

April 17, 2020

Submitted per [14 CFR § 11.63\(a\)\(1\)](#) to
Federal Aviation Administration's <https://www.regulations.gov/docket?D=FAA-2007-0001>
"Shell" Docket

U.S. Department of Transportation
Docket Operations
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, DC 20003-3660

RE: Petition for Rulemaking to Amend [14 CFR §§ 43.3](#) and [43.7](#)

To Whom It May Concern:

The undersigned respectfully submit this petition for rulemaking under Title [14](#) Code of Federal Regulations ([CFR](#))¹ part [11](#).²

(1) Contact Information³

Inquiries, requests, notifications, and correspondence in connection with this petition for rulemaking may be directed to:

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(2) Explanation of Proposed Action and Its Purpose⁴

The undersigned respectfully petition to amend §§ [43.3](#) and [43.7](#). The amendment would enable the Federal Aviation Administration (FAA) to accept maintenance organization certificates issued by countries with which the United States has a bilateral aviation safety agreement authorizing such acceptance, and the certificate holders' corresponding approvals for return to service, without issuance of an air agency certificate under part [145](#).

¹ All regulatory references are to [14 CFR](#) unless otherwise indicated.

² See § [11.61\(a\)](#).

³ See § [11.71\(a\)\(1\)](#).

⁴ See § [11.71\(a\)\(2\)](#).

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(3) Proposed Language⁵

Add new paragraph (l) to § [43.3](#):

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

(l) The holder of a maintenance organization certificate issued by a foreign civil aviation authority may perform maintenance, preventive maintenance, and alterations provided the FAA has entered into a bilateral agreement with that authority for the reciprocal acceptance of such maintenance organization certificates.

Add corresponding new paragraph (i) to § [43.7](#):

§ 43.7 Persons authorized to approve aircraft, airframes, aircraft engines, propellers, appliances, or component parts for return to service after maintenance, preventive maintenance, rebuilding, or alteration.

(i) The holder of a maintenance organization certificate issued by a foreign civil aviation authority may approve the work performed on an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service provided the FAA has entered into a bilateral agreement with that authority for the reciprocal acceptance of such approvals.

Alternatively, the agency may consider appropriate changes to § 43.17. However, that section applies only to Canadian AMOs and licensed individuals. Current maintenance implementation procedures (MIP) with other bilateral partners do not include licensed individuals and it is unlikely those partners would agree to extend the MIPs to such persons. Therefore, the industry is suggesting a different approach.

(4) Why the Proposed Action is in the Public Interest⁶

Limiting unnecessary expenditure of government and private sector resources is a focus of executive orders and other public policy as is eliminating duplicative legal barriers to international trade and business.

Under the [Convention on International Civil Aviation](#) (the "Chicago Convention") there are almost as many States of Registry as there are Members of the International Civil Aviation

⁵ See § [11.71\(a\)\(3\)](#).

⁶ See § [11.71\(a\)\(4\)](#).

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Organization (ICAO), *i.e.*, 193. In the absence of an Article 83 *bis* agreement,⁷ each State of Registry has jurisdiction over initial and continued airworthiness, and over individuals and organizations licensed to perform those activities. The explosion of approved maintenance organization (AMO) certificates issued by the various States of Registry is costly, burdensome and redundant.

The repetitive efforts are without safety benefit for either the States or the regulated entities. Pursuant to Annex 8 of the Chicago Convention, the technical aspects of the work are required to be performed in the same manner regardless of the State of Registry (*i.e.*, in accordance with the air carrier's instructions, where applicable, and the manufacturer's maintenance manual, Instructions for Continued Airworthiness or other methods, techniques and practices acceptable to the Civil Aviation Authority (CAA)). In those situations where the FAA and its bilateral partner have established the requisite technical confidence in each other's regulatory systems, the current approach of state-by-state maintenance certification is wasteful for both government and industry.

The proposed changes to §§ 43.3 and 43.7 would enable the FAA to significantly streamline the approval and compliance assurance processes for all affected parties. The language need only be applied as determined by the agency. For example, the FAA and the European Union Aviation Safety Agency (EASA) could enter into such an agreement immediately. Over time, the FAA may conclude, based on its technical assessments, that reciprocal acceptance of other bilateral partners' maintenance organization certificates would be appropriate.

(5) Information and Arguments That Support the Proposed Action⁸

The regulatory changes are necessary because, unlike other countries, under U.S. law only certain treaties ratified by Congress have legal effect. Bilateral aviation safety agreements are not treaties but "executive agreements"⁹ and do not supersede U.S. law, which includes FAA regulations. Therefore, except as provided in § 43.17 with respect to Canadian AMOs, §§ 43.3(e) and 43.7(c) require the FAA to issue repair station certificates to maintenance organizations located outside the U.S. in order to work on U.S. articles.

Under the proposed language, at its sole discretion, the FAA would be able to enter into a reciprocal acceptance arrangement for maintenance organizations with its bilateral partners. The FAA would, of course, retain the right to negotiate the specific terms of any such arrangement with each bilateral partner, thereby assuring the FAA's ability to exercise its State of Registry prerogatives as it does today.

⁷ An "Article 83 *bis* agreement" is an agreement between ICAO contracting states to transfer certain responsibilities from one State to another pursuant to Article 83 *bis* of the Chicago Convention.

⁸ See § 11.71(a)(5).

