

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 21, 36, 43, 91, and 147**

[Docket No. 23345; Amdt. Nos. 21-70, 36-19, 43-34, 91-230, 147-6]

RIN 2120-AB53

Primary Category**AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Final rule.

SUMMARY: This final rule establishes a new primary category of aircraft, and new simplified procedures for type, production, and airworthiness certification, and associated maintenance procedures. Aircraft in this category are of simple design intended exclusively for pleasure and personal use. Primary category aircraft (airplanes, gliders, rotorcraft, manned free balloons, etc.) may be unpowered or powered by a single, naturally aspirated engine, with a 61-knot or less stall speed limitation for airplanes and a 6-pound per square foot main rotor disc loading limitation for rotorcraft. Primary category aircraft may have a maximum certificated weight of no more than 2,700 pounds, maximum seating capacity of four, and unpressurized cabins. Although these aircraft may be available for rental and flight instruction under certain conditions, the carrying of persons or property for hire is prohibited. This final rule also adds a new section addressing the falsification of documents submitted as part of certification for products and parts.

EFFECTIVE DATE: December 31, 1992.**FOR FURTHER INFORMATION CONTACT:**

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SUPPLEMENTARY INFORMATION:**Availability of Final Rule**

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs (APA-200), 800 Independence Avenue SW., Washington, DC 20591, or by calling the Office of Public Affairs at (202) 267-3484. Communications must identify the docket number of this amendment.

Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking

Distribution System, which describes the application procedure.

Background

On March 7, 1989, the Federal Aviation Administration (FAA) published Notice of Proposed Rulemaking (NPRM) Notice No. 89-7 (54 FR 9738), which proposed the adoption of a new category of aircraft to be known as "primary category." Such aircraft would be of simple design and intended exclusively for pleasure and personal use. These aircraft (airplanes, gliders, rotorcraft, manned free balloons, etc.) would be unpowered or powered by a single, naturally aspirated engine having a certificated takeoff rating of 200 horsepower or less, and would have unpressurized cabins. The NPRM also discussed proposals for type, production, and airworthiness certification standards and procedures that would be simpler than those currently contained in Federal Aviation Regulations (FAR) parts 21, 23, and 27 that are applicable to aircraft of this size and type.

The NPRM incorrectly stated that, within the primary category, only small propeller-driven airplanes would be subject to the noise requirements of FAR part 36. On August 1, 1991, the FAA published a Supplemental Notice of Proposed Rulemaking (SNPRM) (56 FR 36972) that indicated that helicopters in the primary category would also be subject to part 36 requirements.

On August 1, 1991, the FAA also published Notice No. 89-7A (56 FR 36976) which reopened the comment period on the NPRM. The reopening was based on a February 1990 meeting between representatives of the Experimental Aircraft Association (EAA), the Aircraft Owners and Pilots Association (AOPA), and the FAA. The EAA and AOPA requested an opportunity to discuss and revise their original comments concerning primary category aircraft maintenance, the parameters used to define primary category aircraft, and the rental and use of those aircraft for pilot training. During the meeting, the EAA stated that there had been significant developments in the general aviation industry since the date of its original petition in 1984. Specifically, the EAA pointed out that many small aircraft manufacturers had gone out of business, and that kit manufacturers would not want to begin large-scale production of primary category aircraft if the rules were adopted as proposed. Because of the higher cost of preassembled kit aircraft, the EAA indicated that kit manufacturers believe that the major

domestic market would consist of fixed-base operators (FBO's) and flying clubs, not individuals.

The EAA also stated that kit manufacturers export 36.5% of their total kit production and believe this percentage would be the same for preassembled kit aircraft. However, the EAA was concerned that other civil airworthiness authorities might not accept preassembled kit aircraft into their respective countries because the aircraft would not meet International Civil Aviation Organization Annex 8 requirements which, the EAA believes, compel the exporting State's certification authority to set aircraft airworthiness standards, and no airworthiness standard was envisioned for primary category aircraft. Consequently, the EAA wished to submit additional comments based on its re-evaluation of the proposed rules. A summary of this meeting has been placed in Docket No. 23345. Following the meeting, the FAA received additional written comments from the EAA, which have also been placed in the docket.

Since the EAA was afforded the opportunity to revise its original proposal, the FAA determined that it was necessary to reopen the comment period for Notice No. 89-7 to afford interested persons the opportunity to comment on those issues addressed by the EAA.

The EAA recommends changing the criteria for primary category aircraft from a maximum weight of 2,500 pounds and a single, naturally aspirated engine with a takeoff rating of 200 shaft horsepower or less, to a maximum weight of 2,700 pounds and a single, naturally aspirated engine, with a stall speed of 61 knots or less for airplanes, and a 6-pound per square foot main disc loading limitation for rotorcraft. According to the EAA, the increased weight would permit manufacturers to produce a four-place aircraft with sufficient performance to operate in high-density altitude conditions. The EAA recommends a stall speed limit instead of an engine horsepower limit because stall speed would better define airplane performance and the airplane's landing speed in the event of a power failure. The EAA believes that, for the last 50 years, the 61-knot stall speed limitation in part 23 has established acceptable levels of single-engine airplane performance for safe operation by general aviation pilots. The EAA also states that 6-pound per square foot disc loading limitation more accurately describes rotorcraft performance but did not provide any rationale for this belief.

The EAA also urges that the proposed rule be revised to permit the rental of primary category aircraft for pilot training and personal use, noting that the number of normal, utility and acrobatic category training aircraft available has decreased dramatically since the time of its original petition. The EAA asserts that rental for personal use would open a substantial market with FBO's. The EAA continues to support the concept of pilot-owners performing certain maintenance and inspection functions on their own aircraft after appropriate training. The EAA views the conversion of aircraft from the normal, utility and acrobatic categories to the primary category as a means to extend this maintenance privilege. This conversion would be made through the already existing supplemental type certificate (STC) process. For example, an individual owner or a type certificate holder of an aircraft originally type certificated under FAR part 23 or CAR 3 would submit an application for a STC to convert a specific aircraft or a number of specifically identified aircraft to primary category. As part of the application, the applicant would also submit its proposed special inspection and maintenance program that specifically identifies the inspection and preventive maintenance tasks that may be performed by a pilot-owner. The EAA recommends that those primary category aircraft used for rental or pilot training be maintained only by certificated mechanics or repair stations. However, the EAA states that these aircraft maintenance requirements should not apply to those primary category aircraft, maintained by the pilot-owner, when the pilot-owner is giving a demonstration in the operation of that individual aircraft.

