

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 47 and 49**

[Docket No. FAA-2004-19944; Amendment Nos. 47-27 and 49-10]

RIN 2120-A148

Cape Town Treaty Implementation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule with opportunity to comment on information collection requirements.

SUMMARY: The FAA is revising the regulations concerning registering aircraft and recording security documents. The Cape Town Treaty establishes a new International Registry for registering interests against certain aircraft and aircraft engines. Section 4 of the Cape Town Treaty Implementation Act of 2004 requires the FAA to make certain changes. This action will enable persons to transmit information to the new International Registry concerning certain aircraft and aircraft engines by making the FAA Aircraft Registry the U.S. authorizing entry point to the International Registry. We are also making unrelated technical changes to other portions of the regulations in this document.

DATES: These amendments become effective concurrent with the date the Cape Town Treaty enters into force with respect to the United States, except for subpart F of part 49 which contains information collection requirements that are not effective until approved by the Office of Management and Budget. FAA will publish a document announcing the effective date of this final rule.

Send your comments on the information collection requirements on or before March 4, 2005.

ADDRESSES: You may send comments on the information collection requirements [identified by Docket Number FAA-2004-19944] using any of the following methods:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Fax: 1-202-493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- Mail: Office of Information and Regulatory Affairs, OMB, New Executive Building, Room 10202, 725 17th Street, NW., Washington, DC 20053, Attention: Desk Officer for FAA.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Mark D. Lash, Civil Aviation Registry, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169, telephone (405) 954-4331.

SUPPLEMENTARY INFORMATION:**Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic DocketManagement System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the Office of Rulemaking's Web page at <http://www.faa.gov/avr/arm/index.cfm>; or
- (3) Accessing the Government Printing Office's Web page at http://www.access.gpo.gov/su_docs/aces/aces140.html.

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

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register**

published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at <http://www.faa.gov/avr/arm/sbrefa.cfm>.

The Cape Town Treaty

The Cape Town Treaty¹ (the Treaty) creates a new international legal framework to give greater security to those who finance the purchase of aircraft, aircraft engines and certain helicopters. The financing provisions of the Treaty are fully consistent with current U.S. law under the Uniform Commercial Code. The Treaty establishes an International Registry where rights in aircraft, aircraft engines, and helicopters may be registered. The sole purpose of this registry is to establish the priorities between competing interests against certain aircraft and aircraft engines. There are no safety, oversight, or other regulatory implications. The existing FAA Aircraft Registry will be preserved and work in tandem with the new International Registry.

The Treaty represents an advance in international aviation financing and will be beneficial to U.S. aviation and aerospace interests. Key Federal agencies concerned with civil aviation and U.S. exports, including the FAA, the Export-Import Bank of the United States, and the Departments of Commerce, State, and Transportation, support the Treaty.

An important difference between the FAA Aircraft Registry and the new International Registry is that parties having recordable interests in U.S. aircraft and related equipment file their complete documents relating to the interest with the FAA Registry, while they will file only electronic notices of such interests with the International Registry.

The Treaty enters into force three months after the eighth country deposits

¹ The full name of the Treaty is the Convention on International Interests in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment. We have placed a copy of the Treaty in the docket for this rulemaking.

formal instruments with the International Institute for the Unification of Private Law (Unidroit) depositary in Rome. To date, five countries, including the United States, have deposited instruments of ratification. The United States Senate approved the Treaty on July 21, 2004. On October 28, 2004, the United States deposited its instruments of ratification and adoption with Unidroit in Rome. It is anticipated that ratification by at least three more countries will follow shortly.

The Cape Town Treaty Implementation Act

On August 9, 2004, the President signed the Cape Town Treaty Implementation Act of 2004, Public Law 108-297, which requires conforming changes to the regulations concerning registration and deregistration of aircraft. The Act designates the FAA Aircraft Registry as the U.S. entry point to the International Registry relating to civil aircraft of the United States, aircraft for which a United States identification has been assigned (but only with respect to notices of prospective assignments, interests, and sales), and aircraft engines.

