

## Aviation - USA

### Proposed FAA regulations to require re-registration and renewal of aircraft

March 17 2010

[Introduction](#)  
[Proposed changes](#)  
[Select criticisms from industry](#)  
[Comment](#)

#### Introduction

On February 28 2008 the Federal Aviation Administration (FAA) published a notice of proposed rulemaking that would require re-registration of existing aircraft registrations, as well as renewals of existing and new registrations on a three-year rolling basis. The FAA is expected to issue its final rules in the near future. Law enforcement and other government agencies spurred these proposed changes out of concern over the FAA Registry's inaccurate and out-of-date information on the registered owners of aircraft. The FAA estimates that the owners of 34,000 aircraft - approximately one-third of all aircraft on the register - cannot be positively or verifiably identified. This lack of certainty poses a problem to law enforcement agencies, particularly with respect to their fight against drug smuggling and continuing efforts to ensure homeland security. As the new framework for aircraft registration offered in the proposed regulations significantly changes the FAA's current system, various industry voices have raised concerns.

#### Proposed changes

Under the new system proposed by the FAA, any aircraft registered before the effective date of the proposed rule will be required to re-register by submitting a new AC Form 8050-1 aircraft registration application with the applicable fee to the FAA during a specific three-month period, to be determined by the month of issue of the existing certificate. In addition, any certificate of aircraft registration issued after the effective date of the regulations, regardless whether this is due to re-registration or new registration, will expire after three years. To renew registration after this period elapses the aircraft owner will be required to file an aircraft registration renewal with the applicable fee to the FAA which, on processing, will issue a new certificate of registration valid for a further three years. Thus, the renewal process must be repeated every three years.

As currently proposed, the FAA plans to notify registered owners 120 days before the existing registration expires. However, the final burden to ensure the registration's validity rests with the aircraft owner, rendering failure to receive the 120-day notice insufficient excuse for the owner's failure to renew. Furthermore, the FAA recommends that the applicant apply for renewal 90 days before the certificate of registration expires, to allow for government processing and the timely receipt of the new certificate before the old one lapses. There will be no temporary authority to fly if the current registration expires, unlike the current practice which provides a new buyer with temporary authority to operate in the United States under the pink copy of the aircraft registration application. Violation of this rule by operating before receipt of the renewal certificate will constitute unauthorized operations, exposing the owner to liability and FAA penalties.

The proposed rule differs from the existing registration regime, which provides registrations that generally do not expire. Under the proposed regulations, the registered owner will bear all responsibility for meeting the renewal requirements, as well as any consequences resulting from failure to do so. The FAA believes that the requirement to re-register and/or renew will better ensure a consistently comprehensive, up-to-date aircraft registry. To compel compliance, the proposed regulations will invalidate aircraft registration when a certificate expires and cancel the FAA-assigned N-number 30 days after the specific period of time during which the aircraft was scheduled for re-registration or renewal.

#### Select criticisms from industry

The FAA submitted the proposed rulemaking for comments from interested parties until

#### Authors

Timothy J Lynes



Sean C Gordon



May 28 2008. A myriad of different industry interests filed comments which were generally supportive of the FAA's stated goal for the proposed changes, but argued that an alternative approach focusing on FAA enforcement of the existing regulations would solve law enforcement's problems better than creating an entirely new registration system.

In support of their argument, industry groups invoked the far-reaching implications of cancelling certificates of registration and N-numbers for failure to re-register or renew. For example, a cancelled N-number might require owners to repaint aircraft after assignment of a new N-number. In addition, owners could unwittingly default under loan or other financing agreements that require the aircraft to be continually registered and the security interest of financing parties to be continually perfected. Furthermore, some industry groups fear that the FAA's changes will discourage aviation financing by inserting more risk and uncertainty into an aerospace market already beset by liquidity crises.

Critics are concerned that the FAA will be unable to handle the increased administrative workload required to maintain and enforce the new regulations. The proposed rule will require the FAA to:

- manage the initial re-registration process;
- track future expiration dates;
- send 120-day notices of upcoming expiration;
- process incoming renewals; and
- cancel those registrations that fail to renew.

Alternatively, industry groups suggest that the FAA should focus its attention on improved enforcement of current rules. Most importantly, pursuant to 14 CFR §47.51, the FAA issues a triennial aircraft registration report if there has been no registration activity on an aircraft during a three-year period. The owner is required to complete and return the report, whereby it certifies the continued accuracy of certain registration information. Failure to submit the report can result in suspension or revocation of the certificate of registration. However, the FAA's current enforcement activities have not compelled the universal submission of such reports to date. While the proposed regulation as currently drafted eliminates the report, industry groups would prefer that it be given more weight. They believe that a stricter rule would instill the requisite fear of actual cancellation of registration certificates that would motivate voluntary compliance with the FAA's current regulations. These groups argue that such a result would improve the registry's accuracy without unnecessarily increasing the administrative burdens placed on aircraft owners with solid track records of cooperating with FAA regulation.

## Comment

Many believe that the FAA will either submit a new proposed rule or issue the final rule very soon. If put into force as currently drafted, the proposed regulations will force aircraft owners, financiers, lessors and insurance companies to implement changes to adjust to the new re-registration and renewal requirements.

*For further information on this topic please contact [Timothy Lynes](#) or [Sean Gordon](#) at [Katten Muchin Rosenman LLP](#) by telephone (+1 202 625 3500), fax (+1 202 298 7570) or email ([timothy.lynes@kattenlaw.com](mailto:timothy.lynes@kattenlaw.com) or [sean.gordon@kattenlaw.com](mailto:sean.gordon@kattenlaw.com)).*

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at [www.iloinfo.com](http://www.iloinfo.com).



Official Online Media Partner to the International Bar Association  
An International Online Media Partner to the Association of Corporate Counsel  
European Online Media Partner to the European Company Lawyers Association

© Copyright 1997-2010 Globe Business Publishing Ltd