At the request of the EAA, the FAA extended the comment period for the two notices to November 29, 1991 (56 FR 49660). The EAA stated that the extent of the issues involved in the reopening required extensive evaluation and review by the aviation community. Many of the organization's members and others in the aviation community receive notification of rulemaking actions through aviation magazines. The EAA stated that it intended to publish the NPRM in its publication *Sport Aviation*, and believed that other aviation magazines would also publish information on the NPRM.

Discussion of Comments

The FAA received 369 comments in response to the original NPRM and 773 comments in response to the reopening of the comment period and the SNPRM

regarding noise. The comments were evaluated to determine the nature of the commenters (individuals, flying clubs, FBO's, manufacturers) and their major concerns. The number of comments received breaks down as follows: Individuals—546 comments; Pilots—447 comments; Manufacturers—29 comments; Associations—32 comments; Businesses—50 comments; State and local government—6 comments; and Other—23 comments. The following is a discussion of comments by issue.

Pilot-Owner Maintenance

In the original NPRM, the FAA proposed to allow properly qualified pilot-owners to perform inspection and maintenance tasks prescribed and specifically identified as preventive maintenance. To be properly qualified, a pilot-owner would have to successfully complete an FAA-approved course given by an FAA-approved aviation maintenance technician school, or by the holder of the production certificate for the pilot-owner's aircraft.

This proposal generated 246 responses of which 184 favored the proposal. The commenters generally agreed that safety will actually increase since owner-pilots would be encouraged to perform maintenance as soon as the need arises rather than wait until an annual inspection and/or the availability of a certified mechanic. By being allowed to perform maintenance, the FAA anticipates that owner-pilots will also become more familiar with the maintenance needs of their aircraft and thus maintain them more diligently.

Almost all of the 62 responses that oppose the proposal were from individuals who are in maintenance-related occupations or who are members of maintenance-related associations.

The FAA is not persuaded by comments that suggest that the level of safety will decrease as a result of pilot-owner maintenance. Any pilot-owners who aspire to perform additional maintenance tasks on their primary category aircraft must be licensed as private pilots. Each must also be issued a certificate of competency upon completion of an approved inspection and maintenance course. Such courses may be offered by a certificated school, by the holder of the production certificate for the individual aircraft, or by another entity that has a course approved by the Administrator. These special inspection and maintenance courses must be specific to the make and model of the owner's aircraft. With these conditions, the FAA expects that pilot-owner maintenance on these primary category aircraft will not result in decreased safety. Accordingly, pilot-

owner maintenance provisions are included in the final rule.

The availability of an optional maintenance program in this rule does not in any way exempt primary category aircraft from the maintenance provisions of part 43. The FAA does not anticipate approving any special inspection and maintenance program that allows pilot-owners to do their own annual inspections, work on engines, or accomplish any inspection or repair required by an airworthiness directive. Further, all special inspection and maintenance programs will be subject to the recordkeeping requirements that exist for other aircraft under the regulations.

If a pilot-owner operates a primary category aircraft that has had an inspection or maintenance task that is part of its special program performed improperly, certificate action may be taken against that pilot-owner.

Weight Limit

The weight limit of 2,500 pounds proposed in the original NPRM generated 55 comments. Four commenters oppose the concept, suggesting that the horsepower and occupancy restrictions in the proposal would serve to effectively keep the weight within reason. The majority of commenters suggest increasing the weight limit, and offer a variety of suggestions ranging up to 4,000 pounds.

The weight limit of 2,700 pounds proposed in the reopening of the comment period generated 165 comments of which 134 favor the increase. AOPA states that the revised weight limit more accurately reflects the type of aircraft that will be designated as primary category. The EAA states that the increased weight limit allows for a broader scope of design, including additional weight from additional safety features. A number of commenters and other individuals favor the increased limit because it would embrace a larger number of aircraft on the market and allow more aircraft to convert from the normal, utility and acrobatic categories, allowing more pilot-owners to take advantage of the opportunity to do more of their own maintenance.

A few commenters, including the Sport Aircraft Manufacturers Association, suggested adopting the Canadian microlight weight limit of 3,200 pounds. The Professional Aircraft Maintenance Association (PAMA) opposes the increase, suggesting that it would encompass complex aircraft never intended to be included in the primary category. The PAMA also suggests that the increase would allow

greater conversion from the normal, utility and acrobatic categories, thus allowing many older aircraft to avoid annual inspections. The Joint Aviation Authorities (JAA) opposes the 2,700 pound weight limit, suggesting that it would undermine attempts to develop a common code of aircraft certification regulations, resulting in primary category aircraft facing European import restrictions.

In response to the proposed 6-pound per square foot main disc loading limitation for rotorcraft, one commenter states that this is twice the average disc loading limitation of a training helicopter. A 4-pound per square foot main disc loading limitation was offered as an alternative. Another commenter states that the 6-pound per square foot limit is unsafe and unrealistic but gave no rationale for this claim. The FAA disagrees. The FAA is aware of at least one rotorcraft model that is compatible with the proposed primary category rule. It is of simple design, weighs less than 2,700 pounds and has a main disc loading of slightly over 5 pounds per square foot.

The FAA agrees that the proposed weight limit of 2,700 pounds best describes the type of aircraft that the FAA envisions as primary category. The weight of an aircraft is not necessarily indicative of its complexity. The 2,700 pound limit allows sufficient design latitude to accommodate new technology, safety features, and the conversion of a greater number of aircraft from the normal, utility and acrobatic categories.

The FAA does not agree that the 2,700 pound weight limit will undermine efforts toward the harmonization of aircraft certification regulations. As discussed below in the section on the development of certification standards, primary category was developed to provide a stimulus to small aircraft manufacturers in the United States, not to facilitate exportable products. Nor are new aircraft designed and certificated as primary category barred from export; a person wishing to export one must simply obtain the approval of the importing country. Accordingly, the final rule adopts the 2,700 pounds weight limit.

Horsepower/Stall Speed Limitations

The 200-horsepower engine limitation proposed in the original NPRM generated 28 comments. Five commenters favor the 200-horsepower limitation and 23 offer alternatives, ranging from 210-350 horsepower. Five of these alternatives suggest a weight-to-horsepower ratio as more appropriate in defining a primary category aircraft.

The EAA proposed to replace the 200-horsepower limitation with a 61-knot or less stall speed limitation. This suggestion generated 165 comments of which 150 favor the concept. Those in favor indicate that a stall speed limitation provides a superior indication of an aircraft's handling predictability and performance, whereas a horsepower limitation dictates only cruising speed. A low stall speed, they urge, would enhance safety because most accidents occur during landing and take-off.

Six commenters oppose the use of a stall speed limitation. Of these, two believe that 61 knots is too high, two suggest there should be no stall speed if the pilot can demonstrate proficiency, and two do not give any reason for their opposition.

