

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 13, 47, 61, 91, and 183

[Docket No. FAA-2005-23156; Notice No. 05-15]

RIN 2120-AD16

#### Drug Enforcement Assistance

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

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

**SUMMARY:** The FAA is withdrawing an NPRM to revise certain requirements concerning registration of aircraft, certification of pilots, and penalties for registration and certification violations. We are withdrawing the document because the relief that the NPRM would have provided has been achieved by other means or is addressed by an NPRM we plan to publish in the **Federal Register** in the near future.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 12, 1990, the FAA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (55 FR 9270). The NPRM proposed changes to certain requirements concerning registration of aircraft, certification of pilots, and penalties for registration and certification violations. The NPRM also announced non-rulemaking procedural changes. We intended the changes to correct deficiencies in our systems and procedures identified in the FAA Drug Enforcement Assistance Act of 1988 (Pub. L. 100-690) (hereafter, "the Act"). The Act amended FAA's authorizing legislation (49 U.S.C. 40101 *et seq.*) to—

- Declare that it is FAA policy to assist law enforcement agencies in the enforcement of laws that regulate controlled substances, to the extent consistent with aviation safety;
- Modify the aircraft registration system to more effectively serve the needs of buyers and sellers of aircraft, drug enforcement officials, and other users of the system;
- Modify the pilot certification system to more effectively serve the needs of pilots and drug enforcement officials;
- Modify the system for processing major repair and alterations of fuel tanks and fuel systems on aircraft, to more effectively serve users of the system, including drug enforcement officials;
- Establish and collect the fees necessary to cover the costs of issuing aircraft registration certificates, issuing airman certificates for pilots, and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft;
- Pursue civil actions and assess civil penalties for violations of the regulations governing registering aircraft and recording aircraft security documents; and
- Create criminal penalties for forgery of airman certificates, false marking of aircraft, and other aircraft registration violations and to make it unlawful for any person to knowingly and willingly operate an aircraft in violation of any requirement for display of navigation or anti-collision lights.

The comment period closed on May 11, 1990. We received 373 comments, very few of which expressed support for the proposed changes. For the most part, commenters believed that the proposed changes would only impose burdens on law-abiding citizens, while criminals would simply circumvent them. As a result, FAA decided to delay the rulemaking process to assess whether specific technological improvements to the Civil Aviation Registry could meet the intent of the Act. As described in more detail below, we believe we have now fulfilled the requirements of the Act, with certain exceptions, through changes to systems and procedures used by the FAA Civil Aviation Registry (hereafter, the Registry). For this reason, we are withdrawing the 1990 NPRM in its entirety.

To further address our obligations under the Act, we plan to publish a new

NPRM in the **Federal Register** in the near future. The NPRM will address the requirements of the Act not put in place through changes to the Civil Aviation Registry, with one exception.

The Act specified that regulations prescribed under Section 44111 shall require that each individual listed in an application for registration of an aircraft provide with the application the individual driver's license number and that each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

The FAA has determined that implementing that requirement would be detrimental to users of the aircraft records and potentially to the aircraft owners. At this time aircraft records are available to all parties with a need or desire to examine them in the pursuit of aviation safety, national security, and the purchase or sale of aircraft. If privacy information like a driver's license number or taxpayer identification number were included with documents that are a part of the aircraft record, then access to aircraft record would have to be restricted.

In addition, a vetting process would have to be set up to ensure that the driver's license number and taxpayer identification number being provided were in fact accurate and valid. This would require a face-to-face meeting between those parties wishing to register aircraft and an entity that could provide verification that the identification provided was in fact genuine. This would increase the cost and time needed for aircraft registration, creating an unnecessary burden on aircraft owners and the government.

With the changes made to the aircraft registration system since passage of the Act, the FAA believes that law enforcement organizations have much improved information with which to carry out their responsibilities and that implementation of this requirement is not necessary.

#### Reason for Withdrawal

We are withdrawing the NPRM published in the **Federal Register** on March 12, 1990 (55 FR 9270) because the relief that would have been provided by the NPRM has been achieved by other means. The following paragraphs list the deficiencies in, and abuses of, the FAA's systems for

registering pilots and aircraft identified in the FAA Drug Enforcement Assistance Act of 1988 (Pub. L. 100–690) and the actions the FAA has taken to address them.

