

December 17, 2007

Petition for Exemption from Federal Aviation Regulation Part 21.191(i)(1) to allow aircraft that have not been issued a U.S. or Foreign Airworthiness Certificate and do not meet the provisions of 14 CFR Part 103 to be issued an experimental light-sport aircraft airworthiness certificate after January 31, 2008.

Petitioner: Experimental Aircraft Association (EAA), Inc.  
P.O. Box 3086  
Oshkosh, WI 54903-3086

## **Petition Summary**

This petition seeks an exemption from Federal Aviation Regulation (FAR) 21.191(i)(1) to allow qualifying aircraft to be issued an experimental light-sport aircraft airworthiness certificate after January 31, 2008.

EAA understands January 31, 2008 is the firm deadline established by DOT Docket No. FAA-2001-11133. EAA acknowledges that as of November 30, 2007 there were 4,273 FAR 21.191(i)(1) ELSA registered, but not yet certificated.

In seeking this exemption, EAA is asking that the following two conditions and limitations be applied to this exemption when issued:

1. *“Aircraft owners seeking airworthiness certification per FAR 91.121(i)(1) must have their aircraft registration (n-number) application packet received by the FAA Aircraft Registration Branch and annotated with a clock-in time and date stamp of January 31, 2008 (no-later-than-date). The FAA Aircraft Registration Branch (AFS-750) will deny any new/initial aircraft registration application packet for FAR 21.191(i)(1) aircraft that it receives on/after February 1, 2008.”*
2. *“The FAA Aircraft Registration Branch may continue to issue aircraft registration numbers to FAR 21.191(i)(1) aircraft after January 31, 2008 if the application packet was received and annotated with a clock-in date and time of January 31, 2008 or earlier. This includes application packets that were received with errors and are in process to correct the recorded errors.”*

## **Reason for Petition and Background**

The *Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft*, DOT Docket No. FAA-2001-11133 was effective on September 1, 2004. According to this DOT Docket this new rule was created “to address advances in sport and recreational aviation technology, lack of appropriate regulations of existing aircraft,

and several petitions for rulemaking, and petitions for exemptions from existing regulations. The intended effect of this action is to provide for the manufacture of safe and economical certificated aircraft that exceed the limits currently allowed by ultralight regulation, and to allow operation of these aircraft by certificated pilots for sport and recreation, to carry a passenger, and to conduct flight training and towing in a safe manner.”

In developing this rule “the FAA spent a considerable amount of time determining the effective date of the final rule.” In establishing the effective date the FAA determined that delaying the effective date while awaiting the FAA and ASTM internal guidance, policy, and infrastructure “would not be in the best interest of those persons affected by the rule.” In setting the effective date of the new rule, the “FAA recognizes that persons seeking certification as airmen under the rule or seeking the certification of light-sport aircraft under the rule will not be able to obtain such certification immediately after the rule’s effective date.” And, “the FAA, however, will work closely with the sport aviation community and those organizations that support its members to ensure that each milestone on the FAA’s implementation plan is met....”

With the submission of this petition, “the sport aviation community and those organizations that support its members” are asking the FAA to reconsider the January 31, 2008 milestone. We are not asking for the milestone date to be eliminated. By continuing the mandate that FAR 21.191(i)(1) aircraft owners submit their aircraft registration applications by January 31, 2008 (registration branch clock-in time and date), the FAA will be maintaining this important milestone date. Moreover, by allowing the owners of these registered aircraft to complete their required experimental light-sport aircraft airworthiness certification inspection after the January 31, 2008 milestone date, the FAA will be acknowledging these key issues:

- The recognized period for flight safety for these light aircraft exists in the spring, summer, and fall months – the best time for these aircraft to complete any required initial test flight programs.
- The FAA Aircraft Registration Branch, AFS-750, is experiencing a 35 – 50 percent rejection rate of initial FAR 21.191(i)(1) ELSA registration application

packets received. It is not uncommon for the required corrections to take 30 to 60 days to resolve before the applicant will be issued an N-number.