Nine commenters offer some alternative to the proposal. Of these, seven propose stall speeds varying from 45 to 55 knots and two believe that the 61-knot stall speed limitation should accompany rather than replace the 200-horsepower limitation.

The FAA agrees that a 61-knot or less stall speed limitation is appropriate and that it will encourage the production of safe primary category aircraft. The FAA is persuaded that the 50-year track record of the 61-knot stall speed limitation in part 23 has established it as an acceptable level of single-engine airplane performance for safe operation by general aviation pilots. Accordingly, the final rule adopts the 61-knot or less stall speed limitation.

Rental and Flight Instruction

The original NPRM stated that primary category aircraft were not intended for compensation, hire, or flight instruction. Eight comments were received on this issue, suggesting that the proposal be revised to allow primary category aircraft rental and flight instruction. The notice reopening the comment period included an EAA-requested change that would allow such rental and flight instruction provided that the aircraft is maintained by an FAA-certificated mechanic or repair station.

This change in the proposal generated 174 comments, 167 favoring the concept, three opposing it, and four offering alternatives. Those in favor indicate that allowing aircraft rental and flight instruction is essential to the success of the proposal, since the possibility of aircraft rental is a primary motivation to produce primary category aircraft. Commenters stress that the largest market for new primary category aircraft will be FBO's and flight schools. Only after the aircraft have depreciated will private parties be able to afford

them. Therefore, if the largest anticipated market is unable to use these aircraft, manufacturers will not produce them.

Three helicopter associations oppose the rental of primary category aircraft. They state that rental of primary category helicopters will have an adverse impact on the rental revenue of operators of existing normal and transport category helicopters. Four commenters offer alternatives that permit rental and pilot training. One recommends allowing flight training in primary category aircraft but only for the pilot-owner's immediate family. One recommends that rental be expanded to include transportation of cargo and passengers. One recommends that rental be allowed for crop dusting. One recommends that primary category be expanded to include complex single-engine designs suitable for training commercial and certified flight instructor applicants.

The FAA agrees that it is reasonable to allow the rental of primary category aircraft, provided that these aircraft are maintained by an FAA-certificated mechanic or repair station. This maintenance requirement is necessary to ensure the most consistent performance of maintenance for aircraft used by non-owner pilots. The FAA does not agree that usage should be expanded to include use for compensation or hire, such as the transport of goods or passengers. The primary category was intended to create a new class of personal and recreational use aircraft, not an additional vehicle for commercial purposes. Thus, the rule allows rental of primary category aircraft for the personal use of the pilot, but would not extend this use to that pilot's taking on paying passengers, hauling freight, or any other compensated activity.

Subject to the operating limitations of § 91.325 and § 91.409(b), primary category aircraft may be used for flight instruction. Pilot certification in these aircraft is limited to aircraft that otherwise meet the requirements of FAR § 61.45.

Primary Category-Light

The original NPRM proposed "Primary category-light" as a sub-category of aircraft. This proposal generated considerable opposition from the ultralight community, as well as some confusion. Of the 148 comments received on this issue, 106 opposed the proposed new designation.

The NPRM did not identify clearly that primary category-light was proposed as an option for ultralights of

expanded design. It would have offered optional certification for certain ultralights to become certificated and issued special airworthiness certificates as primary category aircraft, provided that they weighed no more than 1,000 pounds. Currently these expanded-design ultralights must receive either special or standard airworthiness certificates since they exceed the weight criteria to be considered an ultralight vehicle under part 103. In general, the commenters suggest that the proposed classification would separate the two-seat ultralight trainers from the rest of ultralight aircraft, forcing aspiring ultralight pilots to obtain flight training in heavier, conventional aircraft. This would cause problems, many believe, because ultralight student pilot would be unaccustomed to the handling qualities of an ultralight. Approximately 90 ultralight advocates suggest revising part 103 as an alternative to the primary category-light classification. One ultralight manufacturer makes a similar suggestion, recommending that part 103 be revised to accommodate a two-seat ultralight trainer. The commenter also notes that several foreign countries are operating mandatory ultralight programs in airworthiness, pilot and instructor ratings, and aircraft registration.

The FAA agrees that the primary category-light classification is in appropriate, and it is not included in the final rule. Comments concerning amendments to part 103 are beyond the scope of this rulemaking, since no amendments to part 103 were proposed.

Impact on Manufacturers

The FAA requested comments on the EAA/AOPA claim that a primary category aircraft would be less costly to manufacture, thereby allowing manufacturers to fill a demand for low cost aircraft. In response to the original NPRM, 11 commenters responded to this claim. Ten state that it will have a positive impact, but submitted no support for their statements. One manufacturer states that the creation of a primary category will not offer any substantial benefits to manufacturers unless savings reach 35% compared to existing certification costs. The commenter claims that anything less would offer no incentive to divert production from aircraft that qualify for standard airworthiness certificates, which offer greater marketability. However, the manufacturer submitted no support for this claim.

The reopening of the comment period generated 128 comments on the impact of the primary category on manufacturers. All but two commenters state that the proposed rule would have

a positive impact. The commenters agree that the proposal will encourage manufacturing and offer incentives to employ new technology. The FAA agrees with the original petitioners that this rule will stimulate aircraft manufacturing and benefit the general aviation industry overall.

The final rule permits kit aircraft supplied by the holder of a production certificate to be assembled by another person under the supervision and quality control of the production certificate holder. Under these circumstances, the production certificate holder retains its responsibilities under FAR § 21.165; these responsibilities cannot be delegated to the person assembling the aircraft. Enforcement may be taken against the production certificate holder for any noncompliance with its approved quality control procedures discovered by the FAA at the assembly location. Further, the reporting requirements of § 21.3 remain the responsibility of the type certificate holder.

Alternatively, if a kit aircraft supplied by the holder of a production certificate is assembled by another person who is not under the supervision and quality control of the production certificate holder, the completed aircraft is eligible only for an experimental airworthiness certificate.

Pilot-Owner Cost Reduction

The FAA requested comments on whether primary category aircraft would be less costly to own and operate as a result of the pilot-owner's ability to perform certain maintenance tasks. Forty comments were received in response to the original NPRM, and 78 in response to the reopening of the comment period. All but two indicate a belief that aircraft in the new primary category would benefit from reduced operational costs. Almost all of the commenters suggest that the reduced costs that result from the ability to perform additional maintenance would allow owner-pilots to afford additional flight time, which would benefit the industry as a whole. However, the PAMA states that any savings would be nominal and not worth the trade-off in safety that would result from increased pilot-owner maintenance, although PAMA did not submit any analysis to support its claim.

