

Following are permitted:

(i) An agreement which requires the seller to repurchase the eligible obligation because of any breach of warranty or misrepresentation;

(ii) An agreement which allows the seller to repurchase at its discretion; and

(iii) An agreement which allows substitution of one loan for another loan.

(d) *Pledge.* (1) A Federal credit union may pledge, in whole or in part, to any source eligible obligations of its members and real estate loans purchased in accordance with subsection (b)(4), within the limitations of the board of director's written policies. *Provided:*

(i) The board of directors or investment committee approves the pledge;

(ii) The original loan documents are retained; and

(iii) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligation.

(2) The pledge agreement shall, at a minimum:

(i) Identify the eligible obligation covered by the agreement;

(ii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iii) Set forth the terms and conditions regarding substitution; and

(iv) Set forth the terms and conditions under which the agreement may be modified or terminated.

(e) *Servicing.* A Federal credit union may agree to service any eligible obligation it purchases or sells, in whole or in part.

(f) *10 Percent Limitation*

The total indebtedness owing to any Federal credit union by any person, inclusive of retained and acquired interests, shall not exceed 10 per centum of its unimpaired capital and surplus. Real estate loans purchased pursuant to the authority and for the purpose set forth in subsection (b)(4) shall not be included in considering this 10 percent limitation.

[FR Doc. 78-36439 Filed 12-29-78; 8:45 am]

[7535-01-M]

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Borrowed Funds From Natural Persons

AGENCY: National Credit Union Administration.

ACTION: Proposed rule, correction of preamble.

tion of the proposed rule, § 701.38 Borrowed Funds From Natural Persons, published on December 12, 1978 (43 FR 58096) is hereby corrected by eliminating the word "removing" and inserting in its place the word "raising". The corrected sentence should read: "Effective July 7, 1978, Section 701.35 was amended to provide Federal credit unions with further flexibility to attract, maintain, and manage member savings by raising the dividend ceiling on share certificate programs for retirement accounts."

EFFECTIVE DATE: Comments on the proposed regulation must be received on or before February 23, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT:

Mike Fischer, Special Assistant for Examination and Insurance, at the above address. Telephone: (202) 254-8760.

LAWRENCE CONNELL, Administrator.

DECEMBER 22, 1978.

[FR Doc. 78-36438 Filed 12-29-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 47]

[Docket No. 18604 Notice No. 78-18]

AIRCRAFT REGISTRATION

Eligibility for Aircraft Registration

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes rules and procedures for the registration of aircraft owned by foreign citizens lawfully admitted for permanent residence in the United States and by certain foreign-owned United States corporations whose aircraft were not previously eligible for registration. This notice sets forth proposed regulations responsive to recent Congressional legislation which expanded the eligibility for aircraft registration to aircraft owned by such persons.

DATE: Comments on the proposed regulation must be received before March 1, 1979.

Aviation Administration Office of the Chief Counsel Attn: Rules Docket (AGC-24), Docket No. 18604 800 Independence Avenue, S.W., Washington D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Florine Crockett, Chief, Technical Section (AAC-251) FAA Aircraft Registry Aircraft, Registration Branch Box 25082 Oklahoma City Oklahoma 73125, Telephone (405) 686-2284.

SUPPLEMENTARY INFORMATION

I. COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington D.C. 20591. All communications received on or before March 1, 1979 will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

II. AVAILABILITY OF NPRMs

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

III. BACKGROUND

Since the enactment of the Air Commerce Act of 1926, Pub. L. 69-254 (44 Stat. 568), except during the years from 1934 to 1938, foreign-owned aircraft could not qualify for registration in the United States. The limitation on eligibility for registration most recently has been in Section 501(b) of

the Federal Aviation Act of 1958 (Act; 49 U.S.C. 1401(b)) which provided as follows:

(b) An aircraft shall be eligible for registration if, but only if—

(1) It is owned by a citizen of the United States and it is not registered under the laws of any foreign country; or

(2) It is an aircraft of the Federal Government or of a State, Territory or possession of the United States, or the District of Columbia, or a political subdivision thereof.

The limitation of registration eligibility to United States citizens posed difficulties for foreign nationals that wanted to base their aircraft in the United States. Foreign nationals had two alternatives: (1) to rent aircraft from persons eligible for U.S. registration or (2) to own and operate an aircraft in the United States while maintaining its registry in a foreign country. The latter course of action was and is subject to the condition that such operation is authorized by applicable orders and regulations issued by the Civil Aeronautics Board pursuant to Section 1108(b) of the Act (49 U.S.C. 1508(b)).