The Act also provides for the filing of notices of prospective interests. Under the Treaty, priority is established by the date of the filing of the notice of prospective interest. The FAA must establish a system for filing such notices and authorizing the parties to transmit information to the International Registry. Under section 3 of the Act, the filing of a notice of prospective assignment, interest or sale with the FAA Aircraft Registry and registration with the International Registry is not valid unless the parties subsequently file with the FAA, within 60 days, their recordable documents relating to the notice.

The Act also makes conforming amendments to existing law to recognize the application of the Treaty. It allows recording with the FAA against slightly less powerful engines to be consistent with the threshold requirements of the Treaty. It directs the FAA to immediately prescribe regulations for the registration and deregistration of aircraft according to the terms of the Treaty. The FAA is to complete the rulemaking by December 31, 2004 under an expedited process without preparing an economic analysis of the cost and benefits associated with the rule. To provide legal certainty and clarity during the rulemaking process, the Act expressly provides that the Treaty applies to those matters covered by the rulemaking until the final rule is

effective, or December 31, 2004, whichever is earlier.

The amendments made by the Act are effective when the Treaty comes into force with respect to the U.S., and do not apply retroactively. The Act does not affect any existing rights.

Section-by-Section Analysis of the Final Rule

Section 47.13 Signatures and Instruments Made by Representatives

The final rule amends paragraph (d), which sets forth the signature requirements applicable when a corporation files an application for aircraft registration or a request for registration cancellation. Under existing § 47.13(d)(3), a corporation must file a copy of the authorization from the board of directors to sign for the corporation with the application or cancellation request, unless the signer is a corporate officer or other person in a managerial position or a valid authorization to sign is already on file at the FAA Aircraft Registry. This final rule adds paragraph (d)(4), which creates an exception to the provisions of paragraph (d)(3) for an irrevocable deregistration and export request authorization prepared under the terms of the Treaty. The purpose of this change is to allow the FAA Aircraft Registry to accept and process documents consistent with the Treaty.

Section 47.37 Aircraft Last Previously Registered in a Foreign Country

The final rule amends paragraph (a)(3) to require the owner(s) of aircraft last previously registered in a foreign country in which the Treaty is in effect to submit evidence satisfactory to the FAA that all holders of priority interests have been satisfied or have consented to the deregistration and export of the aircraft. Currently paragraph (a)(3) does not contain any reference to the Treaty. By requiring evidence that all holders of priority interests have been satisfied, the final rule conforms to the Treaty.

Section 47.47 Cancellation of Certificate for Export Purpose

Section 47.47 sets forth the requirements applicable to cancellation of U.S. aircraft registration for the purpose of export. The final rule expands the scope of paragraph (a) to include holders of authorizations recognized under the Treaty. The final rule also adds the specific information that the FAA must receive for aircraft subject to the Treaty, including a certification that all priority interests have been discharged or consented to.

Section 49.41 Applicability

Section 49.41 currently applies to the recording of leases, tax liens, and other kinds of conveyances that affect title to, or any interest in, any specifically identified aircraft engine of 750 or more rated takeoff horsepower, or equivalent horsepower. This final rule lowers the horsepower threshold for aircraft engines from 750 to 550. The purpose of this change is to conform our regulations to the provisions of the Treaty. Horsepower rating for propellers remains unchanged since the Treaty does not pertain to propellers.

Subpart F—Transmission of Information to the International Registry

The final rule adds subpart F, consisting of §§ 49.61 and 49.63, to establish a procedure for getting authorization from the FAA Aircraft Registry to send information to the International Registry.

Section 49.61 Applicability

This new section designates the FAA Aircraft Registry as the U.S. entry point for transmitting information to the International Registry with respect to civil aircraft of the United States, aircraft assigned a U.S. identification number, and aircraft engines with a rated takeoff horsepower of at least 550. This change will preserve the recordation function of the FAA Aircraft Registry and allow it to work in tandem with the new International Registry.

