considered a cost of the final rule, since they would have replaced their certificates without the rule. The second, high cost scenario, assumes that no pilots or airmen will replace their paper certificates with plastic certificates unless the rule required them to do so.

Pilot and Airmen Costs

Each airman having a paper certificate will need to provide the FAA's Airmen Certification Branch at the Civil Aviation Registry with the appropriate paperwork. This can be done either through the mail or electronically. The fee for this new replacement certificate is \$2. The FAA assumes that it will take no more than 5 minutes for each airman

to process the paperwork; the total cost to each airman will be about \$5. Five-year costs range from \$1.51 million (\$1.31 million, discounted) for the low-cost scenario to \$3.45 million (\$2.96 million, discounted) for the high-cost scenario.

Government Costs

There are several steps involved with the FAA processing a request for a duplicate airman certificate. These steps include federal employees at two different grade levels as well as several contractors, including those who will preprocess and scan the images, index the image, review the certificate for accuracy, and print and mail the certificates. The total costs per new certificate sum to about \$4.50; 5-year costs range from \$1.45 million (\$1.26 million, discounted) for the low-cost scenario to \$3.30 million (\$2.83 million discounted) for the high-cost scenario. The lower cost represents the low cost scenario, while the higher cost represents the high cost scenario.

Total costs, over 5 years, to replace the existing paper certificates range from \$2.96 million (\$2.57 million, discounted), the low cost scenario, to \$6.75 million (\$5.79 million, discounted), the high cost scenario.

Analysis of Benefits

Congress has determined that the smuggling of drugs into the United States by general aviation aircraft is a major contributing factor in the illegal drug crisis facing the nation. As a result of that determination, the Congress expanded the mission of the FAA to include assisting law enforcement agencies in the enforcement of laws regulating controlled substances, to the extent consistent with aviation safety.

The Congress has stated in the Drug-Free America Policy of the Drug Enforcement Assistance Act of 1988 that the total cost of drug use to the economy is estimated to be over \$100 billion annually. Were this rule to reduce society's economic cost of drug use by approximately 1/74,000th for the high cost scenario or 1/169,000th for the low cost scenario over 5 years, that achievement will more than equal the estimated cost to society of these regulatory changes. The FAA believes that such a reduction is achievable. Congress, which reflects the will of the American public, has determined that this action is in the best interest of the nation.

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.

This rule affects aircraft owners, through part 47, and pilots, through parts 61, 63, and 65. The change to part 47 will affect all aircraft owners. However, as stated above, they have always been required to send in the registration package upon purchase of a new aircraft; this rule does not impose any new requirements on new aircraft owners. Accordingly, there are no additional costs for these owners.

The changes to parts 61, 63, and 65 will impose an estimated \$5 in compliance costs on pilots applying for certificate reissuances. This cost covers the costs for the postage, applicant's time, and the \$2 reissuance fee charged to pilots. However, pilots are not small entities and are not covered by the Regulatory Flexibility Act. The FAA recognizes that there are one-man businesses that provide aviation services; however, the cost of this final rule to them will be negligible and, therefore, not significant.

Therefore as the FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39) prohibits Federal agencies from establishing any

standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no effect on international trade.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act 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 (adjusted annually for inflation) 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 \$128.1 million in lieu of \$100 million.

This final rule does not contain such a mandate. The requirements of Title II do not apply.

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, the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

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 rule qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Availability of Rulemaking Documents

You can get an electronic copy of this final rule using the Internet by:

- (1) Searching the Federal eRulemaking portal at <http://www.regulations.gov>;
- (2) Visiting the Office of Rulemaking's Web page at <http://www.faa.gov/avr/arm/index.cfm>; or
- (3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

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. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 47

Aircraft, Reporting and recordkeeping requirements.

14 CFR Part 61

Aircraft, Airmen, Alcohol abuse, Drug abuse, Recreation and recreation areas, Reporting and recordkeeping requirements, Teachers.

14 CFR Part 63

Aircraft, Airmen, Alcohol abuse, Drug abuse, Navigation (air), Reporting and recordkeeping requirements.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Drug abuse, Reporting and recordkeeping requirements.

The Amendments

■ In consideration of the foregoing the Federal Aviation Administration is amending Chapter I of Title 14 Code of Federal Regulations as follows:

PART 47—AIRCRAFT REGISTRATION

■ 1. The authority citation for part 47 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113–40114, 44101–44108, 44110–44111, 44703–44704, 44713, 45302, 46104, 46301; 4 U.S.T. 1830.

■ 2. Amend § 47.31 to redesignate existing paragraphs (b) and (c) as (c) and (d) and designate the undesignated text following paragraph (a)(3) as a new paragraph (b) and revise it to read as follows:

§ 47.31 Application.

* * * * *

(b) The FAA rejects an application when—(1) Any form is not completed; (2) The name and signature of the applicant are not the same throughout; or

(3) The applicant does not provide a legibly printed or typed name with the signature in the signature block.

* * * * *

■ 3. Amend § 47.41 by revising paragraph (b) to read as follows:

§ 47.41 Duration and return of Certificate.