In 1977 and 1978, the Congress revised Section 501(b) of the Act to read as follows:

(b) An aircraft shall be eligible for registration if, but only if—

(1)(A) It is—

(i) Owned by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(ii) Owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof so long as such aircraft is based and primarily used in the United States; and

(B) It is not registered under the laws of any foreign country; or

(2) It is an aircraft of the Federal Government, or of a State, territory or possession of the United States or the District of Columbia or a political subdivision thereof.

For purposes of this subsection, the Secretary of Transportation shall, by regulation, define the term "based and primarily used in the United States", (Act of Nov. 9, 1978, Pub. L. 95-163, as amended by Act of March 8, 1978, Pub. L. 95-241.)

This notice proposes to amend Part 47 of the Federal Aviation Regulations to provide for: (1) the registration of aircraft by an individual citizen of a foreign country who has been lawfully admitted for permanent residence in the United States; (2) the registration of aircraft by a corporation (other than a citizen of the United States)

lawfully organized and doing business under the laws of the United States or any State thereof, if the aircraft is based and primarily used in the United States; and (3) a definition of "based and primarily used in the United States". Additionally, certain technical amendments are now to be made. These involve aspects of registration by partnerships, trustees, and corporations that use voting trusts, the substitution of the term "person" where appropriate, and the provision for immediate termination of a certificate when eligibility has ceased.

IV. DISCUSSION OF THE PROPOSAL

A. INDIVIDUAL FOREIGN CITIZENS WHO HAVE LAWFULLY BEEN ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES

Neither revised Section 501(b) nor the Federal Aviation Regulations define the term "individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States". The statutory authority for the immigration of aliens to the United States is the Immigration and Nationality Act of 1952 (INA; 8 U.S.C. 1101 *et seq.*). The INA defines "lawfully admitted for permanent residence" as the "status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed," 8 U.S.C. 1101(a)(15). An "immigrant" is defined by the INA in negative terms, that is, as what an immigrant is not. Section 1101(a)(15) provides that an immigrant is every alien except an alien who is within one of twelve classifications of nonimmigrant aliens who do not have permanent status.

An alien who is lawfully admitted as a permanent resident of the United States, in accordance with the INA and the regulations of the Immigration and Naturalization Service of the Department of Justice (8 CFR Chapter 1), is issued an alien registration number. This registration number varies with the classification of the alien. An alien who has been given permanent residency status will possess a registration number which reflects that status. Accordingly, proposed § 47.7(b) provides that it will be sufficient, for the purposes of proof of eligibility for aircraft registration, for a foreign citizen with permanent residency status to identify the applicant's assigned alien registration number on the application for aircraft registration, in addition to a representation of having been lawfully admitted as a permanent resident of the United States.

B. CORPORATIONS NOT UNITED STATES CITIZENS

Under revised Section 501(b), in order for a corporation which does not qualify as a citizen under Section 101(16) of the Federal Aviation Act (49 U.S.C. 1301(16)) to be eligible for registration, it must be lawfully organized and doing business under the laws of the United States or any State thereof. This proposal would require a non-citizen corporation to provide evidence with an application for aircraft registration, that it is lawfully organized and doing business under the laws of the United States, or any State thereof.

Section 501(b)(1)(A)(ii) placed an additional limitation upon non-citizen corporations that wish to register aircraft in the United States: each aircraft must be based and primarily used in the United States. The proposed definition of this limitation, new § 47.9(b), has been established by examining the purpose of the limitation.

The legislative history of Section 501(b) indicates that the "based and primarily used" limitation was incorporated into the expansion of eligibility for aircraft registration to prevent United States registry from becoming an international registry, and United States registration from becoming a so-called "flag of convenience." In order to achieve Congressional intent, Congress recognized that it is necessary to define more precisely "based and primarily used in the United States", by regulation, to make certain that those corporations desiring to register aircraft in the United States actually intend to use those aircraft primarily in the United States.