Section 49.63 Eligibility for Authorization for Transmission to the International Registry: General Requirements

This new section sets forth the requirements for obtaining a unique authorization code from the FAA Aircraft Registry. The authorization code will enable requesters to electronically send information, including information about prospective interests, directly to the International Registry. To get an authorization code, a requester must file a completed AC Form 8050-135 with the FAA Aircraft Registry. On the form, requesters will provide their identification and contact information, as well as a limited amount of other relevant information.

In addition to filing the form, anyone requesting an authorization code must also file any recordable documents relating to their interest with the FAA Aircraft Registry. For civil aircraft of the United States, this means documents recordable under part 49, subpart C, including the conveyances identified in § 49.31. For aircraft engines, this means documents recordable under part 49,

subpart D, including the conveyances identified in § 49.41. For aircraft that have been assigned a U.S. identification number but are not civil aircraft of the United States, the requester only has to file the AC Form 8050-135.

Readers should note that while the final rule requires requesters to file recordable documents relating to an interest with the FAA Aircraft Registry, it does not require them to file the recordable documents with the International Registry. The International

Registry is an electronic, notice-based system. Readers should also note that, consistent with the Treaty, § 49.63(b) of the final rule does not require use of the FAA Aircraft Registry as the entry point to the International Registry for aircraft engines.

Technical Amendments

In addition to the changes we are adopting to implement the Treaty, discussed above, we are also adopting a series of non-substantive changes to

parts 47 and 49. These technical amendments, which are described in more detail below, are primarily editorial in nature and, in many cases, are simply intended to update references to the United States Code.

Part 47—Aircraft Registration

We are replacing all references to the Federal Aviation Act of 1958 with current United States Code citations according to the following table:

Existing reference	Amended to	Section affected
Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401)	49 U.S.C. 44101-44104	14 CFR 47.1.
Section 501(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)) ..	49 U.S.C. 44102	14 CFR 47.3(a).
Section 501 of the Federal Aviation Act of 1958	49 U.S.C. 44101-44104	14 CFR 47.3(b).
Section 501(f) of the Act (49 U.S.C. 1401(f))	49 U.S.C. 44103(c)	14 CFR 47.5(c).
Section 501(b)(1)(A)(i) of the Act	49 U.S.C. 44102	14 CFR 47.7(b), (c), and (d).
Section 101(16) of the Act	49 U.S.C. 40102(a)(15)	14 CFR 47.8(a)(2)(i).
Section 501(b)(2)(A)(ii) of the Act	49 U.S.C. 44102	14 CFR 47.9(a), (e), and (f).
Federal Aviation Act of 1958	49 U.S.C. 44101-44104	14 CFR 47.33(a).
Federal Aviation Act of 1958	49 U.S.C. 44101-44104	14 CFR 47.35(a).
Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401)	49 U.S.C. 44101-44104	14 CFR 47.43(a)(4).
Section 101(13) of the Federal Aviation Act of 1958 (49 U.S.C. 1301)	49 U.S.C. 40102(a)(15)	14 CFR 47.65.

We are also amending § 47.2, *Definitions*, to remove the definition of the Act of 1958. We are amending § 47.3, *Registration required*, to refer to the requirements for registration as stated in 49 U.S.C. 44103. We are amending § 47.19, *FAA Aircraft Registry*, to reflect the current address of the FAA Aircraft Registry. And, in

newly redesignated paragraph (c) of § 47.47, *Cancellation of certificate for export purpose*, we are removing references to older means of communication by which FAA notifies the country to which the aircraft is to be exported of the cancellation of registration.

