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14 CFR Part 43

Part IV

**Department of
Transportation**

Federal Aviation Administration

**14 CFR Part 43
U.S./Canada Bilateral Airworthiness
Agreement; Final Rule**

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 43

[Docket No. 25920; Amdt. No. 43-33]

RIN 2120-AB89

U.S./Canada Bilateral Airworthiness Agreement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment provides for the acceptance by the FAA of maintenance, preventive maintenance, and alterations accomplished on U.S. civil aeronautical products and components in Canada. The amendment implements the airworthiness maintenance provisions contained in the U.S./Canada Bilateral Airworthiness Agreement (U.S./CBAA) and the Schedule of Implementation Procedures between the United States and Canada. The amendment provides for acceptance by the FAA of maintenance, preventive maintenance, and alterations performed on aircraft engines, propellers, appliances, materials, parts, and other components which are transported from the United States to Canada and which are for installation on U.S.-registered aircraft.

DATES: Effective date February 10, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Henry, Repair Station Branch (AFS-320), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3804.

SUPPLEMENTARY INFORMATION:**Background**

Section 43.17 of the Federal Aviation Regulations (FAR) (14 CFR 43.17) currently defines the scope of mechanical work authorized to be performed by Canadian persons on U.S.-registered aircraft. Generally, an appropriately rated Canadian aircraft maintenance engineer or authorized employee of an approved Canadian maintenance company, with respect to U.S.-registered aircraft located in Canada, may: (1) Perform maintenance and alteration if the work is performed and recorded in accordance with the requirements of part 43 of the FAR; (2) perform inspections (other than annual inspections) if the inspection is performed and recorded in accordance with the requirements of part 43 of the FAR; and (3) approve the work accomplished in order to return the

aircraft to service (except that only a Canadian airworthiness inspector or an approved inspector may approve a major repair or major alteration). As presently delineated in § 43.17(c), Canadian persons are allowed to perform mechanical work with respect to a U.S.-registered aircraft only when the aircraft is located in Canada.

The need to maintain products used in U.S. and Canadian aircraft operations created a necessity for the United States and Canada to restructure their bilateral airworthiness agreement. In addition to including the present provisions of § 43.17 to maintain and alter U.S.-registered aircraft in Canada, this agreement provides for the maintenance, preventive maintenance, and alterations of aeronautical products shipped between the United States and Canada.

The United States and Canada signed the Agreement Concerning the Airworthiness and Environmental Certification, Approval, or Acceptance of Imported Civil Aeronautical Products (the U.S./CBAA), which became effective on September 7, 1984. This agreement terminated and replaced the Arrangement of July 28, 1938 (as amended by the Exchange of Notes at Ottawa, August 12, 1970, and February 18, 1971), which provided for the reciprocal acceptance of certificates of airworthiness for export of aeronautical products between the United States and Canada. The purpose of the maintenance provisions of the U.S./CBAA is to provide for the reciprocal acceptance of the performance in one contracting state of maintenance on and alteration of civil aeronautical products certified, approved, or accepted in the other contracting state. (The U.S./CBAA defines "maintenance" as including the types of functions performed as "preventive maintenance" and defines "modification" as synonymous with "alteration").

Canada has entered into similar airworthiness agreements with several countries. The provisions of the agreements between Canada and other countries are not included as part of the U.S./CBAA. For this reason products for use on U.S.-registered aircraft cannot be maintained or altered under any bilateral agreement made between Canada and any other country.

The United States and Canada signed the Schedule of Implementation Procedures for the U.S./Canada Bilateral Airworthiness Agreement, which became effective on January 31, 1985. The purpose of the Schedule is to carry out the objectives of the U.S./CBAA. The Schedule includes the objective of ensuring that "The

procedures for the performance of maintenance and alteration or modification by authorized persons in one State on aircraft which are under airworthiness regulation by the civil airworthiness authority (CAA) of the other State, including aeronautical products to be installed on such aircraft, establish that the work is performed and the aircraft returned to service in accordance with the laws, regulations, standards, and requirements of the state regulating the airworthiness of the affected aircraft." Concurrent with this objective is the necessity to provide for the development of reciprocity procedures and cooperation toward sustaining the environmental and equivalent safety objectives of the U.S./CBAA.