The FAA has determined that the percentage of flight hours in the United States is the most effective method of determining where an aircraft is based and primarily used. The FAA believes that the phrase "based and primarily used in the United States" implies that only those aircraft which are operated at least 60 percent of the time in the United States are eligible for registration. The 60 percent figure represents a judgment as to the figure which permits the greatest amount of flexibility to the registrant while being consistent with the Act. Accordingly, proposed § 47.9(b) provides that in any 180 consecutive day period, 60 percent of the total flight hours of the aircraft must be spent in the United States.

"United States", as defined by Section 101(41) of the Act (49 U.S.C. 1301(41)), means "the several States, the District of Columbia, and the several Territories and possessions of the United States, including the territorial waters and the overlying airspace thereof." The FAA interprets "used in the United States" to include all non-

stop (except in emergencies and for purposes of refueling) flights between two points in the United States. Therefore, although an aircraft may be in flight over the high seas or over a neighboring country during a non-stop flight between two points in the United States, all of the flight hours accumulated during such a flight are considered flight hours accumulated in the United States. Proposed § 47.9(d) sets forth this interpretation.

The FAA has concluded that the determination of whether an aircraft is based and primarily used in the United States is prospective from the time that it is enrolled in the U.S. registry. In other words, the "based and primarily used" restriction is applicable only during the period that the aircraft is registered in the United States. Proposed § 47.9(d) sets forth this position.

To ascertain compliance with the "based and primarily used in the United States" restriction, record keeping and reporting requirements are proposed in § 47.9(e). The registered owner or operator of a U.S. aircraft is required by § 91.173(a)(2)(i) (14 CFR 91.173(a)(2)(i)) to keep records of the total time in service of the airframe. Proposed § 47.9(e)(1) would require that a record also be maintained of the total flight hours in the United States of the aircraft. Proposed § 47.9(e)(2) additionally would require that a report be submitted to the FAA Aircraft Registry at the end of each 180-day period indicating total time in service of the airframe and total number of flight hours in the United States during that period.

C. CLARIFICATION OF THE CITIZENSHIP REQUIREMENT

1. General

Under the terms of Section 501(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)), any U.S. citizen is eligible to register aircraft in the United States. As now defined by the Act, a citizen of the United States may be an individual citizen, a partnership of which each member is such an individual, or a U.S. corporation or association which is owned or controlled, as defined in Section 101(16)(c) of the Act (49 U.S.C. 1301(16)(c)), by persons who are U.S. citizens.

Regulations and comprehensive policy criteria for applicants that fall into the categories of partnerships and corporations that wish to achieve citizenship through the use of voting trusts are needed. It is proposed to include in a new § 47.7 a clarification of FAA practice regarding these applicants.

2. Partnerships

The FAA's longstanding interpretation of Section 101(16)(b) of the Act is that all partners, both limited and general, of a partnership seeking to register an aircraft, must be eligible as citizens of the United States in order to register the aircraft. Proposed § 47.7(d) sets forth this FAA policy.

3. Voting Trusts

In order to provide guidance to corporations that wish to come within the scope of Section 101(16) of the Act through the use of a voting trust, proposed § 47.7(e) sets forth the position of the FAA with regard to this matter. The issue of validity of a voting trust arises, in the context of aircraft registration, when a corporate applicant meets all of the requirements of Section 101(16), except that 75 percent of the voting interest in the domestic corporation is not owned or controlled by U.S. citizens. To satisfy this requirement, control of foreign-owned stock may be placed in a voting trust, utilizing U.S. citizens as trustees.

The FAA, in determining the validity of a voting trust for the purposes of registration eligibility, must ascertain that a corporation that wishes to register an aircraft pursuant to Section 501(b)(1)(A)(i) of the Act (49 U.S.C. 1401(b)(1)(A)(i)) is a citizen within the meaning of the Act. In terms of a voting trust, the problem is whether the voting interest of the stock of the corporate applicant has been so placed in the hands of U.S. citizens as voting trustees that the trustees have a valid, independent, and bona fide control of the voting interest.

For the purposes of verification of the bona fide nature of the voting trust arrangement, proposed § 47.7(e)(2) sets forth the requisite representations of the corporate applicant.

D. TRUSTEES

Section 47.11(h) presently recognizes that registration may be issued in the name of a trustee. Increased activities of foreign investors in aircraft financing necessitate clarification of trustee registration eligibility, where legal title to an aircraft is held by a trustee that is a U.S. citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States, but some or all of the beneficial interest is held by foreign investors. FAA experience has shown that trust beneficiaries may wish to exercise various degrees of control over a trustee under trust agreements submitted with registration applications.

