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FEDERAL AVIATION AGENCY

FLIGHT STANDARDS SERVICE

[14 CFR Parts 1, 9, 9a]

[Regulatory Docket No. 1677; Notice No. 63-13]

AIRCRAFT AIRWORTHINESS; SURPLUS MILITARY AIRCRAFT

Notice of Proposed Rule Making

Notice is hereby given that there is under consideration a proposal to amend Parts 1 and 9 and to promulgate a new Part 9a of the Civil Air Regulations. The proposed regulations are designed to provide a basis for the certification of surplus military aircraft in the standard category.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before June 12, 1963, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available in the Docket Section for examination by interested persons at any time.

Part 9 and sections of Part 1 contain the current certification requirements for surplus military aricraft. Although such aircraft were eligible, with certain operating limitations, for type certification under Part 9 a number of years ago, this has not been possible since 1947. This notice of proposed rule making is being issued to provide again a basis for the type certification of surplus military aircraft. The proposed rules affect persons who intend to obtain type and airworthiness certificates for surplus military aircraft. Persons presently holding airworthiness certificates under the current provisions of Parts 1 and 9 would not be affected. The proposed rules would establish, by reference, specific standards in a new Part 9a for the certification of surplus military aircraft.

Present Part 9 was originally promulgated in November 1946, at which time a considerable number of surplus military aircraft were being offered for sale to the public. At the same time, there was an increasing need for aircraft in civil use. The aircraft industry, however, was not yet geared for production to supply civil needs. Part 9 permitted certification, in the limited category, of surplus U.S. military aircraft which were shown to have a good service record. Thus, civil aviation was encouraged and waste avoided which would have resulted if the surplus aircraft had been reduced to scrap.

Such aircraft, designated as limited category aircraft were type certificated upon a finding that the service record had been satisfactory, that the aircraft were in a good state of preservation and repair, and that they were in a condition for safe operation. The carriage of passengers or cargo for hire was not permitted in these aircraft.

Because Part 9 was based upon conditions in the aviation industry existing in 1946, and known to be of a temporary nature, time limitations were set for type certification of aircraft in the limited category. In this regard, surplus military aircraft for which application for type certificate was made after 1947 were not eligible for certification under Part 9. These aircraft were either certificated in a standard category under one of the comprehensive and detailed airworthiness codes (Part 3, 4b, or 6 of the Civil Air Regulations), or were certificated in the restricted category under the provisions of Part 8 of the Civil Air Regulations. Certification in accordance with current Part 8, however, permits only special purpose operations. In some cases, especially those involving large aircraft, the type of operation contemplated, e.g., unrestricted carriage of cargo, does not qualify as a special purpose. Under these circumstances, a present purchaser of a surplus military aircraft, which is not eligible for certification under Part 8, is faced with only the possibility of having the aircraft certificated under the current provisions of Part 3, 4b, 6, or 7.

The provisions of Parts 3, 4b, 6, and 7 prescribe that compliance be shown with the requirements of these parts effective on the date application is made for a type certificate. Since the regulations are amended as the state of the art progresses in the aviation industry, demonstration of compliance with many of the current airworthiness requirements by an aircraft which was designed many years ago could be so burdensome and costly, as to be prohibitive.

In view of the foregoing and since the Agency considers it appropriate and in the public interest to permit a greater utilization of surplus military aircraft, it is proposed that such aircraft be certificated in a standard category by a showing of compliance, not with the airworthiness requirements in effect on the date of the application for a type certificate, but with specified earlier versions of Part 3, 4b, 6 or 7 of the Civil Air Regulations. In this connection, it should be noted that many civil aircraft are operating today which meet requirements established many years ago. Surplus military aircraft, when certificated under the proposed regulation, would be eligible for the same type of operations as other civil aircraft certificated in a standard category, i.e., they may be used for the carriage of persons and property for compensation or hire without special limitations.

