



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 3

[Docket No. FAA-2023-1194; Amt. 3-3A]

RIN 2120-AL85

Extension of Compliance Date to Designate a U.S. Agent for Service for Individuals With Foreign Addresses Who Apply for Certain Certificates, Ratings, or Authorizations

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

ACTION: Final rule; delay of effective date.

SUMMARY: On October 8, 2024, the FAA published a final rule that will require individuals with foreign addresses and no U.S. physical address on file with the FAA who apply for certain certificates, ratings, or authorizations to designate a U.S. agent for service. This final rule extends the deadline for those individuals to designate a U.S. agent for service from January 6, 2025, to April 2, 2025. This final rule does not apply to individuals with foreign addresses who currently hold certain certificates, ratings, or authorizations, as the compliance date for those individuals continues to be July 7, 2025.

DATES: *Effective date:* As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the effective date of amendatory 3 in the final rule published on October 8, 2024 (89 FR 81305), is delayed from January 6, 2025, to April 2, 2025. This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for amendatory instruction 3 which is effective April 2, 2025.

Compliance date: The compliance date for this final rule is April 2, 2025, for applicants of any certificate, rating, or authorization issued under 14 CFR part 47, 61, 63, 65, 67, or 107.

FOR FURTHER INFORMATION CONTACT: Jessica Kabaz-Gomez, Office of the Chief Counsel, AVS Deputy Division Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591; (202) 267-7395; e-mail Jessica.Kabaz-Gomez@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

On October 8, 2024, the FAA published a final rule, U.S. Agents for Service on Individuals With Foreign Addresses Who Hold or Apply for Certain Certificates, Ratings, or Authorizations,¹ that will require individuals with foreign addresses and no U.S. physical address on file with the FAA who either hold or apply for certain certificates, ratings, or authorizations to designate a U.S. agent for service. This final rule revises § 3.303(d)(2) of title 14 of the Code of Federal Regulations (14 CFR) to extend the compliance date for individuals who have a foreign address and no U.S. physical address of record on file with the FAA to designate a U.S. agent for service if they apply for a certificate, rating, or authorization issued under 14 CFR part 47, 61, 63, 65, 67, or 107 from January 6, 2025, to April 2, 2025. The U.S. agent for service designation will be required to be in writing in a form and manner prescribed by the Administrator, as described in Advisory Circular 3-1, through an online system: U.S. Agent for Service System (USAS). This final rule provides additional time to establish and launch USAS to facilitate the FAA's means of accepting U.S. agent for service designations.

II. Authority for the Rulemaking

The FAA's authority to issue rules on aviation safety, such as the rules governing service that are referred to in this preamble and substantively promulgated in 88 FR 38001, is found in title 49 of the United States Code. Subtitle I, section 106 describes the

¹ 89 FR 81305.

authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority, including the authority to issue regulations. The final rule this rulemaking amends was issued under the authority described in 49 U.S.C. 44701(a)(5), which establishes the authority of the Administrator to prescribe regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security. The amended regulations herein are within the scope of that authority and are consistent with 49 U.S.C. 46103, which governs the FAA's service and provides that the FAA may effectuate service on a designated agent.

III. Good Cause for Immediate Adoption

The Administrative Procedure Act (5 U.S.C. 553(b)(B)) requires an agency to conduct notice and comment rulemaking except when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. Additionally, section 553(d) permits agencies, upon a finding of good cause, to issue rules with an effective date less than 30 days from the date of publication. The FAA finds good cause under 5 U.S.C. 553(b)(B) to forgo notice and opportunity for comment and the 30-day notice requirement to implement this final rule as unnecessary.

First, as discussed herein, applicants will be unable to submit information to USAS by the January 6, 2025, deadline due to development delays associated with the USAS online portal, which were circumstances ultimately beyond the FAA's general control, and which were not fully understood until well after publication of the U.S. Agent final rule in October of 2024. When FAA became aware of a development delay, it was too late to develop an alternate means of compliance in advance of January 6, 2025, as further discussed in section IV. of this preamble below. Absent a means of compliance, FAA would be unable to issue certain certificates, ratings, and

authorizations. Accordingly, the FAA finds notice and the opportunity to comment unnecessary, as public comment would not impact USAS online portal development and the FAA's preparedness to accept U.S. agent designations.

For similar reasons, the FAA finds good cause to forgo the 30 days delay of effective date requirement under 5 U.S.C. 553(d) as unnecessary. If the FAA does not effectuate this final rule before January 6, 2025, which is less than 30 days after its publication, applicants would be required to meet certain regulations without an available means of compliance and FAA would have to institute a moratorium on the issuance of certain certificates, authorizations, and ratings. Accordingly, the compliance date must be immediately extended to avoid this moratorium and inconsistency between the FAA's regulations and the practical means of compliance.