Part 49—Recording of Aircraft Titles and Security Documents

We are replacing all references to the Federal Aviation Act of 1958 with current United States Code citations according to the following table:

Existing reference	Amended to	Section affected
Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401)	49 U.S.C. 44101-44104	14 CFR 49.1(a)(1).
Section 604(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1424(b)) ..	49 U.S.C. 44705	14 CFR 49.1(a)(4).
Section 503(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1403(e)) ..	49 U.S.C. 44107(c)	14 CFR 49.13(c).
Section 101(17) of the Federal Aviation Act of 1958 (49 U.S.C. 1301)	49 U.S.C. 40102(a)(19)	14 CFR 49.17(a).
Section 101(19) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(19)).	49 U.S.C. 40102(a)(18)	14 CFR 49.17(d)(6).
Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401)	49 U.S.C. 44101-44104	14 CFR 49.33(d).
Section 604(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1424(b)) ..	49 U.S.C. 44705	14 CFR 49.51(a).
Section 604(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1424(b)) ..	49 U.S.C. 44705	14 CFR 49.53(a)(1).

We are also amending § 49.11, *FAA Aircraft Registry*, to reflect the current delivery address and include the nine-digit zip code for the post office box. And, we are amending paragraph (a) of § 49.17, *Conveyances Recorded*, to define the term, “conveyance,” consistent with 49 U.S.C. § 40102(a)(19).

Justification for Expedited Rulemaking

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that when an agency for good cause finds that the notice and public comment procedure is impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an

opportunity for public comment. For the changes we are adopting to implement the Treaty, we find the notice and public comment procedure is unnecessary. Given the non-controversial nature of the rulemaking, the clear content of the rules adopted based on express provisions in the Treaty, the fact that the development of the Treaty had broad participation by the international aviation industry and Government agencies, and the potential economic benefits, we find that no public purpose would be served by unnecessary delay. In addition, section 4 of the Cape Town Treaty Implementation Act (Pub. L. 108-297, Aug. 9, 2004) requires the FAA to

publish a final rule by December 31, 2004. It does not require FAA to prepare an analysis of the cost and benefits of the final rule. For the technical amendments, we also find the notice and public comment procedure is unnecessary. The technical amendments are minor procedural and editorial changes that do not affect the substance of the existing rules.

Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted the information requirements associated

with this final rule to the Office of Management and Budget with a request for clearance.

Title: FAA Entry Point Filing Form—International Registry, AC Form 8050–135.

Summary: The FAA Civil Aviation Registry was designated by Congress as the exclusive entry point for transmitting information to the International Registry as provided for in the Treaty. The Cape Town Treaty Implementation Act of 2004 (Pub. L. 108–297) directed the FAA to establish a system for filing notices of international and prospective international interests, and authorizing parties to transmit information to the International Registry.

To implement these requirements, the FAA Civil Aviation Registry will require the submission of a completed FAA Entry Point Filing Form—International Registry, AC Form 8050–135, to issue an authorization code. This code allows for the transmission of information to the International Registry with respect to civil aircraft of the United States, aircraft assigned a U.S. identification number, and aircraft engines with a rated takeoff horsepower of at least 550.

Use of Information Collected: The FAA has no specific use for the information collected. The disclosure activities include information being transmitted to the International Registry, consisting of party name(s), collateral description(s), and the type of interest being filed. Additionally, the name of the submitter, address and telephone number will also be on the AC Form 8050–135. The party name(s), collateral description(s), and the authorization code will be entered into the FAA Civil Aviation Registry's existing database system, as search criteria. The FAA expects that interested parties will access the information to determine if an authorization code was issued. The user may then request a copy of the completed AC Form 8050–135, or check the International Registry to determine if an interest has been registered there.

Respondents: The respondents to this information collection are persons who want to file an interest with the International Registry. We estimate the number of security agreements that would likely be filed with the Registry under the rule would total 15,000 per year.

Frequency: The respondents would file AC Form 8050–135 with the FAA Civil Aviation Registry on an as-needed basis determined by the respondent.