*Section 44703(g) Airman Certificates*

(A) The Use of Fictitious Names and Addresses by Applicants for Those Certificates

At time of application for certification, airmen must show proof of identity to the certifying official. See General Aviation Inspector's Handbook, FAA Order 8700.1, vol. 2, Chap. 1, section 4. The proof of identity must include a photograph. The FAA records the type of identification used on the airmen application form. This information is available to law enforcement for follow-up. Airmen also must show proof of identity when applying for medical certification.

In 1995, the FAA began using a software product that validates that an address is in a standardized form and is within a range of valid addresses. The FAA also purchased and is testing a software product that confirms whether a specific address is a valid delivery point for the U.S. Postal Service. Beginning in 2004, the airmen database is periodically checked and information on potentially nonexistent addresses is made available to the FAA Law Enforcement Assistance Program.

(B) The Use of Stolen or Fraudulent Identification in Applying for Those Certificates

When applying for an airman certificate, the applicant must present photo identification. This requirement mitigates the use of stolen identification. The FAA collects information on the identification document used in applying for airmen certificates. See, for example, FAA form number 8710–1. That information is readily available to law enforcement agencies for the purpose of determining its validity.

(C) The Use by an Applicant of a Post Office Box or "Mail Drop" as a Return Address To Evade Identification of the Applicant's Address

In 1989, the FAA stopped accepting a post office box as a residence address. An applicant must provide a physical address. However, the applicant may specify a post office box as the preferred mailing address. In that case, the FAA keeps both addresses in the airman's record. If the physical address is listed as General Delivery, Rural Route, or Star Route, the airman must provide

directions, or a map, for locating the residence.

(D) The Use of Counterfeit and Stolen Airman Certificates by Pilots

In July 2003, the FAA began issuing airmen certificates that incorporate a number of security features. The certificates are made of high quality PVC plastic media card stock, much improved over the old paper stock. They include extensive micro-printing, a hologram, and an ultraviolet layer that contains certain words and phrases. This new certificate greatly reduces the ability to create counterfeit reproductions. This issue will also be addressed in an NPRM we plan to publish in the **Federal Register** in the near future.

In addition, certificates that are reported stolen to the FAA are marked as such in the airmen database. This information is available to law enforcement organizations.

(E) The Absence of Information About Physical Characteristics of Holders of Those Certificates

In October 2002, the FAA adopted new regulations requiring that airmen carry photo identification acceptable to the FAA when exercising the privileges of a pilot certificate. In addition, the airman must present photo identification when requested to do so by the FAA, an authorized representative of the NTSB or the TSA, or a law enforcement officer. See 67 FR 65858, October 28, 2002.

*Section 44111(c)(3) Modifications in Registration and Recordation System for Aircraft Not Providing Air Transportation*

(A) The Registration of Aircraft to Fictitious Persons

Law enforcement organizations have the resources and responsibility to identify fictitious persons. One of the deficiencies that existed at the time of this legislation was that law enforcement agencies did not have timely access to FAA information. The FAA now has in place a system that provides law enforcement agencies, through the FAA's Law Enforcement Assistance Program, access to both its aircraft database, which contains the registration and airworthiness status of the aircraft and the names and addresses of the registered owners, and over 25 million documents containing registration and airworthiness information. The documents are in digital format and are available seven days a week, 24 hours a day within minutes of requesting them.

(B) The Use of False or Nonexistent Addresses by Persons Registering Aircraft

In 1995, the FAA began using a software product that validates that an address is in a standardized form and that it is within a range of valid addresses. The FAA has also purchased and is testing a software product that confirms whether a specific address is a valid delivery point for the U.S. Postal Service. Beginning in 2004, the aircraft registration database is periodically checked and a file of potentially nonexistent addresses is made available to the FAA Law Enforcement Assistance Program.

(C) The Use by a Person Registering an Aircraft of a Post Office Box or "Mail Drop" as a Return Address To Evade Identification of the Person's Address

On October 20, 1994, the FAA notified the public that we no longer accept aircraft registration applications unless a physical location or physical address is shown in the address portion of the form. See 59 FR 53013. On October 17, 1996, the FAA began requesting physical addresses for those aircraft previously registered for which records indicated only a post office box or mail drop address.

(D) The Registration of Aircraft to Entities Established To Facilitate Unlawful Activities

Law enforcement organizations have the resources and responsibility to identify such entities. One of the deficiencies that existed at the time of this legislation was that law enforcement agencies did not have timely access to FAA information. The FAA now has in place a system that provides law enforcement agencies, through the FAA's Law Enforcement Assistance Program, access to its aircraft database and all 25 million documents associated with the aircraft's registration and airworthiness information. The actual documents are all in digital format and are available seven days a week, 24 hours a day within minutes of requesting them.