For clarification, a new paragraph, § 43.17(b) Applicability, has been added to § 43.17. Consequently, the other paragraphs in this section are rearranged.

On June 6, 1989, Notice of Proposed Rulemaking No. 89-16, U.S./Canada Bilateral Airworthiness Agreement, was published in the *Federal Register* (54 FR 24304). Interested persons were given an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received.

Discussion of Comments

There were seven comments received on this amendment. All seven commenters agreed with this rule change. However, one commenter expressed concern that the proposal did not mention anything about equivalent/reciprocating Canadian regulations and suggested that the FAA issue an advisory circular coinciding with the part 43 change detailing the Canadian regulations and explaining the responsibilities therein.

The FAA concurs with the commenter's concern regarding equivalent/reciprocating Canadian regulations, although the NPRM, on page 24305, did address Canadian reciprocal regulations. The NPRM, however, did not go into detail regarding the Canadian regulations.

Additionally, the FAA concurs with the commenter's suggestion relating to the FAA issuing an advisory circular (AC) detailing the Canadian regulations and explaining the maintenance responsibilities. The FAA is currently working with the Canadian authorities to develop simultaneous AC's explaining the responsibilities of both Canadian citizens and U.S. citizens.

Paperwork Reduction Act

Information collection requirements set forth in part 43 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0020.

Regulatory Evaluation

The FAA has conducted a final regulatory evaluation of the amendments to § 43.17, which reflects the provisions of the restructured September 7, 1981, bilateral airworthiness agreement (U.S./CBA).

Executive Order 12291 dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society from the regulatory change outweigh the potential costs it would impose on society. The order also requires the preparation of a regulatory impact analysis of all "major" proposals except those responding to emergency situations or other narrowly defined exigencies. A "major" proposal is one that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this regulatory action is not a "major" action as defined in the executive order, so a full regulatory impact analysis identifying and evaluating alternative proposals has not been prepared. A more concise final regulatory evaluation has been prepared, however, which includes consideration of the economic consequences of this regulation. This regulatory evaluation is included in the docket.

Costs and Benefits

The amended regulations will impose no incremental costs on society. The only costs related to this matter are those of negotiating the bilateral agreement, which have already been incurred.

The amended regulations will benefit carriers operating U.S.-registered aircraft to and from Canada by improving maintenance service and by eliminating delays currently associated with the acceptance of major overhauls, major alterations, or repairs. Some operators of U.S.-registered aircraft in Canada will be relieved of having to ferry an aircraft to an FAA-certificated domestic repair station in the United States or of suffering delays from having an FAA-approved inspector travel to Canada to inspect and approve any repairs made to their U.S.-registered

aircraft. The amended regulations will also benefit the FAA by eliminating the costs associated with some of the FAA's certification and surveillance of Canadian aircraft repair stations.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires a regulatory flexibility analysis if a rule has "a significant economic impact on a substantial number of small entities." Order 2100.14A, adopted September 16, 1986, defines operators who are considered to be small entities as those owning but not necessarily operating nine or fewer aircraft.

The amended regulations are not expected to affect a substantial number of small entities, because most entities involved in trans-border operations are considered large and the instances where a small entity would be involved in trans-border operations in which its aircraft would require repair in Canada are expected to be few. The FAA, therefore, finds that a regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

International Trade Impact Analysis

The amended regulations will improve international trade for U.S. firms doing business in Canada by expediting the airworthiness inspections process for their products and services. The airworthiness standards that currently must be met by both U.S.- and Canadian-manufactured aeronautical products will not change. Thus, the proposal will have a beneficial impact on international trade, but this impact is not expected to be significant.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

Since the amendments contained in this document do not require the FAA's certification and surveillance of Canadian-approved maintenance organizations and may lessen costs and improve service to the operator of U.S.-

registered aircraft, the estimated benefits exceed the estimated costs of implementing this regulation. For the reasons discussed above, the FAA certifies that, under the criteria of the Regulatory Flexibility Act, this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities, and a regulatory flexibility analysis is not required. This regulation is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, for the same reasons, the regulation does not involve a major rule under Executive Order 12291.