The fundamental issue for registration eligibility is who is the "owner" of the aircraft within the meaning of

Section 501(b) and (c) of the Act. FAA practice, as reflected in proposed § 47.7(c), has been to ignore the scope of economic participation of foreign beneficiaries if the trust is an active trust and if the trustee exercises total independent judgment with respect to all decisions involving the aircraft. Conversely, the FAA has previously concluded, in cases involving passive trusts, where the trustee is strongly controlled by the foreign investor, that the beneficiaries are the true owners of the aircraft for administrative purposes, and that the aircraft is not eligible for registration under Section 501(b)(1)(A)(i).

E. DURATION OF CERTIFICATE OF REGISTRATION

Proposed § 47.41(7) and (8) provide for the invalidation of a certificate of aircraft registration upon certain changes in status of the applicant or utilization of the aircraft. If the owner of an aircraft loses his status as a lawful permanent resident of the United States, the certificate of aircraft registration becomes invalid by operation of law. Similarly, if a non-citizen corporate owner ceases to be organized and lawfully doing business in the United States or if the aircraft is no longer based and used primarily in the United States, the certificate of registration becomes invalid by operation of law. Subsequent flight would be deemed to be flight of an unregistered aircraft and the owner and operator would be subject to the applicable sanctions.

On occasion, a noncitizen corporation may acquire citizenship status. In those cases, that corporation may elect to submit a new application for registration as a citizen since the statutory restrictions that the aircraft be based and primarily used in the United States would no longer apply.

Conversely, corporations which register aircraft as United States citizens may subsequently lose that status. This may occur by changes in corporate management or by transfer of the voting interest in the corporation. Such changes could constitute a loss of citizenship under the Act, and would result in invalidation of the certificate of registration. The corporate owner would be eligible to file a new registration application, if the eligibility requirements for a noncitizen corporation are met.

F. TECHNICAL CHANGES

The proposed amendments to §§ 47.5, 47.11, 47.33(a) and 47.37(a) provide for the substitution of the term "a person" for "citizen of the United States" and "governmental unit". Section 101(32) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(32)), defines "person" as "any individual,

firm, copartnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof". This substitution is necessary because of the elimination of citizenship as a criterion for aircraft registration and the administrative practice of the FAA of accepting the applications of legally recognized owners of property such as co-owners, receivers, trustees, associations, executors, and bodies politic.

The proposed amendment to 47.5 includes a revision of the definition of "owner". This revision is not intended as a substantive change, but rather as a clarification of current § 47.5 to reflect actual administrative practice.

V. ECONOMIC IMPACT OF PROPOSED REGULATION

The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044, and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978). In addition, the FAA has determined that the expected impact of these proposals is so minimal that they do not require an evaluation. However, interested persons are invited to comment on the economic impact of the proposed rule by submitting such written data, views or arguments as they may desire.

Proposed Amendments to Part 47

Accordingly, the Federal Aviation Administration proposes to amend Part 47 of the Federal Aviation Regulations (14 CFR Part 47) as follows:

1. By revising the contents of Subpart A of Part 47 to read as follows:

Subpart A—General

Sec.

- 47.1 Applicability.
- 47.3 Registration required.
- 47.5 Applicants.
- 47.7 United States citizens and foreign citizens admitted for permanent residence in the United States.
- 47.9 Corporations not United States citizens.
- 47.11 Evidence of ownership.
- 47.13 Signatures and instruments made by representatives.
- 47.15 Identification number.
- 47.16 Temporary registration numbers.
- 47.17 Fees.
- 47.19 FAA Aircraft Registry.

2. By revising § 47.3(a) to read as follows:

§ 47.3 Registration required.

(a) Section 501(b) of the Federal Aviation Act of 1958 (49 USC 1401(b)) defines eligibility for registration as follows:

(b) An aircraft shall be eligible for registration if, but only if—

(1) It is—

(i) Owned by a citizen of the United States or by an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(ii) Owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States; and

(2) It is not registered under the laws of any foreign country; or

(3) It is an aircraft of the Federal Government, or of a state, territory, or possession of the United States or the District of Columbia or a political subdivision thereof.

3. By revising § 47.5 to read as follows:

§ 47.5 Applicants.