The FAA does not agree that increased pilot-owner maintenance tasks will result in reduced safety. All pilot-owners who aspire to perform additional maintenance tasks on their primary category aircraft must hold a private pilot's certificate and be issued a certificate of competency upon

completion of an approved special inspection and maintenance course offered by a certificated school, by the holder of the production certificate for the specific aircraft, or by another entity that has a course approved by the Administrator. The FAA anticipates that this feature of the rule will encourage regular maintenance and provide pilot-owners an economic incentive to become more familiar with their aircraft.

Growth in Personal-Use Aircraft

The FAA requested comments on the petitioners' claim that primary category aircraft would stimulate the introduction of new, less costly, personal-use aircraft. All 99 commenters responding to the original NPRM and the reopening state that the proposal would have a positive impact on the number of personal-use aircraft, indicating that there is an untapped market for kit aircraft in completed form. Twenty-two of the commenters note that the need to replace aging training aircraft will ensure the demand, while the proposed rule offers sufficient incentive to ensure the supply.

Limited Checkouts

The reopening of the comment period included a proposal by the FAA to allow the use of primary category aircraft that are maintained by the pilot-owner to be used for limited checkouts. A limited checkout is an opportunity for a pilot to become familiar with the aircraft flight manual, receive a briefing on the aircraft characteristics from the pilot-owner, and conduct a short local flight that includes at least three takeoffs and landings. Of the 91 responses to this issue, 89 favor allowing limited checkouts. Only nine commenters offer any rationale for their support of limited checkouts in pilot-owner maintained primary category aircraft, stating that they are necessary to the eventual commercial resale of these aircraft.

The FAA agrees. Pilot-owners authorized to perform additional maintenance tasks who wish to allow a prospective buyer to examine the aircraft, or wish to receive flight instruction in their own aircraft are not required to have their aircraft maintained by an FAA-certificated mechanic or repair station. Without this allowance, the pilot-owners would be forced to use FAA-certificated mechanics or repair stations to maintain their aircraft in order to eventually offer it for sale and allow a prospective purchaser to fly it, or the pilot-owners would be forced to rent an aircraft in order to receive flight instruction. Accordingly, § 91.325 permits a person

other than the pilot-owner to operate a primary category aircraft maintained by the pilot-owner as long as the pilot-owner is not compensated for its use. This allows a pilot-owner to lend the aircraft to a pilot friend, for example, or to demonstrate the aircraft to a prospective buyer.

In addition, a pilot-owner whose certificate is not current may regain currency using a certificated flight instructor in the pilot-owner's self-maintained primary category aircraft. Flight instruction for hire in self-maintained primary category aircraft is limited by the restrictions in § 91.325, and by § 91.409(b), which prohibits paid flight instruction from being given in an aircraft provided by the instructor unless that aircraft has been inspected as described in § 91.409(b).

Development of Certification Standards

The original NPRM proposed that private industry be allowed to develop certification design standards through associations and consensus groups, and submit those standards to the FAA for approval. The original NPRM generated 36 comments on this issue, while 46 were received in response to the reopening. Approximately 75 of the commenters favor using the private sector to develop and streamline certification standards. Only 7 commenters oppose the concept. Commenters recommend that FAR part 23, Civil Aviation Regulations (CAR) part 3, and the Civil Aeronautics Manuals (CAM) 3 and 18 are viable bases from which primary category aircraft certification standards could be established. Eleven commenters suggest that reliance on the private sector would be the best way to develop standards for approving design and materials use. The Australian Civil Aviation Authority suggests part 23 Appendix B as an appropriate resource from which to develop suitable simplified control surface loadings.

Nineteen commenters suggest streamlining the current certification process rather than creating a new one. The benefits of this streamlined certification process would include a stimulation of light aircraft production, the development of new technology, and the introduction of training aircraft of new design.

One manufacturer states that part 23 certification standards are neither difficult nor costly, and suggests revising part 23 appendix A instead of allowing industry to submit new standards. The commenter states that small manufacturers will not benefit from the creation of a primary category because the lack of certification standards will

inhibit the international marketability of the products.

The FAA agrees that the development of certification standards by the private sector represents the most productive and cost-effective manner of streamlining the certification process. The development of airworthiness design criteria by the private sector would be similar to the FAA's Technical Standards Order (TSO) authorization program. The FAA's TSO program has been highly successful in promoting design, production, and quality control of many articles which are critical to aircraft safety. The FAA's TSO approval process enables the public to benefit from the collective technical knowledge of the private sector. This is discussed in more detail in the following section on type certification.

The FAA does not agree that the creation of a primary category will not benefit small manufacturers. The rule is intended to provide an economic stimulus to the U.S. small aircraft industry by reducing certification and manufacturing costs. Moreover, although the rule was not designed to facilitate the development of aviation products for export, primary category aircraft may be eligible for export certificates of airworthiness issued under part 21 subpart L.

Comments received on this issue reflect a misunderstanding of the requirements for the export and import of aeronautical products. Under the provisions of the Chicago Convention, a signatory country may permit aircraft from other countries to operate in its airspace. To do so, an aircraft must have an airworthiness certificate issued by the country of registration, based on a detailed and comprehensive airworthiness code as described in ICAO Annex 8 to the Chicago Convention. An aircraft that does not meet Annex 8 Standards may nonetheless be permitted to fly in an ICAO country, but only with the prior permission of the cognizant airworthiness authority. Thus, owners of U.S.-registered primary category aircraft seeking to operate outside of the United States would require prior permission of the appropriate airworthiness authority.

Annex 8 represents an operating limitation entirely separate from the ability to export or import a product. Under § 21.329, export certificates of airworthiness may be issued only for aircraft eligible for a standard airworthiness or restricted airworthiness certificate unless the importing country indicates that an aircraft with a special airworthiness certificate is acceptable. Thus, an applicant can obtain an export

certificate of airworthiness for a primary category aircraft if it presents the evidence required under § 21.327(e)(4) that the importing country's airworthiness authority has agreed. The export certificate of airworthiness would include a notation that the product does not meet Annex 8 Standards.

Type Certification

Excluding the weight and horsepower/stall speed issues discussed previously, 39 comments were received concerning development of other primary category criteria. One manufacturer suggests that powerplant certification be addressed in the type certification process, as suggested in the original NPRM.

The JAA suggests that occupancy be limited to two people. The PAMA suggests that the definition of primary category aircraft be revised to exclude complex systems such as constant speed propellers, retractable landing gear, and hydraulic systems.