It is expected that in the certification of aircraft under the provisions of this proposal, the equivalent level of safety provisions of the applicable Civil Air Regulations will be utilized to alleviate problems presented by strict compliance. In order to further alleviate the burden on the applicant of certificating surplus military aircraft under a comprehensive and detailed set of airworthiness regulations, the Flight Standards Service of the Agency is considering establishing an assistance program for the evaluation of surplus military aircraft.

While this proposal would provide for the certification of surplus military aircraft under certain specified provisions of the Civil Air Regulations, it would also permit, as an alternative, those aircraft which are counterparts of a civil aircraft type certificate in the normal, utility, acrobatic or transport category to be type certificated in accordance with the regulations under which the civil aircraft was type certificated. With respect to engines, propellers and the related accessories used on surplus military aircraft, it is recognized that in many cases such engines and propellers are not type certificated and that certification under the provisions of Parts 13 and 14 would be impossible. Therefore, it is proposed to permit engines and propellers to be approved for use on aircraft certificated under the new Part 9a if, on the basis of their military qualifications and acceptance and their service record, it is shown that such engines and propellers provide substantially the same level of safety as would be provided if

they were type certificated under Parts 13 and 14 of the Civil Air Regulations.

In addition to the foregoing, it is proposed to amend Part 1 and Part 9 of the Civil Air Regulations concerning the airworthiness certification of aircraft in the limited category. In this respect, under the proposal, original airworthiness certificates for aircraft in the limited category would no longer be issued. The proposed new Part 9a will provide a basis for the certification of surplus military aircraft in a standard category under a comprehensive and detailed set of airworthiness requirements. On the other hand, surplus military aircraft certificated under the provisions of Part 9 are not required to meet such airworthiness requirements. In view of the foregoing, and since the conditions in the aviation industry which prompted the promulgation of Part 9 no longer exist, the Agency does not believe that it is necessary in the public interest to continue to issue original airworthiness certificates under present Part 9. It should be noted that similar regulatory action terminating the initial issuance or airworthiness certificates in the limited category has been taken in the past by the predecessor agency to the Federal Aviation Agency.

Airworthiness certificates already issued for aircraft in the limited category would not be affected by this proposal. Furthermore, aircraft presently certificated in the experimental or restricted category which immediately prior thereto were certificated in the limited category could, under the proposal, be reissued an airworthiness certificate in the limited category. This is in line with the current provisions of Part 9.

It is anticipated that the effective date of Part 9a and the proposed amendments to Parts 1 and 9 would be 60 days after adoption.

This proposal is subject to the FAA Recodification Program. The final rule, if adopted, may be in a recodified form; however, the recodification itself will not alter the substantive contents proposed herein.

In consideration of the foregoing, it is proposed to amend Parts 1 and 9 of the Civil Air Regulations as follows and to adopt a new Part 9a of the Civil Air Regulations to read as hereinafter set forth.

1. By amending § 1.61 to read as follows:

§ 1.61 Aircraft categories for which original airworthiness certificates are issued.

Original airworthiness certificates are issued for aircraft whose type design has been certificated under the normal, utility, acrobatic, or transport categories, and for aircraft of the restricted category. In addition, experimental certificates and special flight permits are issued.

NOTE: For purposes of airworthiness identification and administration, airworthiness certificates are classified as standard, limited, restricted, and experimental. Aircraft found eligible for certification under the normal, utility, acrobatic, or transport category requirements would be issued a standard airworthiness certificate. Restricted airworthiness certificates would be issued for aircraft conforming to the requirements of Part 8. Experimental airworthiness certificates would be issued for aircraft conforming to the requirements of § 1.74. *Limited airworthiness certificates may be issued in accordance with § 1.72.*

§ 1.61–1 [Deletion]

2. By deleting § 1.61–1.

3. By amending § 1.71 to read as follows:

§ 1.71 Airworthiness certificates for limited category aircraft.