Annual Burden Estimate: We estimate the time to complete the single-page AC Form 8050–135 is 30 minutes or less. Therefore, respondents would spend

approximately 7,500 hours annually completing the required form.

The agency is soliciting comments to—

(1) Evaluate whether the information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may provide comments on the information collection requirement by March 4, 2005, and should direct them to the address listed in the **ADDRESSES** section of this document. Comments also should be sent to the Office of Information and Regulatory Affairs, OMB, New Executive Building, Room 10202, 725 17th Street, NW., Washington, DC 20053, Attention: Desk Officer for FAA.

According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. The FAA will publish the OMB control number for this collection in the **Federal Register**, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with them. In fact, ICAO will likely be the Supervisory Authority for the International Registry.

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

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt

a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation).

If it is determined that the expected impact is so minimal that the final rule does not warrant a full cost-benefit evaluation, Department of Transportation Order DOT 2100.5 permits a statement to that effect and the basis for it to be included in the preamble and a full cost-benefit evaluation need not be prepared. Moreover, section 4 of the Cape Town Treaty Implementation Act (Pub. L. 108–297) states that the FAA is not required to prepare an economic analysis of the cost and benefits of the final rule.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.” To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule will help promote the export of U.S.-manufactured products by reducing aircraft and engine financing costs, thus facilitating the acquisition of newer, safer aircraft. Therefore, the final rule will have a positive impact (or, at worst, no impact) on small aviation operators and on small aviation manufacturers. Consequently, the FAA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule implements in the United States minor technical changes necessary to support the Treaty, particularly with respect to the relationship between the International Registry and the FAA Aircraft Registry. Thus, the FAA has assessed the potential effect of this rulemaking and has determined that it will accept international registration standards defined by the Treaty as a basis for U.S. regulation and promote free trade.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The

FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. The requirements of title II of the Act, therefore, do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 307(f) and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

List of Subjects

14 CFR Part 47

Aircraft, Reporting and recordkeeping requirements.

14 CFR Part 49

Aircraft, Reporting and recordkeeping requirements.

The Amendments

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

PART 47—AIRCRAFT REGISTRATION

■ 1. Revise the authority citation for part 47 to read as follows:

Authority: 4 U.S.T. 1830; Pub. L. 108–297, 118 Stat. 1095 (49 U.S.C. 40101 note, 49 U.S.C. 44101 note); 49 U.S.C. 106(g), 40113–40114, 44101–44108, 44110–44113, 44703–44704, 44713, 45302, 46104, 46301.

■ 2. Revise § 47.1 to read as follows:

§ 47.1 Applicability.

This part prescribes the requirements for registering aircraft under 49 U.S.C. 44101–44104. Subpart B applies to each applicant for, and holder of, a Certificate of Aircraft Registration. Subpart C applies to each applicant for and holder of, a Dealers' Aircraft Registration Certificate.

§ 47.2 [Amended]

■ 3. Amend § 47.2 by removing the definition of "Act" entirely.

■ 4. Amend § 47.3 by revising paragraph (a) and the introductory language of paragraph (b) to read as follows:

§ 47.3 Registration required.

(a) An aircraft may be registered under 49 U.S.C. 44103 only when the aircraft is—

(1) Not registered under the laws of a foreign country and is owned by—

- (i) A citizen of the United States;
- (ii) An individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(iii) A corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

- (2) An aircraft of—
 - (i) The United States Government; or
 - (ii) A State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) No person may operate an aircraft that is eligible for registration under 49 U.S.C. 44101–44104, unless the aircraft—

* * * * *

■ 5. Amend § 47.5 by revising the first sentence of paragraph (c) to read as follows:

§ 47.5 Applicants.