The FAA disagrees with the limitations suggested by some commenters because those limits would exclude many present simple aircraft types that have excellent safety records from converting to primary category. These lower limits would also preclude a number of kit aircraft currently being manufactured and certificated in the experimental category from obtaining a primary category type certificate, production certificate, and a special airworthiness certificate. The FAA finds no safety-related reason to restrict primary category eligibility to less than that contained in the revised proposal. The FAA suggests that the conversion of aircraft originally type certificated under FAR part 23 or CAR 3 to the primary category could be accomplished using the STC process. The FAA agrees with this method as an acceptable means of conversion. When making an STC application for conversion, the applicant must submit the special inspection and maintenance program which specifically identifies the inspection and preventive maintenance tasks that may be performed by the pilot-owner, as provided in new § 21.184(c).

The simplified type certification process envisioned for primary category aircraft is expected to draw heavily from airworthiness standards already in the regulations, existing delegation procedures, and statements of compliance made by applicants for type certification. Applicable airworthiness standards may be approved using a procedure similar to the FAA's Technical Standards Order

authorization program, which is used currently to approve the design and production quality control of aviation products that are critical to safety and that are installed on normal category aircraft.

To complete its type certification program, an applicant must submit a compliance checklist addressing all applicable airworthiness standards. This checklist must contain a summary of the methods used to determine compliance with the airworthiness standards previously approved, and must reference all reports or records of engineering analysis and test data used to establish compliances. This checklist must be retained by the applicant as a permanent part of its certification file. These simplified procedures will result in less FAA involvement as compared to current aircraft certification procedures. While the ultimate responsibility to make findings regarding the issuance of type certificates remains with the FAA, the agency anticipates remaining selectively involved in the administration of individual type certification applications.

Primary Category Aircraft Operating Limitations

The original NPRM proposed three basic operating limitations: (1) Primary category aircraft could not be used for carrying persons or property for hire or compensation, (2) primary category-light aircraft could not be used in any controlled area, and (3) primary category-light aircraft could only be operated using visual flight rules (VFR). The notice reopening the comment period included an FAA-requested change that would allow the use of primary category aircraft for training and for rental if the aircraft is maintained by an FAA-certificated mechanic or repair station. Thirty-five comments were submitted in response to the original NPRM, while the reopening generated four comments on this issue. Four commenters suggest that the proposed prohibition against carrying persons or property for compensation or hire is unreasonable for those primary category aircraft certificated to a level of safety equivalent to aircraft having standard airworthiness certificates.

The FAA disagrees. As discussed previously, primary category is an effort to develop a simplified certification process to stimulate the production and use of simpler personal use and recreational aircraft. The process was never intended to create another form of commercial aircraft. The FAA considers the current choice of aircraft certification categories and standards

sufficient for the safe development of commercial aircraft. Since no commercial use was ever intended or proposed, discussions of specific uses for compensation or hire are beyond the scope of this rulemaking.

Also as discussed previously, the FAA agrees that primary category aircraft may be used for rental or flight instruction. Primary category aircraft rental is permitted under § 91.325 if the aircraft is maintained by an FAA-certificated mechanic, and for flight instruction pursuant to the limitations of §§ 91.325 and 91.409(b). This availability for rental and flight instruction is expected to create a demand for privately owned aircraft that is sufficient to stimulate their production.

Inspections

The original NPRM included a proposal that (1) would allow properly qualified pilot-owners to perform specific inspection tasks that are specifically identified in an FAA-approved special inspection and maintenance program developed for the particular aircraft, and (2) would allow a 24-month inspection in place of the standard annual inspection. A total of 27 comments were received concerning these proposals. Thirteen comments favor the proposal but offer no rationale. Eight comments suggest various alternative periods for the periodic inspection, but offer no justifications for the suggested alternatives. Six comments oppose the proposal, stating that safety will decrease by allowing pilot-owners to perform inspection functions and by extending the periodic inspection period. The FAA disagrees with the statements that pilot-owner inspection and maintenance would reduce safety. Pilot-owners will be required to satisfactorily complete an FAA-approved special inspection and preventive maintenance training program, and to obtain a certificate of competency for the particular aircraft involved, before being allowed to perform the specified inspection and maintenance tasks.

The FAA agrees that an increase in the required inspection interval could be detrimental to overall safety. There is significant, successful history supporting the standard 12-month inspection period required for all other certificated aircraft, and little viable rationale was submitted in support of extending it for primary category aircraft. Accordingly, the 12-month annual inspection interval required by FAR § 91.409(a) (or the 100-hour interval required by § 91.409(b)) is applicable to primary category aircraft.

Noise Standards

Five commenters object to the application of part 36 noise standards to primary category aircraft, suggesting that compliance with appendix H, in particular, will jeopardize the production of primary category helicopters. As stated previously, the applicability of part 36 Appendix H noise standards is mandated for all aircraft for which a type certificate is sought on or after March 6, 1986. As discussed in the SNPRM, the FAA is required to determine whether noise abatement is achievable by prescribing standards. The Noise Control Act of 1972 amended the Federal Aviation Act, leaving the FAA no discretion in this matter when issuing a type certificate.

In general, no noise certification under part 36 is required for a small airplane that was type certificated before the requirements of part 36 became effective. However, these airplanes must demonstrate compliance with part 36 if there is an acoustical change made to the airplane, or if there is a change in the type or airworthiness certification, such as a change from a normal to a special type certificate, or from a standard to a restricted airworthiness certificate.

The final rule makes an exception for certain older airplanes that were type certificated before part 36 existed, that are to be converted to primary category, and that have not undergone an acoustical change. Section 36.501(a)(3) states that an airplane that (1) was type certificated in the normal, utility or acrobatic category, (2) has a standard airworthiness certificate, (3) has not undergone an acoustical change from its type design, (4) has not previously been certificated under appendix F or G of part 36, and (5) that will be converted to primary category need not undergo noise certification under part 36.

Without this exception, an owner of an older airplane that seeks to gain the other benefits of primary category certification would have to show compliance with part 36 through a noise certification test because of the simple paperwork conversion to a primary category type certificate. Such tests may be beyond the financial resources of many of the pilot-owners that were meant to benefit by the creation of the primary category and its optional maintenance program features.

This exception will be narrowly construed to include only those older airplanes for which noise certification was not required at the time the original type certificate was issued. Any airplane that has undergone an

alteration from its original type design that would cause an acoustical change is not covered by this exception, and must demonstrate compliance with part 36 appendix G before a primary category type certificate will be issued. Only airplanes with the noted type and airworthiness certifications are eligible for this exception; other airplanes that change their type certification to primary category must demonstrate compliance with part 36 appendix G.

Section 36.805(d)(2) makes this same exception for helicopters that have type or airworthiness certificates that are not subject to compliance with part 36.

Pilot Certification

The proposed rule did not allow pilot schools to use primary category aircraft for pilot certification. Two manufacturers and one pilot objected to this prohibition, indicating that pilot certification should be allowed.