IV. Discussion

On October 8, 2024, the FAA published a final rule requiring individuals with a foreign address and no U.S. physical address of record on file with the FAA who apply or hold certificates, ratings, or authorizations under 14 CFR part 47, 61, 63, 65, 67, or 107 to designate a U.S. agent for service.² That final rule adopted current § 3.303(a), requiring these individuals to designate a U.S. agent for service in a form and manner prescribed by the Administrator. The FAA concurrently published Advisory Circular 3-1 prescribing the form and manner for compliance.³ Advisory Circular 3-1 provides in Chapter 3, Paragraph 2 that individuals designating a U.S. agent for service under § 3.303 will utilize a new FAA online system, the U.S. Agent for Service System (USAS). Currently, USAS is the only form and manner of compliance prescribed by the Administrator to

² U.S. Agents for Service on Individuals With Foreign Addresses Who Hold or Apply for Certain Certificates, Ratings, or Authorizations final rule, 89 FR 81305 (Oct. 8, 2024).

³ See Advisory Circular 3-1, U.S. Agents for Service on Individuals with Foreign Addresses Who Hold or Apply for Certain Certificates, Ratings, or Authorizations https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1042728#:~:text=This%20AC%20explains%20an%20acceptable%20means%20to%20designate,informati%2C%20and%20submit%20a%20new%20U.S.%20agent%20designation.

meet the requirement in § 3.303(a) to designate a U.S. agent for service. The final rule also adopted § 3.303(d), which provided a compliance date of January 6, 2025, for applicants of certain certificates, ratings, or authorizations and a different compliance date of July 7, 2025, for individuals who already hold certain certificates, ratings, or authorizations. However, the FAA has determined that it will not be ready to accept U.S. agent designations in USAS by January 6, 2025. Despite early and regular USAS development engagement, unforeseen and recent issues with USAS development and integration with existing FAA systems have left the agency with insufficient time to develop an alternate means to comply with § 3.303(d)(2). An alternate means of compliance would necessitate development of new guidance to the public, processing procedures for Agency employees, and a separate system to temporarily store U.S. agent designations the agency receives from applicants pending implementation of USAS. Additionally, the agency would be unable to comply with the Paperwork Reduction Act and Privacy Act requirements associated with developing an alternative means of compliance.

To avoid a moratorium on the issuance of certain certificates, authorizations, and ratings, and to ensure FAA preparedness for the collection of U.S. agent designations in USAS, it is necessary to extend the deadline for applicants to designate a U.S. agent for service in compliance with § 3.303(a). This final rule revises the compliance date in § 3.303(d)(2) from January 6, 2025, to April 2, 2025, for applicants of certain certificates, ratings, or authorizations with foreign addresses and no U.S. physical addresses to designate a U.S. agent for service. The FAA emphasizes that the compliance date to designate a U.S. agent for service in § 3.303(d)(1) for holders of any certificate, rating, or authorization with foreign addresses and no U.S. physical addresses will remain as July 7, 2025. The FAA is retaining staggered compliance dates to ensure that USAS and the Agency is not overwhelmed by submissions.

V. Regulatory Notices and Analyses

This final rule is a non-significant rule for the purposes of section 3(f) of Executive Order (E.O.) 12866, as amended by E.O. 13563 and E.O. 14094. Any impacts caused by the three-month delay will be minimal as this rule will not impose any significant costs or have impacts beyond those analyzed in the October 8, 2024, final rule.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The FAA submitted a report for the substantive October, 2024, final rule (89 FR 81305) and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. This rule does not constitute a major rule as defined in 5 U.S.C. 804(2).

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601–612)), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504 Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, as well as governmental jurisdictions with populations of less than 50,000.

Section 604 of the RFA requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553 after being required to

publish a general notice of proposed rulemaking. RFA analysis requirements are limited to rulemakings for which the agency “is required by section 553 or any other law, to publish a general notice of proposed rulemaking for any proposed rule.” As prior notice and comment under 5 U.S.C. 553 are not required for this final rule, the analyses in 5 U.S.C. 603 and 604 are also not required.

List of Subjects in 14 CFR Part 3

Aircraft, Aviation safety, U.S. agent for service.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends title 14, Code of Federal Regulations as follows:

PART 3—GENERAL REQUIREMENTS

1. The authority citation for part 3 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44704, 46111, and 46103.

§ 3.303 [Amended]

2. Amend § 3.303(d)(2) by removing the date “January 6, 2025” and adding in its place “April 2, 2025”.

3. Effective April 2, 2025, further amend § 3.303 by revising paragraphs (d) and (e) to read as follows:

§ 3.303 Designation of a U.S. agent for service.

* * * * *

(d) Individuals holding any certificate, rating, or authorization issued under part 47, 61, 63, 65, 67, or 107 of this chapter must comply with the requirements listed in this subpart no later than July 7, 2025. These individuals who fail to timely designate a U.S. agent for service and comply with the requirements under this subpart may not exercise the

privileges of any certificate, rating, or authorization issued under part 47, 61, 63, 65, 67, or 107, and an individual aircraft owner's aircraft registration certificate will be considered ineffective.

(e) No individual shall be issued a certificate, rating, or authorization under part 47, 61, 63, 65, 67, or 107 of this chapter unless the individual has designated a U.S. agent as required under this subpart.

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

Michael Gordon Whitaker,

Administrator.

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