* * * * *

(c) 49 U.S.C. 44103(c), provides that registration is not evidence of ownership of aircraft in any proceeding in which ownership by a particular person is in issue. * * *

* * * * *

§ 47.7 [Amended]

■ 6. Amend § 47.7 paragraphs (b), (c), and (d) by revising the references to "section 501(b)(1)(A)(i) of the Act" in the

first sentence of each paragraph to read "49 U.S.C. 44102."

- 7. Amend § 47.8 by revising paragraph (a)(2)(i) to read as follows:

§ 47.8 Voting trusts.

- (a) * * *
(1) * * *
(2) * * *

(i) That each voting trustee is a citizen of the United States within the meaning of 49 U.S.C. 40102(a)(15).

* * * * *

§ 47.9 [Amended]

■ 8. Amend § 47.9 paragraphs (a), (e), and (f) by revising the references to "section 501(b)(1)(A)(ii) of the Act", in the first sentence of each paragraph to read 49 U.S.C. 44102.

- 9. Amend § 47.13 by adding paragraph (d)(4) to read as follows:

§ 47.13 Signatures and instruments made by representatives.

* * * * *

- (d) * * *

(4) The provisions of paragraph (d)(3) do not apply to an irrevocable deregistration and export request authorization when an irrevocable deregistration and export request authorization under the Cape Town Treaty is signed by a corporate officer and is filed with the FAA Aircraft Registry.

* * * * *

- 10. Revise § 47.19 to read as follows:

§ 47.19 FAA Aircraft Registry.

Each application, request, notification, or other communication sent to the FAA under this Part must be mailed to the FAA Aircraft Registry, Department of Transportation, Post Office Box 25504, Oklahoma City, Oklahoma 73125-0504, or delivered to the Registry at 6425 S. Denning Ave., Oklahoma City, Oklahoma 73169.

- 11. Amend § 47.33 by revising paragraph (a) introductory text to read as follows:

§ 47.33 Aircraft not previously registered anywhere.

(a) A person who is the owner of an aircraft that has not been registered under 49 U.S.C. 44101-44104, under other law of the United States, or under foreign law, may register it under this part if he—

* * * * *

- 12. Amend § 47.35 by revising paragraph (a) to read as follows:

§ 47.35 Aircraft last previously registered in the United States.

(a) A person who is the owner of an aircraft last previously registered under

49 U.S.C. Sections 44101-44104, or under other law of the United States, may register it under this part if he complies with §§ 47.3, 47.7, 47.8, 47.9, 47.11, 47.13, 47.15, and 47.17, as applicable and submits with his application an Aircraft Bill of Sale, AC Form 8050-2, signed by the seller or an equivalent conveyance, or other evidence of ownership authorized by § 47.11.

* * * * *

- 13. Amend § 47.37 by revising the introductory language of paragraph (a) and paragraphs (a)(2) and (a)(3) to read as follows:

§ 47.37 Aircraft last previously registered in a foreign country.

(a) A person who is the owner of an aircraft last previously registered under the law of a foreign country may register it under this part if the owner—

* * * * *

(2) Submits with his application a bill of sale from the foreign seller or other evidence satisfactory to the FAA that he owns the aircraft; and

(3) Submits evidence satisfactory to the FAA that—

(i) If the country in which the aircraft was registered has not ratified the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830), (the Geneva Convention), or the Convention on International Interests in Mobile Equipment, as modified by the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment (the Cape Town Treaty), the foreign registration has ended or is invalid; or

(ii) If that country has ratified the Geneva Convention, but has not ratified the Cape Town Treaty, the foreign registration has ended or is invalid, and each holder of a recorded right against the aircraft has been satisfied or has consented to the transfer, or ownership in the country of export has been ended by a sale in execution under the terms of the Geneva Convention; or

(iii) If that country has ratified the Cape Town Treaty and the aircraft is subject to the Treaty, that the foreign registration has ended or is invalid, and that all interests ranking in priority have been discharged or that the holders of such interests have consented to the deregistration and export of the aircraft.