Upon further review, the FAA has concluded that primary category aircraft are appropriate for pilot certification. The FAA anticipates that many normal category aircraft that could have been used for pilot certification will be converted to primary category. The FAA has found no reason why these aircraft, or newly type certificated primary category aircraft, should not be used for pilot certification, provided that the aircraft meet the requirements of FAR § 61.45. Conversely, any primary category aircraft, whether converted or newly type certificated, that does not meet the requirements of § 61.45 may not be used for pilot certification. However, experience gained in these aircraft may be creditable toward other pilot certification requirements.

Falsification of Documents

The NPRM proposed a new § 21.2 addressing the falsification of certificates, approvals, and delegations submitted under part 21. Section 21.2 is intended to deter fraudulent or intentionally false information from being submitted. The regulation was modeled after similar provisions found in FAR parts 43, 61, 63, 65, and 143 for certificates, authorizations, and ratings issued under those parts.

No comments were received regarding this proposal. Accordingly, § 21.2 is adopted as proposed.

Other Airworthiness Issues

Section 21.184(c) provides for an aircraft with a standard airworthiness certificate to obtain a primary category airworthiness certificate. The FAA cautions, however, that these same aircraft cannot reconvert to a standard airworthiness certificate without a

showing that they meet all of the criteria for a standard airworthiness certificate as prescribed by the regulations. Such showings have historically been difficult when an aircraft has remained in a different classification or category for a lengthy period. To facilitate the return to a standard airworthiness certificate, the aircraft records should indicate that the aircraft has been maintained according to the manufacturer's instructions, and that any modifications to the aircraft were either removed or are approved by the FAA, in addition to indicating that all other applicable requirements have been met.

Section 21.184(b) creates a new classification of special airworthiness certificate designated special airworthiness certificate-primary category. Section 21.184(a) allows an applicant to obtain this primary category special airworthiness certificate when the provisions of FAR part 21 are met for a specific primary category aircraft.

Maintenance Training

The reopening of the comment period on the proposed rule included an amendment to FAR part 141, Pilot Schools, to include provisions for the instruction of pilot-owners in the maintenance of their primary category airplanes. After further consideration, the FAA has determined that this proposal is inappropriate. The FAA does not consider pilot schools to be the proper forum for instruction in maintenance tasks. The maintenance tasks for primary category aircraft must be tailored for the specific make and model aircraft. In most cases, this would present a curriculum development burden on pilot schools. The FAA considers FAR part 147, Aviation Maintenance Technician Schools, to be the proper vehicle for such regulations. The amendments to part 147 containing these provisions are adopted as proposed. In addition, the final rule allows the holder of the production certificate for a primary category aircraft to give instruction in maintenance and to issue certificates of competency in maintenance for that aircraft. Such maintenance programs and instruction must be approved as part of the aircraft's type certificate. The final rule also allows other entities to provide maintenance instruction to pilot-owners provided that the course is approved by the Administrator.

Aircraft Identification

To remain consistent with current regulations and policy concerning the identification of an aircraft with a data plate, the FAA found that kit-built

aircraft had to be included in FAR § 21.182(b). No comments were received on this proposal. Accordingly, the final rule incorporates this addition.

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA that provides information on the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimates of the costs and benefits to the private sector, consumers, and Federal, State, and local governments.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or to modify existing regulations only if potential benefits to society outweigh potential costs for each regulatory change. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly-defined exigencies. A "major" rule is one that is likely to have an annual impact on the economy of \$100 million or more, to have a major increase in consumer costs, or to have a significant adverse effect on competition.

The FAA has determined that this rule is not major as defined in the Executive Order. Therefore, a full regulatory analysis that includes the identification and evaluation of cost-reducing alternatives to the rule has not been prepared. Instead, the agency has prepared a more concise regulatory evaluation that analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and an international trade impact assessment. The complete regulatory evaluation is available for inspection in the docket.

Cost-Benefit Analysis

Because of several confounding factors, the FAA is unable to plausibly estimate the number of aircraft that will be certificated under the provisions of this rule and the associated cost differentials. These factors include alternative certification options, manufacturers' legal liability, owner's insurance, resale value of primary category aircraft, and the cost of pilot-owner maintenance training. Nevertheless, the rule can be deemed to be cost-beneficial by virtue of its optional nature and retention of current

safety levels. Manufacturers and pilot-owners will elect primary category certification only if it is in their economic interests to do so.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) requires Federal agencies to review rules that may have a "significant economic impact on a substantial number of small entities." The entities that will be affected by this rule are aircraft manufacturers. Based on FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, a small aircraft manufacturer is one with fewer than 75 employees; a substantial number is one that is not less than eleven and that is more than one-third of the affected small entities; and the significant economic threshold for aircraft manufacturers is an annualized cost of \$18,200 in 1992 dollars.

Based on the identification and analysis of 17 small manufacturers of conventional categories of aircraft and 110 kit manufacturers of amateur-built airplanes and helicopters, the FAA concludes that this rule could have a significant positive economic impact on a substantial number of small entities. Because of the optional nature of the rule, however, an analysis of alternatives as would otherwise be required by the RFA is unwarranted.

International Trade Impact Assessment

This rule will have little impact on international trade. Both foreign and domestic manufacturers applying for certification in the United States will have the option of using this final rule or an alternative means of certification. Other aviation authorities may not accept primary category aircraft; however, kit manufacturers may continue to sell their unassembled kits abroad.

Federalism Implications

The regulations herein will not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that

this final rule is not major under Executive Order 12291. The FAA certifies that this regulation could have a significant positive economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

14 CFR Part 21

Aviation safety, Aircraft, Safety, Type certification.

14 CFR Part 36

Aircraft noise.

14 CFR Part 43

Aircraft, Aviation safety, Safety.

14 CFR Part 91

Aircraft, Aviation safety, Safety.

14 CFR Part 147

Aircraft, Aviation safety, Education, Educational facilities, Schools.

The Amendments

The Federal Aviation Administration amends 14 CFR parts 21, 36, 43, 91, and 147 of the Federal Aviation Regulations as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. The authority citation for part 21 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 7572; E.O. 11514; 49 U.S.C. 106(g).

2. A new § 21.2 is added to read as follows:

§ 21.2 Falsification of applications, reports, or records.

(a) No person shall make or cause to be made—

(1) Any fraudulent or intentionally false statement on any application for a certificate or approval under this part;

(2) Any fraudulent or intentionally false entry in any record or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or the exercise of the privileges of any certificate or approval issued under this part;

(3) Any reproduction for a fraudulent purpose of any certificate or approval issued under this part.