⁹ https://www.faa.gov/aircraft/air_cert/international/bilateral_agreements/overview/

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The proposed amendment to §§ [43.3](#) and [43.7](#) would closer align maintenance activities with §§ [21.29](#) (Issuance of Type Certificate for Import Products), [21.183\(c\)](#) (Import Aircraft – Standard Airworthiness Certificate) and part 21, [subpart N](#) (Acceptance of Aircraft Engines, Propellers and Articles for Import). These regulations allow the FAA to accept aircraft, aircraft engines, propellers and articles designed and/or manufactured in a foreign country with which the FAA has a bilateral agreement. Under part 21, [subpart N](#), the FAA does not issue production approvals¹⁰ to entities located outside the United States. Instead, it relies on approvals issued by countries with which the FAA has entered into a bilateral agreement for the acceptance of such articles for import into the U.S.

Moreover, the requested amendment would supplement § [145.53](#), which addresses issuance of FAA foreign repair station certificates in accordance with a bilateral agreement. The § [145.53](#) process would remain in place for AMOs located in countries whose agreements with the FAA did not support reciprocal acceptance of each other's certificates and approvals for return to service and with countries that the agency chooses not to extend that courtesy.

The amendment would enable the FAA to maintain its international leadership. ICAO, at the urging of the FAA, EASA, TCCA, ANAC and other civil aviation authorities, is taking steps to facilitate AMO reciprocal acceptance through changes to the Standards and Recommended Practices (SARPs) and associated guidance. Even when completed, however, it will remain the State of Registry's sole prerogative to issue its own maintenance organization certificate for work performed under its jurisdiction. Nothing proposed here changes that paradigm.

Members of the quadrilateral authorities' "Maintenance Management Team"¹¹ have already agreed to accept each other's component AMO certificates and have begun the implementation process by eliminating certificate renewals, which can eventually lead to relying solely on the certificate issued by the geographic authority. The FAA should have this same discretion if and when it determines that a bilateral partner's regulations and oversight of AMOs provides an equivalent level of safety.

(6) Other Information and Data Available to the Petitioner¹²

Under the longstanding FAA-TCCA reciprocal maintenance acceptance arrangement reflected in § [43.17](#) and the U.S.-Canada [Maintenance Implementation Procedures](#), no "foreign" certificates are issued by either authority, and no supplements are required for component maintenance providers in either jurisdiction. The safety record over the years demonstrates that it has been a mutually beneficial agreement for both the FAA, TCCA

¹⁰ Production Certificate, Production under Type Certificate Only, Parts Manufacturer Approval and Technical Standard Order Authorization

¹¹ The FAA, EASA, Transport Canada Civil Aviation (TCCA) and Agencia Nacional De Aviacao Civil of Brazil (ANAC)

¹² See § [11.71\(b\)](#).

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and their respective industries. The proposed amendment merely ensures the agency has the legal discretion to enter into similar arrangements with other bilateral partners.

A 2011 study commissioned by ARSA¹³ underscored the financial benefits of global regulatory coordination in general and BASAs in particular. The study found that it costs repair stations significantly more (up to two and a half times as much) to become certificated by foreign aviation authorities when the repair station's home country does not have a BASA. At the time of the study, initial FAA certification for a repair station located in the United States cost a little over \$15,000; EASA approval for U.S. facilities cost slightly less (around \$11,500) because the BASA allows the FAA certificate to serve as the basis for EASA approval. By contrast, the cost for a repair station in the United States to become certificated by the Civil Aviation Administration of China (CAAC) – with which the United States does not have a maintenance bilateral – was more than \$30,000.

Further, non-BASA certification fees consume a larger percentage of company revenues. FAA certification renewal costs consumed two cents of every dollar of revenue generated by that certificate. By comparison, renewing a CAAC certificate consumed 16 cents of the revenue dollar it generates. BASAs particularly benefit smaller companies because larger organizations have more economic activity over which to spread out or internally amortize regulatory compliance costs. EASA certificate renewal consumes a greater portion of revenues for smaller companies (one to five employees) than large companies (200+).

Industry's costs to obtain and retain foreign AMO certificates would be eliminated completely if the domestic authority's certificate and oversight is the only expenditure required to perform work for a foreign customer. Adoption of the proposal would also allow agency resources to be directed at continued operational safety elements rather than expenditures to perform certification and oversight operations that are duplicative to the bilateral partner's efforts.

(7) Conclusion

For the foregoing reasons, the undersigned respectfully petition the FAA to amend its regulations to enable reciprocal acceptance of AMO certificates issued by designated U.S. bilateral partners, and the approvals for return to service issued by those organizations, without FAA issuance of an air agency certificate under part [145](#).

The request is consistent with the agency's leadership role in ICAO, its discussions with bilateral partners and with the ICAO SARPs that vest operator certification authority only in the State in which an air carrier's principal place of business is located.

The proposal would give the FAA the discretionary authority to recognize deserving bilateral partners under U.S. law (in this case regulations). EASA and TCCA have determined that reciprocal acceptance of component AMOs should be embraced because it provides an equivalent level of safety, eliminates duplication of effort and saves

¹³ ["Bilateral Aviation Safety Agreements: Reducing Costs for the Aviation Industry"](#), AeroStrategy (2011).

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government and industry resources. EASA and TCCA have retained total discretion whether to continue the agreement or modify its scope. The FAA should be able to exercise the same discretionary authority without relinquishing any of its State of Registry prerogatives.

Sincerely,

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