(E) The Submission of Names of Individuals on Applications for Registration of Aircraft That Are Not Identifiable

The current application for registration contains instructions indicating the applicant should type or print the name below the signature(s). As of June 2004, the FAA no longer accepts applications for aircraft registration without a printed or typed name below the signature(s). This issue will also be addressed in the NPRM we

plan to publish in the **Federal Register** in the near future.

(F) The Ability To Make Frequent Legal Changes in the Registration Markings Assigned to Aircraft

In 1990, the FAA started capturing the serial number/registration number history in a computer database. This information is available on-line to FAA and the law enforcement community. It allows security and law enforcement to track any unusual patterns for a specific aircraft. They determine the frequency of changes that would trigger further investigation on their part.

(G) The Use of False Registration Markings on Aircraft

All information concerning registration markings, called "N numbers" is available through the Registry's Web site, as well as through the El Paso Intelligence Center. This Center is comprised of the Drug Enforcement Administration, U.S. Customs Service, Transportation Security Administration, FAA, and other law enforcement officials who work aircraft and airmen issues. They have direct access to Registry databases and also work through the FAA Law Enforcement Assistance Program on law enforcement issues. If an individual uses a reserved N number not assigned to their aircraft, field personnel can quickly make that determination through the use of the online information, which is now available seven days a week, 24 hours a day. The FAA updates this information on the Civil Aviation Registry's Web site on a daily basis.

When an aircraft registration is cancelled (for example, when an aircraft is destroyed, scrapped, or exported), the FAA places the registration number on hold for two years and does not assign the number to another aircraft during that period. This procedure has been in place since October 1990 at the request of the law enforcement community. The Registry is now considering a request from law enforcement to increase this timeframe.

(H) The Illegal Use of "Reserved" Registration Markings on Aircraft

All information concerning reserved registration markings, called "N numbers" is available through the Registry's Web site, as well as through the El Paso Intelligence Center. This Center is comprised of the Drug Enforcement Administration, U.S. Customs Service, Transportation Security Administration, FAA, and other law enforcement officials who work aircraft and airmen issues. They

have direct access to Registry databases and also work through the FAA Law Enforcement Assistance Program on law enforcement issues. If an individual uses a reserved N number not assigned to their aircraft, field personnel can quickly make that determination through the use of the online information, which is now available seven days a week, 24 hours a day. The FAA updates this information on the Civil Aviation Registry's Web site on a daily basis.

(I) The Large Number of Aircraft Identified as "Sale Reported"

A status of "Registration Pending" was established on October 3, 1990, to distinguish between those records where an actual attempt to register the aircraft had been made (registration pending) from those that had only been reported as sold (sale reported). The registration pending category provides additional information to FAA field and law enforcement personnel to include the date of the application and the name and address of the applicant to help in verification of the pink copy used for temporary operation.

For approximately three years, the Registry has dedicated examination resources to this effort and has reduced the number of aircraft in the sale reported status by over 2,000 aircraft. In addition, the FAA has changed the registration status of aircraft identified as "sale-reported" from "Valid" to "In Question" in its database to alert FAA field personnel and law enforcement agencies to potential problems with the registration. The FAA is currently working with the Transportation Security Administration and aviation industry groups to further improve the registration status information on all civil aircraft.

(J) The Lack of a System To Ensure Timely and Adequate Notice of the Transfer of Ownership of Aircraft

The Registry maintains a database of the status of aircraft registration that is accessible through its Web site and is updated daily. A document index is also available on the Web site. The document index can be used to determine if documents related to a specific aircraft have been received by the Registry, even if a permanent registration certificate has not yet been issued. The index is also updated daily. This issue will also be addressed in the NPRM we plan to publish in the **Federal Register** in the near future.

(K) The Practice of Allowing Temporary Operation and Navigation of Aircraft Without the Issuance of a Certificate of Registration

Temporary authority to operate a U.S. civil aircraft for a reasonable amount of time after a transfer of ownership is available under 14 CFR 47.31. However, before that authority is valid, § 47.31 requires each applicant to submit an aircraft registration application and an original bill of sale to the FAA.

Almost all aircraft registry records are now maintained in digital imagery instead of the prior microfiche/paper-based system. There are over 25 million pages of information available on this system. A document index, updated daily, and almost all aircraft records are now available online at the FAA Registry Web site or through a query to the FAA Law Enforcement Assistance Program.