* * * * *

(b) The Certificate of Aircraft Registration, with the reverse side completed, must be returned to the FAA Aircraft Registry—

(1) Within 21 days in the case of registration under the laws of a foreign country, by the person who was the owner of the aircraft before foreign registration;

(2) Within 60 days after the death of the holder of the certificate, by the administrator or executor of his estate, or by his heir-at-law if no administrator or executor has been or is to be appointed; or

(3) Within 21 days of the termination of the registration, by the holder of the Certificate of Aircraft Registration in all other cases mentioned in paragraph (a) of this section.

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 4. The authority citation for part 61 continues to read as follows:

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

■ 5. Amend § 61.19 by:

- A. Revising paragraph (e); and
- B. By adding new Paragraph (h) to read as follows:

§ 61.19 Duration of pilot and instructor certificates.

* * * * *

(e) *Ground instructor certificate.* (1) A ground instructor certificate issued under this part is issued without a specific expiration date.

(2) Except for temporary certificates issued under § 61.17, the holder of a paper ground instructor certificate issued under this part may not exercise the privileges of that certificate after March 31, 2013.

* * * * *

(h) *Duration of pilot certificates.* Except for a temporary certificate issued under § 61.17 or a student pilot certificate issued under paragraph (b) of this section, the holder of a paper pilot certificate issued under this part may not exercise the privileges of that certificate after March 31, 2010.

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

■ 6. The authority citation for part 63 continues to read as follows:

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

■ 7. Amend § 63.15 by adding new paragraph (d) to read as follows:

§ 63.15 Duration of certificates.

* * * * *

(d) Except for temporary certificate issued under § 63.13, the holder of a paper certificate issued under this part may not exercise the privileges of that certificate after March 31, 2013.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

■ 8. The authority citation for part 65 continues to read as follows:

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

■ 9. Amend § 65.15 by adding new paragraph (d) to read as follows:

§ 65.15 Duration of certificates.

* * * * *

(d) Except for temporary certificates issued under § 65.13, the holder of a paper certificate issued under this part may not exercise the privileges of that certificate after March 31, 2013.

Issued in Washington, DC, on February 6, 2008.

Robert A. Sturgell,

Acting Administrator.

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DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Part 740**

[Docket No. 071129776–7777–01]

RIN 0694–AE20

Expanded Authorization for Temporary Exports and Reexports of Tools of Trade to Sudan

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule increases the number of end-uses for which certain “tools of trade” may be exported temporarily to Sudan under a license exception. It also makes more types of commodities eligible under the category “tools of trade” for purposes of this license exception and authorizes reexports under this provision to the same extent as exports are authorized.

DATES: *Effective Date:* This rule is effective February 28, 2008.

ADDRESSES: Comments may be submitted by e-mail to the Federal eRulemaking site www.regulations.gov, by e-mail directly to BIS at publiccomments@bis.doc.gov; by fax to (202) 482–3355; or on paper to—Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Refer to Regulatory Identification Number (RIN) 0694–AE20 in all comments. Comments on the information collection contained in this rule should also be sent to David Rostker, Office of Management and Budget Desk Officer; by e-mail to david_rostker@omb.eop.gov; or by fax to (202) 395–7285. Refer to RIN 0694–AE20 in all comments.

FOR FURTHER INFORMATION CONTACT: Eric Longnecker, Office of Nonproliferation

and Treaty Compliance, tel. (202) 482–5537, e-mail elongnec@bis.doc.gov.

SUPPLEMENTARY INFORMATION:**Background**

Section 740.9 of the Export Administration Regulations provides inter alia an exception to export and reexport license requirements for certain temporary exports and reexports. One category of such exports and reexports is entitled “tools of trade.” In February 2005, BIS revised § 740.9 to allow temporary exports, but not reexports, to Sudan of certain computers, communications devices, and global satellite positioning devices by employees and staff of certain organizations engaged in humanitarian work in Sudan (70 FR 8257, February 18, 2005 and 70 FR 9703, February 28, 2005). The experiences of the organizations using this provision, the increase in computer performance levels since that rule was published, the implementation of the Comprehensive Peace Agreement and the Darfur Peace Agreement, the passage of the Darfur Peace and Accountability Act, the issuance of Executive Order 13412, the implementation of that Act and that Executive Order by the Department of the Treasury, and the changing nature of the assistance being provided in Sudan by non-governmental organizations have led BIS to conclude that changes to this provision are warranted.

Specific Changes Made by This Rule

This rule modifies § 740.9(a)(2)(i)(B) of the EAR, which sets forth the provisions that apply specifically to Sudan for temporary exports and reexports of tools of trade under License Exception TMP. This rule breaks that paragraph into further subparagraphs to make the provisions easier to follow and cite.

This rule adds reexports to the types of transactions authorized by § 740.9(a)(2)(i)(B).

This rule adds certain support activities to relieve human suffering or to implement the Darfur Peace Agreement or the Comprehensive Peace Agreement by an organization authorized by the Department of the Treasury, and certain support activities to relieve human suffering in Sudan in areas that are exempt from the Sudanese Sanctions Regulations by virtue of the Darfur Peace and Accountability Act and Executive Order 13412, to the purposes for which § 740.9(a)(2)(1)(B) authorizes sending tools of trade under License Exception TMP to Sudan.

This rule allows exports and reexports to an eligible user in Sudan by a method reasonably calculated to assure delivery