(iv) Nothing under (a)(3)(iii) affects rights established prior to the Treaty entering into force with respect to the country in which the aircraft was registered.

* * * * *

- 14. Amend § 47.43 by revising paragraph (a)(4) to read as follows:

§ 47.43 Invalid registration.

- (a) * * *

(4) The interest of the applicant in the aircraft was created by a transaction that was not entered into in good faith, but rather was made to avoid (with or without the owner's knowledge) compliance with 49 U.S.C. 44101-44104.

* * * * *

- 15. Amend § 47.47 by revising it to read as follows:

§ 47.47 Cancellation of Certificate for export purpose.

(a) The holder of a Certificate of Aircraft Registration or the holder of an irrevocable deregistration and export request authorization recognized under the Cape Town Treaty and filed with FAA who wishes to cancel the Certificate for the purpose of export must submit to the FAA Aircraft Registry—

(1) A written request for cancellation of the Certificate describing the aircraft by make, model, and serial number, stating the U.S. identification number and the country to which the aircraft will be exported;

(2)(i) For an aircraft not subject to the Cape Town Treaty, evidence satisfactory to the FAA that each holder of a recorded right has been satisfied or has consented to the transfer; or

(ii) For an aircraft subject to the Cape Town Treaty, evidence satisfactory to the FAA that each holder of a recorded right established prior to the date the Treaty entered into force with respect to the United States has been satisfied or has consented to the transfer; and

(3) A written certification that all registered interests ranking in priority to that of the requestor have been discharged or that the holders of such interests have consented to the cancellation for export purposes.

(b) If the aircraft is subject to the Cape Town Treaty and an irrevocable deregistration and export request authorization has been filed with the FAA Aircraft Registry, the FAA Registry will honor a request for cancellation only if an authorized party makes the request.

(c) The FAA Aircraft Registry notifies the country to which the aircraft is to be exported of the cancellation.

- 16. Revise § 47.65 to read as follows:

§ 47.65 Eligibility.

To be eligible for a Dealer's Aircraft Registration Certificate, a person must have an established place of business in the United States, must be substantially

engaged in manufacturing or selling aircraft, and must be a citizen of the United States, as defined by 49 U.S.C. 40102(a)(15).

PART 49—RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

■ 17. Revise the authority citation for part 49 to read as follows:

Authority: 4 U.S.T. 1830; Pub. L. 108–297, 118 Stat. 1095 (49 U.S.C. 40101 note, 49 U.S.C. 44101 note); 49 U.S.C. 106(g), 40113–40114, 44101–44108, 44110–44113, 44704, 44713, 45302, 46104, 46301.

■ 18. Amend § 49.1 by revising paragraphs (a)(1) and (a)(4) to read as follows:

§ 49.1 Applicability.

(a) * * *
(1) Any aircraft registered under 49 U.S.C. 44101–44104;

* * * * *

(4) Any aircraft engine, propeller, or appliance maintained by or for an air carrier certificated under 49 U.S.C. 44705, for installation or use in an aircraft, aircraft engine, or propeller, or any spare part, maintained at a designated location or locations by or for such an air carrier.

* * * * *

■ 19. Revise § 49.11 to read as follows:

§ 49.11 FAA Aircraft Registry.

To be eligible for recording, a conveyance must be mailed to the FAA Aircraft Registry, Department of Transportation, Post Office Box 25504, Oklahoma City, Oklahoma 73125–0504, or delivered to the Registry at 6425 S. Denning Ave., Oklahoma City, Oklahoma 73169.

■ 20. Revise § 49.13(c) to read as follows:

§ 49.13 Signatures and acknowledgements.

* * * * *

(c) No conveyance or other instrument need be acknowledged, as provided in 49 U.S.C. 44107(c), in order to be recorded under this part. The law of the place of delivery of the conveyance determines when a conveyance or other instrument must be acknowledged in order to be valid for the purposes of that place.

