

April 8, 2024

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Comments submitted to docket: [Docket No. FAA-2024-0021](#)

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RE: Comments: Docket No. FAA-2024-0021 – Falsification, Reproduction, Alteration, Omission, or Incorrect Statements

The undersigned organizations jointly submit these comments to the subject rulemaking. As associations representing persons that design, produce, operate, and maintain U.S.-registered aircraft, their members are subject to Title 14 of the Code of Federal Regulations (CFR)¹ and would be directly impacted by the proposed consolidation of falsification prohibitions in part [3](#).

Because the associations' members are principally regulated under Chapter I of 14 CFR, these comments focus entirely on the proposed addition of part [3](#), subpart D.

Consolidation of Falsification Rules

The associations strongly support consolidating the falsification rules into a single subpart in part [3](#). This would simplify oversight, improve consistent application by agency personnel, and clarify the standard of compliance for industry. In particular, the NPRM would apply to persons currently subject to falsification standards across multiple parts of Chapter I, such as part [65](#) mechanics and part [145](#) air agencies performing maintenance, preventive maintenance, and alterations in accordance with part [43](#) (see, §§ [43.12](#), [65.20](#), [145.12](#)). The proposed § 3.403 clearly prohibits fraudulent and intentionally false statements² reflected in the cited sections.

Prohibition Against Unknowing False Statements and Omissions

In its proposed § 3.405, however, the NPRM proposes to give the FAA discretion to act after discovering materially incorrect statements or omissions made by a person *unknowingly*. The preamble cites current treatment of such activities in §§ [60.33\(c\)](#) and [67.403\(c\)](#) as well as the broadly-written prohibition against providing “incomplete [or] inaccurate...information for a training center certificate” in § [142.11\(e\)\(3\)](#). Each of these

¹ All section citations are to Title 14 CFR unless otherwise noted.

² Intentionally false statements are those made or caused to be made regarding material facts that are made with actual knowledge of their falsity. In addition to these elements, an allegation of fraud requires the agency to show an intent to deceive and action taken in reliance upon the representation. Both intentional falsification and fraud typically result in emergency revocation of certificates.

April 8, 2024

Page 2

RE: Comments: Docket No. FAA-2024-0021 – Falsification, Reproduction, Alteration, Omission, or Incorrect Statements

sections concerns information on which the FAA relies for issuance of a certificate, approval, authorization, qualification, etc.³ and directs remedial action specific to that approval.

In contrast, proposed § 3.405 would not require a nexus between the unknowingly provided but materially false information or omission and an approval issued by the agency. The preamble to the NPRM explains:

Material incorrect statements or entries, i.e., incorrect statements or entries that are capable of influencing an agency decision, may have an adverse impact on safety under 14 CFR chapters I and III...An unknowing omission of a material fact can have a detrimental impact on aviation and public safety to the same degree as a knowing omission of material fact. (Emphasis added.)

If the FAA seeks to prohibit unknowing but materially false statements or omissions that result in the agency issuing an approval, the government should show that it relied on the information (or lack thereof) in issuing that approval. This is done in the existing sections addressing incorrect statements or entries:

§ 60.33(c) provides for removal of a Flight Simulation Training Device qualification resulting from incorrect statements or entries “upon which the FAA relied or could have relied” in support of an FSTD application, approval request, logbook, record, or report.

§ 67.403(c) provides for suspending or revoking a medical certificate, withdrawing an authorization, or denying an application resulting from incorrect statements or entries “on which the FAA relied” in support of a medical certificate application, authorization request, logbook, record, or report.

§ 142.11(e)(3) allows the Administrator to deny, suspend, revoke, or terminate a Training Center certificate when the applicant or certificate holder provided incomplete, inaccurate, or false information related to that certificate.

In contrast, the broad language in proposed § 3.405 creates unclear and duplicative standards of compliance. For example, if a person performing maintenance or inspection on an article subject to part [43](#) unknowingly makes an incorrect entry or omission in a record, §§ [43.9](#) and [43.11](#) provide a clear basis for the FAA to address adverse safety impacts, both in real time and through enforcement action. If the incorrect statement or omission was the result of improperly performed work, the person completing the record (among others) could be subject to violations of the recordkeeping rules and §§ [43.13\(a\)](#) or [\(b\)](#) as well as various sections in parts [65](#), [91](#), [121](#), [125](#), [135](#), and [145](#). Creating new language in part [3](#) allowing overly broad powers for potential certificate action in such a case is redundant and not necessary in the interests of safety.

The undersigned associations agree the FAA should have clear authority to take certificate action when an unknowingly provided yet materially false entry or omission bears a direct relationship to an approval issued by the agency. The FAA can maintain

³ For ease of reference, all such agency actions are hereinafter referred to as “approvals.”

April 8, 2024

Page 3

RE: Comments: Docket No. FAA-2024-0021 – Falsification, Reproduction, Alteration, Omission, or Incorrect Statements

that nexus without expanding its authority to take action against certificates that were not issued in reliance on the false information provided or lack thereof. It can do so by amending proposed § 3.405 to read as follows (edits are indicated in bold, with struck-through language to be removed):

§ 3.405 Incorrect statement, or omission.

(a) No person may make or cause to be made a material incorrect statement, or omit or cause to be omitted a material fact, in ~~(1)~~**A** any document in any format, submitted under any provision referenced in § 3.401, consisting of or related to **qualification** for any acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, ~~record, report,~~ request for reconsideration, or similar.; ~~or~~

~~(2) Any document in any format that is kept, made, or used to show compliance with any requirement under the provisions referenced in § 3.401.~~

(b) A material incorrect statement, or omission of a material fact, in any document described in § 3.405(a)~~(1) and (2)~~ may serve as a basis for denying, suspending, modifying, revoking, rescinding, removing, or withdrawing **any the related** acceptance, application, approval, authorization, certificate, rating, declaration, designation, qualification, request for reconsideration, or similar, issued or granted by the Administrator and held by that person.

We appreciate the agency's consideration of these comments and are available for further discussions as the rulemaking process continues.

Sincerely,

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April 8, 2024

Page 4

RE: Comments: Docket No. FAA-2024-0021 – Falsification, Reproduction, Alteration,
Omission, or Incorrect Statements

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