Original airworthiness certificates in the limited category are no longer issued. Limited airworthiness certificates may be reissued for an aircraft previously certificated in the limited category and subsequently certificated in either the restricted or experimental category. Aircraft certificated in the limited category shall not be used for the carriage of persons or property for compensation or hire.

§ 1.71–1 [Amendment]

4. By deleting § 1.71–1(b).

5. By amending § 1.72 to read as follows:

§ 1.72 Airworthiness certificate for limited category aircraft; requirements for reissuance.

An applicant for an airworthiness certificate for an aircraft in the limited category must show that the aircraft complies with the requirements of Part 9 *of this subchapter.*

§ 1.72–1 [Deletion]

6. By deleting § 1.72–1.

7. By amending § 9.3 to read as follows:

§ 9.3 Airworthiness certificates.

(a) *Requirements for issuance.* An airworthiness certificate in the limited category may be issued for an aircraft if

(1) the aircraft is presently certificated in either the restricted or experimental category and immediately prior thereto was certificated in the limited category; and

(2) the aircraft is found to conform to the limited category type design and to be in a condition for safe operation.

(b) *Limitations.* The limitations and conditions which are necessary for safe operation of the aircraft are prescribed by the Administrator.

8. By adopting a new Part 9a as follows:

PART 9a—AIRCRAFT AIRWORTHINESS; SURPLUS MILITARY AIRCRAFT

Sec.
9a.0 Applicability.
9a.1 Eligibility for type certificates.
9a.2 Type certification requirements.

§ 9a.0 Applicability.

This part establishes the standards for the type certification of surplus military aircraft of the United States in the normal, utility, acrobatic, and transport categories.

NOTE: Surplus military aircraft type certificated in the limited category under Part 9 may continue to be operated under airworthiness certificates issued in accordance with the requirements of that Part. Original airworthiness certificates are no longer issued in the limited category.

§ 9a.1 Eligibility for type certificates.

To be eligible for type certification under the provisions of this part, the aircraft must be:

(a) Designed and constructed in the United States, accepted for operational use by the military services of the United States and declared surplus by such military services; and

(b) Shown to comply with the applicable certification requirements prescribed in § 9a.2.

§ 9a.2 Type certification requirements.

(a) Except as otherwise provided in this section, airplanes having a maximum certificated weight of 12,500 pounds or less shall be shown to comply with the requirements listed in either subparagraph (1) or (2) of this paragraph, as applicable.

(1) Airplanes powered with reciprocating engines:

(i) Accepted for operational use by the military services on or before May 15, 1956—Part 3 of this chapter (Civil Air Regulations) effective on May 15, 1956, or, at the option of the applicant, effective at a later date;

(ii) Accepted for operational use by the military services after May 15, 1956—Part 3 of this chapter (Civil Air Regulations) effective at the time the airplane was accepted for operational use by the *military service, or, at the option of the* applicant, effective at a later date.

(2) Airplanes powered with turbine engines:

(i) Accepted for operational use by the military services on or before October 1, 1959—Part 3 of this chapter (Civil Air Regulations) effective on October 1, 1959 (Part 3 as amended to May 15, 1956, including amendments 3–1 through 3–5), or, at the option of the applicant, effective at a later date;

(ii) Accepted for operational use by the military services after October 1, 1959—Part 3 of this chapter (Civil Air Regulations) effective at the time the airplane was accepted for operational use by the military service, or, at the option of the applicant, effective at a later date.

(b) Except as otherwise provided in this section, airplanes having a maximum certificated weight of more than 12,500 pounds shall be shown to comply with the requirements listed in either subparagraph (1) or (2) of this paragraph, as applicable.