(4) Any alteration of any certificate or approval issued under this part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for suspending or revoking any certificate or approval

issued under this part and held by that person.

3. Section 21.17 is amended by adding a new paragraph (f) to read as follows:

§ 21.17 Designation of applicable regulations.

(f) For primary category aircraft, the requirements are:

(1) The applicable airworthiness requirements contained in parts 23, 27, 31, 33, and 35 of this subchapter, or such other airworthiness criteria as the Administrator may find appropriate and applicable to the specific design and intended use and provide a level of safety acceptable to the Administrator.

(2) The noise standards of part 36 applicable to primary category aircraft.

4. A new § 21.24 is added to read as follows:

§ 21.24 Issuance of type certificate: primary category aircraft.

(a) The applicant is entitled to a type certificate for an aircraft in the primary category if—

(1) The aircraft—

(i) Is unpowered; is an airplane powered by a single, naturally aspirated engine with a 61-knot or less V_{so} stall speed as defined in § 23.49; or is a rotorcraft with a 6-pound per square foot main rotor disc loading limitation, under sea level standard day conditions;

(ii) Weighs not more than 2,700 pounds;

(iii) Has a maximum seating capacity of not more than four persons, including the pilot; and

(iv) Has an unpressurized cabin.

(2) The applicant has submitted—

(i) Except as provided by paragraph (c) of this section, a statement, in a form and manner acceptable to the Administrator, certifying that: the applicant has completed the engineering analysis necessary to demonstrate compliance with the applicable airworthiness requirements; the applicant has conducted appropriate flight, structural, propulsion, and systems tests necessary to show that the aircraft, its components, and its equipment are reliable and function properly; the type design complies with the airworthiness standards and noise requirements established for the aircraft under § 21.17(f); and no feature or characteristic makes it unsafe for its intended use;

(ii) The flight manual required by § 21.5(b), including any information required to be furnished by the applicable airworthiness standards;

(iii) Instructions for continued airworthiness in accordance with § 21.50(b); and

(iv) A report that: summarizes how compliance with each provision of the type certification basis was determined; lists the specific documents in which the type certification data information is provided; lists all necessary drawings and documents used to define the type design; and lists all the engineering reports on tests and computations that the applicant must retain and make available under § 21.49 to substantiate compliance with the applicable airworthiness standards.

(3) The Administrator finds that—

(i) The aircraft complies with those applicable airworthiness requirements approved under § 21.17(f) of this part; and

(ii) The aircraft has no feature or characteristic that makes it unsafe for its intended use.

(b) An applicant may include a special inspection and preventive maintenance program as part of the aircraft's type design or supplemental type design.

(c) For aircraft manufactured outside of the United States in a country with which the United States has a bilateral airworthiness agreement for the acceptance of these aircraft, and from which the aircraft is to be imported into the United States—

(1) The statement required by paragraph (a)(2)(i) of this section must be made by the civil airworthiness authority of the exporting country; and

(2) The required manuals, placards, listings, instrument markings, and documents required by paragraphs (a) and (b) of this section must be submitted in English.

§ 21.31 [Amended]

5. Section 21.31(c) is amended by adding after the word "chapter" the phrase ", or as otherwise required by the Administrator."

6. Section 21.31 is further amended by redesignating paragraph (d) as (e) and adding a new paragraph (d) to read as follows:

§ 21.31 Type design.

(d) For primary category aircraft, if desired, a special inspection and preventive maintenance program designed to be accomplished by an appropriately rated and trained pilot-owner.

§ 21.35 Flight tests.

7. Section 21.35(a) introductory text is amended removing the reference

"§ 21.25" and adding the reference "§ 21.24" in its place.

§ 21.93 [Amended]

8. Section 21.93(b)(3) introductory text is amended by adding the word "primary," before the word "normal,".

9. Section 21.163 is revised to read as follows:

§ 21.163 Privileges.

(a) The holder of a production certificate may—

(1) Obtain an aircraft airworthiness certificate without further showing, except that the Administrator may inspect the aircraft for conformity with the type design; or

(2) In the case of other products, obtain approval for installation on type certificated aircraft.

(b) Notwithstanding the provisions of § 147.3 of this chapter, the holder of a production certificate for a primary category aircraft, or for a normal, utility, or acrobatic category aircraft of a type design that is eligible for a special airworthiness certificate in the primary category under § 21.184(c), may—

(1) Conduct training for persons in the performance of a special inspection and preventive maintenance program approved as a part of the aircraft's type design under § 21.24(b), provided the training is given by a person holding a mechanic certificate with appropriate airframe and powerplant ratings issued under part 65 of this chapter; and

(2) Issue a certificate of competency to persons successfully completing the approved training program, provided the certificate specifies the aircraft make and model to which the certificate applies.

§ 21.165 [Amended]

10. Section 21.165(b) is amended by adding the phrase ", including primary category aircraft assembled under a production certificate by another person from a kit provided by the holder of the production certificate," after the word "product".

§ 21.175 [Amended]

11. Section 21.175(b) is amended by adding the word "primary," after the word "are".

§ 21.181 [Amended]

12. Section 21.181(a)(1) is amended by adding the words "; special airworthiness certificates-primary category," after the words "Standard airworthiness certificates".

13. Section 21.182 is amended by revising paragraph (b)(2) as follows:

§ 21.182 Aircraft Identification.

(b) * * *

(2) An experimental certificate for an aircraft that is not amateur-built or kit-built.

14. A new § 21.184 is added to read as follows:

§ 21.184 Issue of special airworthiness certificates for primary category aircraft.

(a) *New primary category aircraft manufactured under a production certificate.* An applicant for an original, special airworthiness certificate-primary category for a new aircraft that meets the criteria of § 21.24(a)(1), manufactured under a production certificate, including aircraft assembled by another person from a kit provided by the holder of the production certificate and under the supervision and quality control of that holder, is entitled to a special airworthiness certificate without further showing, except that the Administrator may inspect the aircraft to determine conformity to the type design and condition for safe operation.

(b) *Imported aircraft.* An applicant for a special airworthiness certificate-primary category for an imported aircraft type certificated under § 21.29 is entitled to a special airworthiness certificate if the civil airworthiness authority of the country in which the aircraft was manufactured certifies, and the Administrator finds after inspection, that the aircraft conforms to an approved type design that meets the criteria of § 21.24(a)(1), and is in a condition for safe operation.

(c) *Aircraft having a current standard airworthiness certificate.* An applicant for a special airworthiness certificate-primary category, for an aircraft having a current standard airworthiness certificate that meets the criteria of § 21.24(a)(1), may obtain the primary category certificate in exchange for its standard airworthiness certificate through the supplemental type certification process. For the purposes of this paragraph, a current standard airworthiness certificate means that the aircraft conforms to its approved normal, utility, or acrobatic type design, complies with all applicable airworthiness directives, has been inspected and found airworthy within the last 12 calendar months in accordance with § 91.409(a)(1) of this chapter, and is found to be in a condition for safe operation by the Administrator.

