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Change to FAR Part 45

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

### SUBCHAPTER C—AIRCRAFT [Docket No. 8093; Amdt. 45-5]

#### PART 45—IDENTIFICATION AND REGISTRATION MARKING

##### Special Rules for Antique and Exhibition Aircraft

The purpose of this amendment to Part 45 of the Federal Aviation Regulations is to relax the identification and registration marking requirements for antique and exhibition aircraft, including: (1) Treating any aircraft built at least 30 years ago as an antique aircraft (rather than requiring certification before Jan. 1, 1933); and (2) allowing, under certain conditions, aircraft to be operated for exhibition purposes (including motion picture or television productions, or airshows) without identification and registration marks. This amendment is based on a notice of proposed rule making (Notice 67-15) issued on April 10, 1967, and published in the FEDERAL REGISTER on April 14, 1967 (32 F.R. 5997).

The FAA is adopting the proposals in Notice 67-15 for the reasons stated therein, but with some changes discussed in detail below. However, the arrangement and numbering of this amendment is changed from that proposed in Notice 67-15. As adopted, §§ 45.21 and 45.23 are rules of general applicability, and § 45.22 is added as a self-contained special rule for antique, exhibition, and other aircraft.

All but one of the comments received in response to Notice 67-15 generally supported the amendments proposed. However, several comments objected to specific proposals, or suggested specific changes. The FAA is making changes in response to these comments and to suggestions in the objecting comment. One comment, while it favored the amendments proposed, also urged the FAA to make other changes to Part 45. Since these changes would go beyond the scope of Notice 67-15, the FAA is not considering them at this time.

Proposed § 45.21(e)(3) would have limited antique aircraft bearing nonstandard marks to speeds of less than 180 knots. Since the proposed 30-year antique aircraft standard would apply to aircraft having high performance capability, the 180-knot limitation was proposed to facilitate adequate identification of those aircraft, including identification by the Armed Forces. Several

comments strongly objected to this proposal and presented arguments against its adoption. In the light of these comments, including those of the Department of Defense (DoD) discussed below, the FAA agrees that the 180-knot limitation should not be adopted.

In commenting on the notice, DoD stated that Armed Forces visual identification of antique and exhibition aircraft was not necessary in the contiguous 48 States. However, DoD stated that "an aircraft approaching the United States may be intercepted for visual identification regardless of its speed. We therefore recommend that antique aircraft bearing the proposed special markings be restricted to operations within the territorial airspace \* \* \*, and also recommended against the 180-knot limitation.

After several discussions with DoD, the FAA concludes: (1) The public interest does not require restricting the operation of exhibition and antique aircraft bearing nonstandard marks to U.S. territorial airspace; and (2) the national defense interest requires prohibiting the operation of any exhibition or antique aircraft, that does not bear standard U.S. nationality and registration marks necessary for quick air-to-air identification, in an ADIZ or DEWIZ designated in Part 99 of the Federal Aviation Regulations. To carry out these conclusions, the FAA is adopting § 45.22(c)(1) that prohibits operation of these aircraft in an ADIZ or DEWIZ unless they bear standard marks temporarily. To ease the effect of § 45.22(c)(1) (including the additional burden imposed on owners of aircraft now covered by § 45.21(e)), the FAA is also adopting § 45.21(d)(3) to allow operators of these aircraft to affix standard marks with a readily removable material. These amendments allow operators of exhibition and antique aircraft to enter or leave the United States through an ADIZ or DEWIZ, but also ensure that aircraft bearing nonstandard marks do not operate in these zones. As adopted, new § 45.21(d) contains the exceptions to new § 45.21(c) (including those now in effect).

New § 45.22(a) relaxes present Part 45 for operators of exhibition aircraft. With minor editorial changes, the amendments adopted are substantially those proposed in § 45.21(f) of Notice 67-15. Comments on this part of the notice objected to requiring prior approval of the General Aviation District Office for flights within 5 miles of the takeoff airport, and expressed concern that requiring the filing of flight plans might force operators of exhibition aircraft to install radios. In adopting these relaxatory rules, the FAA must do so in a manner consistent with its responsibility for identification of aircraft under section 307(c) of the Federal Aviation Act of 1958. The FAA believes that re-

quiring prior GADO approval or a flight plan provide the controls necessary to carry out this responsibility. Also, the FAA accepts flight plans filed in person or by telephone, and neither § 91.8C nor new § 45.22(a) requires them to be filed by radio.