(a) A person that wishes to register an aircraft in the United States must submit an Application for Aircraft Registration under this part.

(b) An aircraft may be registered only by and in the legal name of its owner. In this part, "owner" includes—

(1) A buyer in possession of an aircraft under a contract of conditional sale;

(2) A bailee or lessee under a contract for the bailment or leasing of an aircraft by which it is agreed that—

(i) The bailee or lessee will pay as compensation a sum substantially equivalent to the value of the aircraft and,

(ii) The bailee or lessee is bound to become, or has the option of becoming, the owner of the aircraft upon full compliance with the terms of the contract; and

(3) The assignee of a person described in paragraphs (b)(1) or (b)(2) of this section.

(c) Section 501(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(f)), provides that registration is not evidence of ownership of aircraft in any proceeding in which ownership by a particular person is in issue. The FAA does not issue any certificate of ownership or endorse any information with respect to ownership on a Certificate of Aircraft Registration. The FAA issues a Certificate of Aircraft Registration to the person who appears to be the owner on the basis of the evidence of ownership submitted pursuant to § 47.11 with the Application for Aircraft Registration, or recorded at the FAA Aircraft Registry.

4. By adding a new § 47.7 to 14 CFR Part 47, to read as follows:

§ 47.7 United States citizens and foreign citizens admitted for permanent residence in the United States.

(a) *United States citizens; general.* Section 101(16) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(16)) defines citizen of the United States as follows:

(1) An individual who is a citizen of the United States or of one of its possessions, or

(2) A partnership of which each member is such an individual, or

(3) A corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 percent of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

(b) *Foreign citizen admitted for permanent residence in the United States.* An applicant for aircraft registration under Section 501(b)(1)(A)(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(i)), who is an individual foreign citizen lawfully admitted for permanent residence in the United States, must furnish a representation of permanent residence and the applicant's alien registration number issued by the Immigration and Naturalization Service. For the purposes of this Part, a foreign citizen lawfully admitted for permanent residence in the United States is an individual who, at the time of application, has been accorded the privilege of residing permanently in the United States as an immigrant in conformity with the regulations of the Immigration and Naturalization Service of the Department of Justice (8 CFR Chapter 1).

(c) *Trustees.* An applicant (whether an individual or a corporation) for aircraft registration under Section 501(b)(1)(A)(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(i)) that holds legal title to an aircraft in trust must be either a United States citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States. If there are several co-trustees, each must be such a person. If:

(1) Any beneficiary under the trust is not a United States citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States, or

(2) Regardless of any trustee's status, any beneficiary is directly or indirectly controlled by a foreign interest, each applicant must submit:

(i) One or more affidavits establishing that each trustee is not aware of any reason, situation, or relationship

with either a beneficiary or any foreign interest which could influence or limit the exercise of totally independent judgment by a trustee;

(ii) A true copy of the trust document with all amendments establishing that—

(A) Any trustee has full authority over all matters of administration of the trust, including matters relating to dispositions of the aircraft, independent of any direction from a beneficiary or any foreign interest, and

(B) No trustee is subject to direction or removal (except for cause) by beneficiaries who are U.S. citizens or individual foreign citizens lawfully admitted for permanent residence in the United States and have among themselves control of at least 75 percent of the beneficiaries' aggregate power to give direction to, or effect removal of, a trustee.

For the purpose of this section, a foreign interest is any person that is not a U.S. citizen or an individual foreign citizen lawfully admitted for permanent residence in the United States.

(d) *Partnerships.* A partnership may apply for a Certificate of Aircraft Registration under Section 501(b)(1)(A)(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(i)) only if each partner, whether a general or limited partner, is a citizen of the United States. Nothing in this section makes ineligible for registration an aircraft which is not owned as a partnership asset but is co-owned by:

(1) Foreign citizens who have lawfully been admitted for permanent residence in the United States, or

(2) One or more such foreign citizens and one or more United States citizens.