(d) *Other aircraft.* An applicant for a special airworthiness certificate-primary category for an aircraft that meets the criteria of § 21.24(a)(1), and is not

covered by paragraph (a), (b), or (c) of this section, is entitled to a special airworthiness certificate if—

(1) The applicant presents evidence to the Administrator that the aircraft conforms to an approved primary, normal, utility, or acrobatic type design, including compliance with all applicable airworthiness directives;

(2) The aircraft has been inspected and found airworthy within the past 12 calendar months in accordance with § 91.409(a)(1) of this chapter and;

(3) The aircraft is found by the Administrator to conform to an approved type design and to be in a condition for safe operation.

(e) Multiple-category airworthiness certificates in the primary category and any other category will not be issued; a primary category aircraft may hold only one airworthiness certificate.

15. Section 21.187 is amended by revising paragraph (a) introductory text to read as follows:

§ 21.187 Issue of multiple airworthiness certification.

(a) An applicant for an airworthiness certificate in the restricted category, and in one or more other categories except primary category, is entitled to the certificate, if—

16. Section 21.191 is amended by adding a new paragraph (h) to read as follows:

§ 21.191 Experimental certificates.

(h) Operating kit-built aircraft. Operating a primary category aircraft that meets the criteria of § 21.24(a)(1) that was assembled by a person from a kit manufactured by the holder of a production certificate for that kit, without the supervision and quality control of the production certificate holder under § 21.184(a).

PART 36—NOISE STANDARDS; AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

17. The authority citation for part 36 continues to read as follows:

Authority: 49 U.S.C. 1344, 1348, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, 1431(b), 1651(b)(2), 2121 through 2125; 42 U.S.C. 4321 et seq.; Sec. 124 of Pub. L. 98-473, E.O. 11514; 49 U.S.C. 106(g).

§ 36.1 [Amended]

18. The introductory text of § 36.1(h) is amended by adding the word "primary," before the word "normal,"

§ 36.9 [Amended]

19. The introductory text of § 36.9 is amended by adding the word "primary," before the word "normal,"

§ 36.11 [Amended]

20. The introductory text of § 36.11 is amended by adding "primary," before the word "normal,"

21. Section 36.501 is amended by adding a new paragraph (a)(3) to read as follows:

§ 36.501 Noise limits.

(a) * * * (3) Airplanes in the primary category: (i) Except as provided in paragraph (a)(3)(ii) of this section, for an airplane for which application for a type certificate in the primary category is made, and that was not previously certificated under appendix F of this part, compliance with appendix G of this part must be shown.

(ii) For an airplane in the normal, utility or acrobatic category that (A) has a type certificate issued under this chapter, (B) has a standard airworthiness certificate issued under this chapter, (C) has not undergone an acoustical change from its type design, (D) has not previously been certificated under appendix F or G of this part, and (E) for which application for conversion to the primary category is made, no further showing of compliance with this part is required.

§ 36.801 [Amended]

22. Section 36.801 is amended by adding the word "primary," before the word "normal,"

§ 36.805 [Amended]

23. Section 36.805(b) is amended by removing the phrase "paragraph (c)," and adding the phrase "paragraph (c) or (d)(2) of this section," in its place.

24. Section 36.805 is further amended by adding a new paragraph (d) to read as follows:

§ 36.805 Noise limits.

(d) Helicopters in the primary category:

(1) Except as provided in paragraph (d)(2) of this section, for a helicopter for which application for a type certificate in the primary category is made, and that was not previously certificated under appendix H of this part, compliance with appendix H of this part must be shown.

(2) For a helicopter that (i) has a normal or transport type certificate issued under this chapter, (ii) has a standard airworthiness certificate

issued under this chapter, (iii) has not undergone an acoustical change from its type design, (iv) has not previously been certificated under appendix H of this part, and (v) for which application for conversion to the primary category is made, no further showing of compliance with this part is required.

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

25. The authority citation for part 43 continues to read as follows:

Authority: 49 U.S.C. App. 1354, 1421 through 1430; 49 U.S.C. 106(g).

26. Appendix A to part 43 is amended by adding a new paragraph (c)(30) to read as follows:

Appendix A—Major Alterations, Major Repairs, and Preventive Maintenance

* * * * *

(c) * * * *

(30) The inspection and maintenance tasks prescribed and specifically identified as preventive maintenance in a primary category aircraft type certificate or supplemental type certificate holder's approved special inspection and preventive maintenance program when accomplished on a primary category aircraft provided:

(i) They are performed by the holder of at least a private pilot certificate issued under part 61 who is the registered owner (including co-owners) of the affected aircraft and who holds a certificate of competency for the affected aircraft (1) issued by a school approved under § 147.21(f) of this chapter; (2) issued by the holder of the production certificate for that primary category aircraft that has a special training program approved under § 21.24 of this subchapter; or (3) issued by another entity that has a course approved by the Administrator; and

(ii) The inspections and maintenance tasks are performed in accordance with instructions contained by the special inspection and preventive maintenance program approved as part of the aircraft's type design or supplemental type design.

PART 91—GENERAL OPERATING AND FLIGHT RULES

27. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g).

28. A new § 91.325 is added to read as follows:

§ 91.325 Primary Category Aircraft: Operating limitations.

(a) No person may operate a primary category aircraft carrying persons or property for compensation or hire.

(b) No person may operate a primary category aircraft that is maintained by the pilot-owner under an approved special inspection and maintenance program except—

- (1) The pilot-owner; or
- (2) A designee of the pilot-owner, provided that the pilot-owner does not receive compensation for the use of the aircraft.

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

29. The authority citation for part 147 continues to read as follows:

Authority: Section 313(a), 314, 601 and 607, 72 Stat. 752 49 U.S.C. 1354(a), 1355, 1421, and 1427.

30. Section 147.21 is amended by adding a new paragraph (e) to read as follows:

§ 147.21 General curriculum requirements.
* * * * *

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section and § 147.11, the holder of a certificate issued under subpart B of this part may apply for and receive approval of

special courses in the performance of special inspection and preventive maintenance programs for a primary category aircraft type certificated under § 21.24(b) of this chapter. The school may also issue certificates of competency to persons successfully completing such courses provided that all other requirements of this part are met and the certificate of competency specifies the aircraft make and model to which the certificate applies.

Issued in Washington, DC on September 1, 1992.

Thomas C. Richards,
Administrator.

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