The objecting comment argued that the 5-mile limitation in proposed § 45.21(f)(5)(i) was too restrictive. Since the airport control zone described in § 71.11 may exceed a 5-mile radius, the FAA agrees that the proposal was too narrow. As adopted, new § 45.22(a)(3)(i) applies to flights within the airport control zone of the takeoff airport (as designated in Subpart F of Part 71 of the Federal Aviation Regulations), or within 5 miles of that airport if it has no designated control zone. In summary, the FAA believes that allowing operation of aircraft for exhibition purposes without nationality and registration marks is fully justified under the conditions prescribed.

New § 45.22(b) extends present § 45.21(e) to all aircraft built at least 30 years ago, or having the same external configuration as an aircraft built at least 30 years ago. The 30 years are measured from the date an aircraft was built without regard to the date the aircraft was certificated or otherwise approved by the United States, or to the place it was built (in this country or a foreign country). Comments received requested clarification of these points. Other comments opposed the 30-year standard for antique aircraft in proposed § 45.21(e)(1), suggested a shorter period, but failed to present any new or convincing arguments for the shorter period. The FAA believes that 30 years is a reasonable standard for antique aircraft. Aircraft operators who do not come under § 45.22(b) may exhibit their authentically marked aircraft under § 45.22(a). Comments also asked the FAA to clarify the term "same external configuration." The term "configuration" is commonly defined to mean "arrangement of parts; form or figure determined by the disposition of parts." While the term "same external configuration" does not require aircraft to be "mirror images," it would preclude major differences in the external configuration of the aircraft involved. The FAA is adopting these provisions as proposed.

New § 45.22(b)(1) is based on § 45.21(e)(5) and the following flush paragraph proposed in the notice. One comment asked whether any marks might be displayed on the wings. With one exception, if the aircraft properly displays the marks that § 45.22(b)(1) requires, it may display other marks anywhere on the aircraft. The exception, in new § 45.22(b)(2), prohibits the display of any other mark that begins with "N" unless it is the same as the mark displayed under

(As published in the Federal Register 33 F.R. 4497 on January 12, 1968)

§ 45.22(b) (1). Since other marks beginning with "N" might be too easily confused with the marks that § 45.22(b) (1) requires, their display is prohibited. However, the aircraft could display in any size, manner, or place (on the wings or elsewhere) the same mark that must be displayed on the fuselage or vertical tail surface. Other marks not beginning with "N" could be displayed anywhere.

In addition to prohibiting operations in an ADIZ or DEWIZ, § 45.22(c) specifies the other operations of exhibition and antique aircraft that are generally prohibited. New § 45.22(c) (2) combines the prohibitions proposed in §§ 45.21(e) (2) and 45.21(f) (4), and new § 45.22(c) (3) extends proposed § 45.21(e) (4) to both exhibition and antique aircraft. The language of § 45.22(c) (3) is changed from that proposed in the notice in response to comments received. Notice 67-15 proposed to prohibit operations of antique aircraft "for compensation or hire under an operating certificate." This was intended to prohibit holders of operating certificates from conducting operations under Parts 121, 127, 133, 135, and 137 with antique aircraft bearing nonstandard marks. However, the FAA does intend to allow holders of operating certificates to operate those aircraft if the operation is one that does not come within the applicability of Part 121, 127, 133, 135, or 137. In addition, the prohibition is also extended to operators of exhibition aircraft, since it would be inappropriate to allow holders of operating certificates to use either exhibition or antique aircraft bearing nonstandard marks in air carrier or commercial operations.

To the extent that these amendments impose new burdens or modify proposals in Notice 67-15, the notice, public procedure, and effective date requirements of section 553 of Title 5 of the United States Code do not apply because these amendments either relieve existing restrictions or involve military functions of the United States. Therefore, these amendments may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective January 12, 1968, Part 45 of the Federal Aviation Regulations is amended by amending §§ 45.21 and 45.23, and by adding a new § 45.22, to read as follows:

**§ 45.21 General.**

(a) Except as provided in § 45.22, no person may operate a U.S.-registered aircraft unless that aircraft displays nationality and registration marks in accordance with the requirements of this section and §§ 45.23 through 45.33.