(1) Airplanes powered with reciprocating engines:

(i) Accepted by the military services for operational use on or before August 25, 1955—Part 4b of this chapter (Civil Air Regulations) effective on August 25, 1955 (Part 4b as amended to December 31, 1953, including amendments 4b–1 and 4b–2), or, at the option of the applicant, effective at a later date;

(ii) Accepted by the military services for operational use after August 25, 1955—Part 4b of this chapter (Civil Air Regulations) effective at the time the airplane was accepted for operational use by the military service, or, at the option of the applicant, effective at a later date.

(2) Airplanes powered with turbine engines:

(i) Accepted for operational use by the military services on or before October 1, 1959—Part 4b of this chapter (Civil Air Regulations) effective on October 1, 1959 (Part 4b as amended to December 31, 1953, including amendments 4b–1 through 4b–11), together with Special Civil Air Regulation SR–422B, or, at the option of the applicant, effective at a later date;

(ii) Accepted for operational use by the military services after October 1, 1959—Part 4b of this chapter (Civil Air Regulations), and such other regulations as are applicable, effective at the time the airplane was accepted for operational use by the military service, or, at the option of the applicant, effective at a later date.

(c) Except as otherwise provided in this section, rotorcraft having a maximum certificated weight of 6,000 pounds or less shall be shown to comply with the requirements listed in either subparagraph (1) or (2) of this paragraph, as applicable.

(1) Rotorcraft accepted for operational use by the military services on or before October 1, 1959—Part 6 of this chapter (Civil Air Regulations) effective on October 1, 1959 (Part 6 as amended to December 20, 1956, including amendments 6–1 through 6–4), or, at the option of the applicant, effective at a later date.

(2) Rotorcraft accepted for operational use by the military services after October 1, 1959—Part 6 of this chapter (Civil Air Regulations) effective at the time the rotorcraft was accepted for operational use by the military service, or, at the option of the applicant, effective at a later date.

(d) Except as otherwise provided in this section, rotorcraft having a maximum certificated weight of more than 6,000 pounds shall be shown to comply with the requirements listed in either subparagraph (1) or (2) of this paragraph, as applicable.

(1) Rotorcraft accepted for operational use by the military services on or before October 1, 1959—Part 7 of this chapter (Civil Air Regulations) effective on October 1, 1959 (Part 7 effective August 1, 1956, including amendments 7–1 through 7–4), or, at the option of the applicant, effective at a later date.

(2) Rotorcraft accepted for operational use by the military services after October 1, 1959—Part 7 of this chapter (Civil Air Regulations) effective at the time the rotorcraft was accepted for operational use by the military service, or, at the option of the applicant, effective at a later date.

(e) Aircraft which are counterparts of previously type certificated civil aircraft may be certificated upon compliance with the regulations governing the original type certificate.

(f) Engines, propellers and their related accessories installed in surplus military aircraft to be type certificated in accordance with the provisions of this part may be approved for use on such aircraft if, on the basis of the previous military qualifications and acceptance and service record, it is shown that such engines and propellers provide substantially the same level of safety as would be provided if the engines or propellers were type certificated under the provisions of Parts 13 and 14 of this chapter (Civil Air Regulation).

NOTE: In general, the military service records for an engine propeller or related accessory would consist of a summary of all accidents in which the engine, propeller or related accessory was found to be a probable cause, hours of operation, all pertinent Air Force Technical Orders or the Army or Navy, counterpart of such orders. The applicant should obtain the information covering the military service record from the appropriate military service. If the military will not provide him with such information, the Region in which the application for a type certificate is received will attempt to obtain such records and data.

(g) In cases where the Administrator finds that, with respect to a particular aircraft being submitted for type certification, compliance with the applicable requirements prescribed in paragraphs (a) through (f) of this section will not insure an adequate level of airworthiness for such aircraft, compliance shall be shown with such special conditions and later requirements as he finds necessary.

These regulations are proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354, 1421, 1423).

Issued in Washington, D.C., on March 27, 1963.

G. S. MOORE,
Acting Director,
Flight Standards Service.

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