* * * * *

■ 21. Amend § 49.17 by revising paragraphs (a) and (d)(6) to read as follows:

§ 49.17 Conveyances recorded.

(a)(1) Each instrument recorded under this part is a “conveyance” within the following definition in 49 U.S.C. 40102(a)(19):

“Conveyance” means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(2) A notice of Federal tax lien is not recordable under this part, since it is required to be filed elsewhere by the Internal Revenue Code (26 U.S.C. 6321, 6323; 26 CFR 301.6321–1, 301.6323–1).

* * * * *

(d) * * *

(6) A contract of conditional sale, as defined in 49 U.S.C. 40102(a)(18), must be signed by all parties to the contract.

■ 22. Amend § 49.33 by revising paragraph (d) to read as follows:

§ 49.33 Eligibility for recording: general requirements.

* * * * *

(d) It affects aircraft registered under 49 U.S.C. 44101–44104; and

* * * * *

■ 23. Amend § 49.41 by revising paragraph (a) to read as follows:

§ 49.41 Applicability.

* * * * *

(a) Any lease, a notice of tax lien or other lien (except a notice of Federal tax lien referred to in § 49.17(a)), and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which affects title to, or any interest in, any specifically identified aircraft engine of 550 or more rated takeoff horsepower, or the equivalent of that horsepower, or a specifically identified aircraft propeller capable of absorbing 750 or more rated takeoff shaft horsepower.

■ 24. Amend § 49.51 by revising paragraph (a) to read as follows:

§ 49.51 Applicability.

* * * * *

(a) Any lease, a notice of tax lien or other lien (except a notice of Federal tax lien referred to in § 49.17 (a), and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which affects title to, or any interest in, any aircraft engine, propeller, or appliance maintained by or on behalf of an air carrier certificated under 49 U.S.C. 44705 for installation or use in aircraft, aircraft engines, or propellers, or any spare parts, maintained at a designated location or locations by or on behalf of such an air carrier.

* * * * *

■ 25. Revise § 49.53(a)(1) to read as follows:

§ 49.53 Eligibility for recording: general requirements.

(a) * * *

(1) It affects any aircraft engine, propeller, appliance, or spare part, maintained by or on behalf of an air carrier certificated under 49 U.S.C. 44705;

* * * * *

■ 26. Add new subpart F to read as follows:

Subpart F—Transmission of Information to the International Registry

Sec.

49.61 Applicability.

49.63 Eligibility for Authorization for Transmission to the International Registry: General Requirements.

§ 49.61 Applicability.

The FAA Civil Aviation Registry is designated under Section 3 of the Cape Town Treaty Implementation Act of 2004, as the entry point for authorizing the transmission of information to the International Registry affecting United States civil aircraft, aircraft assigned a U.S. registration number and engines with a rated shaft horsepower of 550 or the equivalent thereof. This subpart applies to the transmission of information to the International Registry; the filing of the Entry Point filing form, AC Form 8050–135; and the filing of documents eligible for recording under subparts C and D of part 49.

§ 49.63 Eligibility for Authorization for Transmission to the International Registry: general requirements.

(a) To send information to the International Registry with respect to a civil aircraft of the United States, an aircraft for which a U.S. identification number has been assigned, or an aircraft engine, a person requesting a unique authorization code from the FAA Aircraft Registry must comply with the following:

(1) File a completed AC Form 8050–135 with the FAA Aircraft Registry; and

(2) For civil aircraft of the United States, file with the FAA Aircraft Registry any documents representing the transaction that meet the requirements of subpart C of this part; or

(3) For aircraft engines, file with the FAA Aircraft Registry any documents representing the transaction that meet the requirements of subpart D of this part.

(b) Nothing in this section requires transmittal of information relating to aircraft engines to the International

Registry through the FAA Aircraft
Registry.

Marion C. Blakey,

Administrator.

[FR Doc. 04-28388 Filed 12-28-04; 11:37
am]

BILLING CODE 4910-13-P