(b) Unless otherwise authorized by the Administrator, no person may place on any aircraft a design, mark, or symbol that modifies or confuses the nationality and registration marks.

(c) Aircraft nationality and registration marks must—

(1) Except as provided in paragraph (d) of this section, be painted on the aircraft or affixed by any other means insuring a similar degree of permanence;

(2) Have no ornamentation;

(3) Contrast in color with the background; and

(4) Be legible.

(d) The aircraft nationality and registration marks may be affixed to an aircraft with readily removable material if—

(1) It is intended for immediate delivery to a foreign purchaser;

(2) It is bearing a temporary registration number; or

(3) It is marked temporarily to meet the requirements of § 45.22(c) (1).

**§ 45.22 Exhibition, antique, and other aircraft: Special rules.**

(a) When display of aircraft nationality and registration marks in accordance with §§ 45.21 and 45.23 through 45.33 would be inconsistent with exhibition of that aircraft, a U.S.-registered aircraft may be operated without displaying those marks anywhere on the aircraft if:

(1) It is operated for the purpose of exhibition, including a motion picture or television production, or an airshow;

(2) Except for practice and test flights necessary for exhibition purposes, it is operated only at the location of the exhibition, between the exhibition locations, and between those locations and the base of operations of the aircraft; and

(3) For each flight in the United States:

(i) It is operated with the prior approval of the General Aviation District Office, in the case of a flight within the designated airport control zone of the takeoff airport, or within 5 miles of that airport if it has no designated control zone; or

(ii) It is operated under a flight plan filed under § 91.83 of this chapter describing the marks it displays, in the case of any other flight.

(b) When it was built at least 30 years ago or has the same external configuration as an aircraft built at least 30 years ago, a U.S.-registered aircraft may be operated without displaying marks in accordance with §§ 45.21 and 45.23 through 45.33 if:

(1) It displays in accordance with § 45.21(c) marks at least 2 inches high on each side of the fuselage or vertical tail surface consisting of the Roman capital letter "N" followed by:

(i) The U.S. registration number of the aircraft; or

(ii) The symbol appropriate to the airworthiness certificate of the aircraft ("C", standard; "R", restricted; "L", limited; or "X", experimental) followed by the U.S. registration number of the aircraft; and

(2) It displays no other mark that begins with the letter "N" anywhere on the aircraft, unless it is the same mark that is displayed under subparagraph (1) of this paragraph.

(c) No person may operate an aircraft under paragraph (a) or (b) of this section—

(1) In an ADIZ or DEWIZ described in Part 99 of this chapter unless it

temporarily bears marks in accordance with §§ 45.21 and 45.23 through 45.33;

(2) In a foreign country unless that country consents to that operation; or

(3) In any operation conducted under Part 121, 127, 133, 135, or 137 of this chapter.

(d) If, due to the configuration of an aircraft, it is impossible for a person to mark it in accordance with §§ 45.21 and 45.23 through 45.33, he may apply to the Administrator for a different marking procedure.

**§ 45.23 Display of marks; general.**

(a) Each operator of an aircraft shall display on that aircraft marks consisting of the Roman capital letter "N" (denoting U.S. registration) followed by the registration number of the aircraft.

(b) When marks that include only the Roman capital letter "N" and the registration number are displayed on limited or restricted category aircraft or experimental or provisionally certificated aircraft, the operator shall also display on that aircraft near each entrance to the cabin or cockpit, in letters not less than 2 inches nor more than 6 inches in height, the words "limited," "restricted," "experimental," or "provisional airworthiness," as the case may be.

(Secs. 307(a) 307(c), 313(a), 501, 502, 601, 603, 1202, Federal Aviation Act of 1958; 49 U.S.C. 1348(a), 1348(c), 1354(a), 1401, 1402, 1421, 1423, 1522)

Issued in Washington, D.C., on January 5, 1968.

WILLIAM F. MCKEE,  
Administrator.