



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11 and 13

[Docket No.: FAA-2018-1051; Amdt. No.: 13-40A]

RIN 2120-AK85

Update to Investigative and Enforcement Procedures and General Rulemaking Procedures; Technical Amendments

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Final rule; technical amendments.

SUMMARY: The FAA is making technical amendments to the Update to Investigative and Enforcement Procedures final rule, which was published on October 1, 2021. The final rule document inadvertently removed a delegation of authority from the Administrator for certificate actions. Also, the FAA is adding the Office of Management and Budget (OMB) control number for an information collection in the final rule.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Cole R. Milliard, Office of the Chief Counsel, AGC-300, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591; telephone (202) 267-3452; email Cole.Milliard@faa.gov, or Jessica E. Kabaz-Gomez, Office of the Chief Counsel, AGC-300, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591; telephone (202) 267-7395; email Jessica.Kabaz-Gomez@faa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the Update to Investigative and Enforcement Procedures notice of proposed rulemaking (NPRM) (84 FR 3614, February 12, 2019), comments received, and final rule may be viewed online at <https://www.regulations.gov> using the docket number listed above. A copy of these technical amendments will be placed in the same docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at <https://www.federalregister.gov> and the Government Publishing Office's website at <https://www.govinfo.gov>. A copy may also be found at the FAA's Regulations and Policies website at https://www.faa.gov/regulations_policies.

Copies may also be obtained 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) 267-9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing these technical amendments, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

Good Cause for Adoption Without Prior Notice

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency for "good cause" finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Section 553(d)(3) of the APA requires that agencies publish a rule not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule.

This action makes technical amendments that will not impose any additional substantive restrictions or requirements on any persons affected by the regulations.

Therefore, the FAA finds that notice and public comment under 5 U.S.C. 553(b)(3)(B) is unnecessary and that good cause exists under 5 U.S.C. 553(d) for making this rule effective in less than 30 days.

Background

On October 1, 2021, the Update to Investigative and Enforcement Procedures final rule (RIN 2120–AL00) was published in the Federal Register at 86 FR 54514. After the rule was published, the FAA discovered that a delegation of the Administrator’s authority under 49 U.S.C. 44709 and 5121 previously codified in 14 CFR 13.19(b) was inadvertently deleted. On March 17, 2022, the Administrator issued a Delegation of Authority that authorized the Chief Counsel, the Deputy Chief Counsel, and the Assistant Chief Counsel for Enforcement to exercise his authority under 49 U.S.C. 44709 and 5121 to issue orders, including emergency orders, and also ratified all orders issued under these statutes between publication of the final rule and March 17, 2022.

This technical amendment restores the delegation of the Administrator’s authority under 49 U.S.C. 44709(b)(1)(A), (b)(2), and 5121 to part 13 by inserting it in §§ 13.19(a)(2) and 13.70. This places part of the prior delegation that pertained to the Administrator’s authority to take certain certificate actions, as currently codified in 49 U.S.C. 44709(b)(1)(A) and (b)(2), in § 13.19 because this section pertains to certificate actions. The other part of the prior delegation that addressed the Administrator’s authority under the Hazardous Materials Transportation Act, as currently codified in 49 U.S.C. 5121, is being placed in § 13.70 of subpart E because it pertains to hazardous material actions. It is necessary to restore this delegation to the text of these regulations because it was inadvertently deleted, and to ensure consistency throughout part 13, which contains other codified delegations of the Administrator’s authority.

This same final rule included an information collection subject to the Paperwork Reduction Act: formal complaints, codified at 14 CFR 13.5. Since the publication of the

final rule, OMB has approved the formal complaint information collection. The FAA is therefore adding the formal complaint control number to the list of OMB control numbers for FAA information collections at 14 CFR 11.201.

List of Subjects

14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

14 CFR Part 13

Administrative practice and procedure, Air transportation, Aviation safety, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

The Amendments

Accordingly, the FAA amends 14 CFR parts 11 and 13 as set forth below:

PART 11 – GENERAL RULEMAKING PROCEDURES

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

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701-44702, 44711, 46102, and 51 U.S.C. 50901-50923.

2. Amend the table in paragraph (b) of § 11.201 by adding an entry for “13.5” before the entry “Part 14” to read as follows:

§ 11.201 Office of Management and Budget (OMB) control numbers assigned under the Paperwork Reduction Act.

* * * * *

(b) * * *

| 14 CFR part or section identified and described | Current OMB control number |
|---|----------------------------|
| 13.5 | 2120-0795 |
| * * * * * | |

PART 13 – INVESTIGATIVE AND ENFORCEMENT PROCEDURES

3. The authority citation for part 13 is revised to read as follows:

Authority: 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121-5124, 5127, 40113-40114, 44103-44106, 44701-44704, 44709-44710, 44713, 44725, 44742, 44802 (note), 46101-46111, 46301, 46302 (for a violation of 49 U.S.C. 46504), 46304-46316, 46318, 46501-46502, 46504-46507, 47106, 47107, 47111, 47122, 47306, 47531-47532; 49 CFR 1.83.

4. Revise paragraph (a) of § 13.19 to read as follows:

§ 13.19 Certificate actions appealable to the National Transportation Safety Board.

(a) This section applies to certificate actions by the Administrator that are appealable to the National Transportation Safety Board.

(1) Under 49 U.S.C. 44709(b) the Administrator may issue an order amending, modifying, suspending, or revoking all or part of any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate if as a result of a reinspection, reexamination, or other investigation, the Administrator determines that the public interest and safety in air commerce requires it, if a certificate holder has violated an aircraft noise or sonic boom standard or regulation prescribed under 49 U.S.C. 44715(a), or if the holder of the certificate is convicted of violating 16 U.S.C. 742j-1(a).

(2) The authority of the Administrator to issue orders under 49 U.S.C. 44709(b)(1)(A) and (b)(2) is delegated to the Chief Counsel, each Deputy Chief Counsel, and the Assistant Chief Counsel for Enforcement.

* * * * *

5. Add § 13.70 to subpart E to read as follows:

§ 13.70 Delegation of authority.

The authority of the Administrator under 49 U.S.C. 5121(a) and (d) is delegated to the Chief Counsel, each Deputy Chief Counsel, and the Assistant Chief Counsel for Enforcement.

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f), 40101 note and 44807.

Brandon Roberts,

Executive Director, Office of Rulemaking.

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