



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 21**

**[Docket No.: FAA-2018-1052; Notice No. 18-09]**

**RIN 2120-AL10**

#### **Foreign Civil Aviation Authority Certifying Statements**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM); withdrawal.

**SUMMARY:** The FAA is withdrawing a previously published NPRM, “Compliance with applicable regulations,” that proposed excluding its applicability to import products that have been type certificated outside of the United States by a foreign civil aviation authority bilateral partner. These products are validated by FAA consistent with the requirements in the rulemaking, “Issue of type certificate: import products.” The NPRM proposed to eliminate the requirement for redundant compliance statements by both the foreign civil aviation authority and the foreign applicant.

**DATES:** As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the NPRM published on February 22, 2019, at 84 FR 5605 is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Steve Flanagan or Stephen Styskal, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-1602; e-mail [steve.flanagan@faa.gov](mailto:steve.flanagan@faa.gov); or telephone (206) 231-3144; e-mail [stephen.styskal@faa.gov](mailto:stephen.styskal@faa.gov) (respectively).

**SUPPLEMENTARY INFORMATION:**

## **Background**

On February 22, 2019, the FAA published an NPRM titled “Foreign Civil Aviation Authority Certifying Statements” in the *Federal Register*<sup>1</sup>. In the NPRM, the FAA proposed to revise § 21.20, which imposes a requirement on foreign applicants for type certificates (TC) of import products. Existing FAA regulations (i.e., § 21.20) requires all applicants to show compliance with all applicable requirements and to provide the FAA the means by which such compliance has been shown and to provide a statement certifying that the applicant has complied with the applicable requirements. The NPRM asserted that these requirements may be duplicative to the certifying statement that the FAA already requires from the foreign civil aviation authority (FCAA) of the country or jurisdiction with State of Design responsibility for the design approval holder of a product. Under the proposed rule, the FAA would no longer have required the applicant to show compliance, provide the means by which compliance had been shown, or the accompanying statement of compliance from the foreign applicant.

The NPRM comment period closed on April 23, 2019. The FAA received four comments from individual commenters; two generally opposed the proposal and two are considered outside the scope of the proposed rulemaking.

## **Withdrawal of the NPRM**

Section 21.20 was originally promulgated on October 6, 2009, (effective April 14, 2010) as part 21, amendment 21-92. The NPRM issued in 2006 that originally proposed § 21.20 (the “2006 NPRM”) provided background on why the FAA was seeking to add § 21.20. In the 2006 NPRM, the FAA stated that adding proposed § 21.20(a) would emphasize that the applicant is responsible for satisfying all applicable requirements by requiring an applicant for a TC (or an amended or supplemental type certificate (STC)) to

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<sup>1</sup> 84 FR 5605.

show compliance with all applicable requirements and by providing the FAA the means by which such compliance has been shown.

Further, § 21.20(b) requires the applicant to provide a statement certifying that the applicant has complied with the applicable requirements. The preamble to the 2006 NPRM clarified that the statement of compliance would be subject to the then proposed § 21.2 changes related to fraudulent, intentionally false, or misleading statements. The 2006 NPRM did not recognize differences between domestic and foreign TC or STC applicants. The FAA has subsequently determined that the certifying statement by an applicant attesting to its compliance to the applicable requirements in accordance with § 21.20(b) does not serve the same purpose as a statement made by the certifying authority as required by § 21.29(a). Requiring the domestic applicant's statement in § 21.20 affirms that the applicant is responsible for compliance with all applicable requirements. The certifying statement from the bilateral partner civil aviation authority is what the FAA needs to demonstrate that compliance with § 21.29 has been fulfilled. The two certifying statements serve different purposes.

As the FAA does with domestic applicants, the FAA expects that an FCAA works extensively with its applicants in developing the FCAA's certifying statement. However, § 21.20 is intended to expedite the domestic applicant's type certification approval process by ensuring that an applicant's submission package is complete prior to the FAA making the compliance determination. The FAA finds it advantageous to retain the current rule to expedite certification approval and to ensure applicants demonstrate compliance according to the requirements of § 21.20. The FAA may deny, suspend or revoke a certificate if the applicant's statement is fraudulent, intentionally false, or misleading. Therefore, the FAA proposes to withdraw the FCAA NPRM published in 2009 and thereby maintain the requirement for foreign applicants for type validation to comply with § 21.20.

## **Conclusion**

Withdrawal of Notice No. 18-09 does not preclude the FAA from issuing rulemaking on the subject in the future or commit the FAA to any future course of action. The FAA will make necessary changes to the Code of Federal Regulations through an NPRM with opportunity for public comment in the new rulemaking project.

Therefore, the FAA withdraws Notice No. 18-09, FR Doc. 2018-1052, published at 84 FR 5605 on February 22, 2019.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

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