Law enforcement personnel using the index or Law Enforcement Assistance Program can retrieve all documents associated with aircraft in a matter of minutes and determine whether an application package for the aircraft, as required by 14 CFR 47.31 has been received by the Registry. If there is any question regarding the registration status of an aircraft, online queries allow rapid access to aircraft documents in Adobe PDF format that can then be forwarded to the appropriate law enforcement organization.

Establishment of the El Paso Intelligence Center allows law enforcement comprised of the Drug Enforcement Administration, U.S. Customs Service, FAA and other law enforcement officials who work aircraft and airmen issues, centralized direct access to Registry databases through the Law Enforcement Assistance Program and the Web site. El Paso Intelligence Center personnel have access to real-time data.

Current regulations (14 CFR 47.41) require that when, among other instances, an aircraft is sold, the seller must notify the FAA's Aircraft Registry of the sale and the certificate of registration be returned. The aircraft is then flagged with a "Sale Reported" notation until such time that an application package is received and processed for the new owner. Any member of the public or law enforcement can check the registration records of a particular aircraft through the Registry Web site to determine if that aircraft is flagged as "Sale Reported." This information is updated daily.

FAA believes that together, these existing regulations and added access to

aircraft records for law enforcement personnel address Congress' concern with the practice of allowing temporary operating authority prior to issuance of a certificate of aircraft registration.

*Section 44713(d) Inspection and Maintenance*

**(A) The Lack of a Special Identification Feature To Allow the Forms To Be Distinguished Easily From Other Major Repair and Alteration Forms**

The FAA issued an Action Notice (FAA Notice A8600.1) requiring each FAA Flight Standards District Office to review any Major Repair and Alteration Form (form no. 337) received and to send any form 337 involving a fuel tank system alteration or modification to a special section in the Registry by first class mail within 24 hours of receipt. This section has its own post office box number. This procedure highlights forms related to major repairs or alterations to fuel tanks and fuel systems from all other form 337s sent to the FAA.

**(B) The Excessive Period of Time Required To Receive the Forms at the Airmen and Aircraft Registry of the Administration**

As discussed above, FAA Notice A8600.1 requires each FAA Flight Standards District Office to review any Major Repair and Alteration Form (form no. 337) received and to send any form that involved a fuel tank system alteration or modification to a special section in the Registry by first class mail within 24 hours of receipt.

**(C) The Backlog of Forms Waiting for Processing at the Registry**

The Registry has eliminated the backlog for processing forms for major repairs or alterations to fuel tanks and fuel systems. All completed forms have been associated with the appropriate aircraft record.

**(D) The Lack of Ready Access by Law Enforcement Officials to Information Contained on the Forms**

The Registry enters these forms in the FAA aircraft database immediately upon receipt. The information is accessible to law enforcement through that database. In addition, once the form is associated with the appropriate aircraft record, the actual Major Repair and Alteration Form (form no. 337) is available electronically within minutes through the FAA's Law Enforcement Assistance Program.

**Conclusion**

Based on the actions described above that we have taken to address the deficiencies and abuses identified in the

FAA Drug Enforcement Assistance Act, the FAA has determined that, with certain exceptions, we have satisfied the statutory requirements. The exceptions will be addressed by the NPRM we plan to publish in the **Federal Register** in the near future. Therefore, the FAA withdraws Notice No. 90-9, published at 55 FR 9270 on March 12, 1990.

Withdrawal of the NPRM does not preclude the FAA from issuing another notice on the subject matter in the future or committing the agency to any future course of action.

Issued in Washington, DC, on November 25, 2005.

**John M. Allen,**

*Deputy Director, Flight Standards Service.*

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**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2005-23173; Directorate Identifier 2005-NM-190-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; Short Brothers Model SD3 Airplanes**

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Short Brothers Model SD3 airplanes. This proposed AD would require installing additional fuel tank bonding jumpers, performing an in-place resistance check of the float switches, inspecting certain internal components of the fuel tanks, and performing related corrective actions if necessary. This proposed AD would also require revisions to the airworthiness limitations section of the Instructions for Continued Airworthiness, and to the airplane flight manual procedures for operation during icing conditions and fuel system failures. This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent ignition sources inside the fuel tanks, which could lead to fire or explosion.

**DATES:** We must receive comments on this proposed AD by January 4, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- 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.

- Fax: (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.

Contact Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland, for service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2125; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number "FAA-2005-23173; Directorate Identifier 2005-NM-190-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.