(e) *Voting trusts.* If a voting trust is used to qualify a domestic corporation as a U.S. citizen conforming to Section 101(16)(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1301 (16)(c)), the corporate applicant must submit to the FAA Aircraft Registry—

(1) A true copy of the fully executed voting trust agreement, which must identify each voting interest of the applicant, and which must be binding upon each voting trustee, the applicant corporation, all foreign stockholders, and each other party to the transaction; and

(2) An affidavit executed by, or on behalf of, each person designated as voting trustee in the voting trust agreement, in which each affiant represents—

(i) That each voting trustee is a citizen of the United States within the meaning of Section 101(16) of the Act;

(ii) That each voting trustee is not a past, present, or prospective director, officer, employee, attorney, or agent of any other party to the trust agreement;

(iii) That each voting trustee is not a present or prospective beneficiary, creditor, debtor, supplier or contractor of any other party to the trust agreement; and

(iv) That each voting trustee is not aware of any reason, situation, or relationship under which any other party to the agreement might influence the exercise of the voting trustee's totally independent judgment under the voting trust agreement.

(f) Each voting trust agreement submitted under paragraph (e)(1) of this section must provide for the succession of a voting trustee in the event of death, disability, resignation, termination of citizenship, or any other event leading to the replacement of any voting trustee. Upon such succession, the replacement voting trustee shall immediately submit to the FAA Aircraft Registry the affidavit required by paragraph (e)(2) of this section.

(g) If the voting trust terminates or is modified, and the result is less than 75 per cent control of the voting interest in the corporation by citizens of the United States, a loss of citizenship of the holder of the registration certificate occurs, and § 47.41(a)(5) of this Part applies.

(h) A voting trust agreement may not empower a trustee to act through a proxy.

5. By adding a new § 47.9 to 14 CFR Part 47, to read as follows:

§ 47.9 Corporations not United States citizens.

(a) A corporation applying for registration of an aircraft under Section 501(b)(1)(A)(ii) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(b)(1)(A)(ii)), must submit to the FAA Aircraft Registry a certified copy of its certificate of incorporation. The applicant must demonstrate, in writing, to the Registry that the applicant is qualified lawfully to do business in one or more States.

(b) For the purposes of registration, an aircraft is based and primarily used in the United States if the flight hours accumulated within the United States amount to at least 60 percent of the total flight hours of the aircraft during any 180 consecutive days.

(c) For the purposes of this section, all flight hours accumulated during a non-stop (except in emergencies and for purposes for refueling) flight between two points in the United States, even if the aircraft is outside of the United States during part of the flight, are considered flight hours accumulated within the United States.

(d) In determining compliance with this section, any periods during which the aircraft is not validly registered in the United States are disregarded.

(e) The corporation that registers an aircraft pursuant to Section 501(b)(1)-

(A)(ii) (49 U.S.C. 1401(b)(1)(A)(ii)) shall:

(1) Maintain records, for the duration of the period that the aircraft is registered in the United States, containing the total flight hours in the United States of the aircraft; and

(2) Send to the FAA Aircraft Registry, 180 days after registration and at the end of each 180-day period thereafter, a signed report containing:

(i) The total time in service of the airframe, as provided in § 91.173(a)(2)(i), accumulated during that period; and

(ii) The total flight hours in the United States of the aircraft accumulated during that period.

6. By amending § 47.11(a) and (h) to read as follows.

§ 47.11 Evidence of Ownership.

Except as provided in §§ 47.33, 47.35, and 47.37, each person that submits an Application for Aircraft Registration under this Part must also submit the required evidence of ownership, recordable under §§ 49.13 and 49.17 of this Chapter, as follows:

(a) The buyer in possession of an aircraft under a contract of conditional sale and the bailee of lessee of an aircraft under a contract for the bailment or leasing of an aircraft, as described in § 47.5(b)(2), must submit the contract. The assignee of one of these persons must submit both the contract (unless it is already recorded at the FAA Aircraft Registry), and the assignment from the original buyer, bailee, lessee, or prior assignee, that bears the written assent of the seller, bailor, lessor, or assignee thereof, under the original contract.

(h) The trustee of property that includes an aircraft, as described in § 47.7(c), must submit either a certified copy of the order of the court appointing the trustee, or a complete and true copy of the instrument creating the trust. If there is more than one trustee, each trustee must sign the application. The Certificate of Aircraft Registration is issued to a single applicant as trustee, or to several trustees jointly as co-trustees.

7. By deleting the words "a citizen of the United States" from §§ 47.33(a), 47.35(a) and 47.37(a) and substituting the words "a person".

8. by inserting "47.3, 47.7, 47.9," after the words "complies with §§" and the words, ", as applicable" after "47.17" in §§ 47.33(a)(1), 47.35(a) and 47.37(a)(1).