List of Subjects in 14 CFR Part 43

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, the FAA amends part 43 of the FAR (14 CFR part 43) as follows:

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

1. The authority citation for part 43 is revised to read as follows:

Authority: 49 U.S.C. App. 1354, 1421 through 1430; 49 U.S.C. 106(g).

2. Section 43.17 is revised to read as follows:

§ 43.17 Maintenance, preventive maintenance, and alterations performed on U.S. aeronautical products by certain Canadian persons.

(a) *Definitions.* For purposes of this section:

Aeronautical product means any civil aircraft or airframe, aircraft engine, propeller, appliance, component, or part to be installed thereon.

Canadian aeronautical product means any civil aircraft or airframe, aircraft engine, propeller, or appliance under airworthiness regulation by the Canadian Department of Transport, or component or part to be installed thereon.

U.S. aeronautical product means any civil aircraft or airframe, aircraft engine, propeller, or appliance under airworthiness regulation by the FAA, or component or part to be installed thereon.

(b) *Applicability.* This section does not apply to any U.S. aeronautical products maintained or altered under any bilateral agreement made between Canada and any country other than the United States.

(c) *Authorized persons.* (1) A person holding a valid Canadian Department of Transport license (Aircraft Maintenance Engineer) and appropriate ratings may, with respect to a U.S.-registered aircraft located in Canada, perform maintenance, preventive maintenance, and alterations in accordance with the requirements of paragraph (d) of this section and approve the affected aircraft for return to service in accordance with the requirements of paragraph (e) of this section.

(2) A company (Approved Maintenance Organization) (AMO) whose system of quality control for the maintenance, alteration, and inspection of aeronautical products has been approved by the Canadian Department of Transport, or a person who is an authorized employee performing work for such a company may, with respect to a U.S.-registered aircraft located in Canada or other U.S. aeronautical products transported to Canada from the United States, perform maintenance, preventive maintenance, and alterations in accordance with the requirements of paragraph (d) of this section and approve the affected products for return

to service in accordance with the requirements of paragraph (e) of this section.

(d) *Performance requirements.* A person authorized in paragraph (c) of this section may perform maintenance (including any inspection required by § 91.409 of this chapter, except an annual inspection), preventive maintenance, and alterations, provided:

(1) The person performing the work is authorized by the Canadian Department of Transport to perform the same type of work with respect to Canadian aeronautical products;

(2) The work is performed in accordance with §§ 43.13, 43.15, and 43.16 of this chapter, as applicable;

(3) The work is performed such that the affected product complies with the applicable requirements of part 36 of this chapter; and

(4) The work is recorded in accordance with §§ 43.2(a), 43.9, and 43.11 of this chapter, as applicable.

(e) *Approval requirements.* (1) To return an affected product to service, a person authorized in paragraph (c) of this section must approve (certify) maintenance, preventive maintenance,

and alterations performed under this section, except that an Aircraft Maintenance Engineer may not approve a major repair or major alteration.

(2) An AMO whose system of quality control for the maintenance, preventive maintenance, alteration, and inspection of aeronautical products has been approved by the Canadian Department of Transport, or an authorized employee performing work for such an AMO, may approve (certify) a major repair or major alteration performed under this section if the work was performed in accordance with technical data approved by the Administrator.

(f) No person may operate in air commerce an aircraft, airframe, aircraft engine, propeller, or appliance on which maintenance, preventive maintenance, or alteration has been performed under this section unless it has been approved for return to service by a person authorized in this section.

Issued in Washington, DC, on November 5, 1991.

James B. Busey,
Administrator.

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