9. by deleting the word "or" at the end of § 47.41(a)(5); by deleting the period at the end of § 47.41(a)(6) and substituting a semicolon; and by

PROPOSED RULES

adding new subparagraphs (a)(7) and (a)(8) to § 47.41 to read as follows:

§ 47.41 Duration and Return of Certificate.

(a) * * *

(7) The owner, if an individual who is not a citizen of the United States, loses status as a lawful permanent resident of the United States; or

(8) The owner, if a corporation other than a corporation which is a citizen of the United States, ceases—

- (i) To be lawfully organized and doing business under the laws of the United States or any State thereof; or
(ii) To have the aircraft based and primarily used in the United States.

10. by revising subparagraphs (a)(3) and (a)(4) of § 47.43 to read as follows:

§ 47.43 Invalid Registration.

(a) * * *

(3) The applicant is not qualified to submit an application under this part; or

(4) The interest of the applicant in the aircraft was created by a transaction that was not entered into in good faith, but rather was made to avoid (with or without the owner's knowledge) compliance with § 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401).

(Sections 307, 313(a), 501, 503, 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1401 and 1502), and Sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(e)).)

Issued in Washington, D.C. on December 22, 1978.

LANGHORNE BOND,
Administrator.

(FR Doc. 78-35375 Filed 12-29-78; 8:45 am)

[4910-13-M]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 78-NW 20]

PROPOSED ALTERATION OF RESTRICTED AREA AND EXTENSION OF VOR FEDERAL AIRWAY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to extend Victor Airway No. 298 northwest of Yakima, Wash., and further subdivide the nearby Restricted Area R-6714. These actions are needed to relieve traffic congestion on Victor Airway No. 4 between Yakima and Seattle, Wash. Adoption of these actions

would enhance the management of air traffic in the area.

DATE: Comments must be received on or before January 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-NW-3, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash., 98108. All communications received on or before January 22, 1979, will be considered before actions is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should

also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would extend V-298 and further subdivide R-6714. V-298, which now terminates at Yakima, Wash., would be extended via the Yakima 331°T(310°M) radial to its intersection with V-2, 20 miles northwest of Yakima. R-7614 is presently divided into R-6714A, R-6714B and R-6714C. In order to provide sufficient lateral spacing between the restricted area and the centerline of the proposed extension of V-298, it would be necessary to add another subdivision, R-6714D. The overall vertical and lateral limits of the restricted area would not be changed. These actions would improve air traffic service by relieving traffic congestion on Victor Airway V-4 over which all low altitude traffic between Yakima and Seattle, Wash., is currently routed. Subpart B of Part 73 and Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 659 and 307, respectively).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend Part 73 and Part 71 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (43 FR 659 and 307) as follows:

In § 73.67:

R-6714A Yakima, Wash., would be redesignated as follows:
R-6714A Yakima, Wash.

Boundaries. Beginning at Lat. 46°51'00"N., Long. 119°58'00"W.; along the west shore of the Columbia River to Lat. 46°42'30"N., Long. 119°58'15"W.; to Lat. 46°33'00"N., Long. 120°04'00"W.; to Lat. 46°37'00"N., Long. 120°20'00"W.; to Lat. 46°43'00"N., Long. 120°26'38"W.; to Lat. 46°40'35"N., Long. 120°26'35"W.; to Lat. 46°43'00"N., Long. 120°26'38"W.; to Lat. 46°51'00"N., Long. 120°21'30"W.; to Lat. 46°51'00"N., Long. 120°16'30"W.; to Lat. 46°54'30"N., Long. 120°15'00"W.; clockwise along the arc of a 12-mile radius circle centered at Lat. 46°44'45"N., Long. 120°20'00"W.; to Lat. 46°51'00"N., Long. 120°08'30"W.; to point of beginning. Designated altitudes. Surface to 29,000 feet MSL.

Time of designation. Interim.
Controlling agency. Federal Aviation Administration, Seattle ARTC Center.
Using agency. Commanding General, Fort Lewis, Wash.

R-6714 Yakima, Wash., would be altered by adding a new restricted area described as follows:

"R-6714D Yakima, Wash.
Boundaries. Beginning at Lat. 46°43'00"N., Long. 120°26'38"W.; to Lat. 46°37'00"N.,