- The majority of FAR 21.191(i)(1) ELSA applicants are members of the ultralight community who have had very limited direct experience with the FAA and its functions (FAA Order 8130.33, paragraph 19d(4) Note:). These individuals' customary practice under FAR 103 was simply to "register" their vehicle(s) with an ultralight organization. These individuals largely are unfamiliar with airworthiness inspection requirements.
- Once a registration packet has been submitted, these aircraft cannot be flown until completion of the airworthiness certification inspection process.
- Until the registration process is complete, an N-number is issued, and the airworthiness certification inspection process is completed, ELSA aircraft may be flown only by FAA-certificated pilots (sport pilot license or higher).
- Approving this exemption request ensures the FAA will continue to meet key purposes of the *Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft* rule:
  - Increase safety in the light-sport aircraft community by closing the gaps in existing regulations;
  - Allow continued operation of light-sport aircraft exceeding the limits of ultralight vehicles operated under 14 CFR part 103, with a passenger and for flight training, rental, and towing; and
  - Enable the TSA to conduct any necessary security screening for certificated airmen, certificated repairmen, and registered aircraft operating in the National Airspace System (NAS).

### **Interest of the Petitioner**

EAA, a 501(c)(3) non-profit association, is the world leader in recreational aviation. With an international membership of over 170,000 individuals, EAA brings together aviation enthusiasts, pilots, and aircraft owners who are dedicated to the

continued growth of aviation, the preservation of its history, and a commitment to aviation's future. EAA programs, activities and events are known throughout the world for *Preserving* the heritage of aviation, *Promoting* access to flight, *Protecting* the right to fly, *Preparing* the future of aviation, and our *Passion* for aviation safety and education. These efforts are made possible through massive volunteer involvement in support of the organization, as well as EAA's global network of nearly 1,000 local community chapters and EAA's specialized Vintage Aircraft (VAA), Warbirds of America (WOA), and International Aerobatic Club (IAC) divisions.

### **Safety Issues**

There are no public ground or flight safety issues associated with this petition for exemption.

EAA understands that the continuing burden of certifying FAR 21.191(i)(1) ELSA lies with the cadre of function code 47 DARs. Therefore one critical FAA operational safety issue that must be addressed with the approval of this exemption is contained in FAA Order 8130.33, paragraph 22, *Duration, Renewal, and Changes to Certificates*. The "NOTE" in this paragraph provides guidance to FAA MIDO and FSDO field offices stating "Because the existing fat ultralights will not be issued an experimental airworthiness certificate for the purpose of operating U.S. registered light-sport aircraft after January 31, 2008, the need for DARs with function code 47 is expected to decrease after that date. Therefore, the FAA managing office must determine if a need still exists to renew those DARs with function code 47 after the January 31, 2008 date." With the approval of this exemption, it would be a critical component of the AVS Customer Service Initiative (CSI) that the FAA notify the FAA MIDO and FSDO field offices that the need for DARs with function code 47 will extend past the January 31, 2008 date.

## **Public Interest Issues**

The sport pilot / light-sport aircraft proposal is one of the most significant rulemaking proposals FAA has developed for the benefit of recreational aviation in the last half century. It offers a dramatic opportunity for individual's who have always wanted to fly for fun, but have found the process too expensive, too time consuming or too complicated. It will make aviation safer and more accessible by making pilot training and aircraft ownership more affordable for many.

The regulatory and commerce environment that these rules created has been a positive impact on the entire aviation community, in all public sectors and government. These changes have been a "coming of age" for the ultralight community as more sophisticated aircraft have developed from this movement. To others this is a "renaissance" in the pilot licensing which are a carry back from the 1930s and 1940s when simpler pilot training and proficiency requirements equaled the simplicity of flying - the simplicity of many forms of recreational flying today. Still others see this as a new growth area of "airborne sports opportunities" that will be as accessible as other leisure outlets in a new economy and society.

Aviation is still at a supply and demand crossroads. Many industry experts indicate a concern of unacceptable levels of student starts, availability of flight instructors, and availability of aviation maintenance technicians. With more people expected to enter, remain in, or return to an involvement in flying, all of these declining factors can be reversed. Lower entry barriers could reverse the long-standing dropout rate of student pilots. Some will make "sport pilot" their destination, whether they are new to flying or returning to flying after many years. Others will join the ranks of aviators through a more affordable entry point, and move on to provide additional "supply" to the aviation industry's dwindling human resources.

Prior to the Sport Pilot rule, a major problem in flight training is the "drop-out" factor; a situation that sees many people complete a few hours of training, perhaps even through solo flight, then lose interest. One possibility of the "drop-out" factor is that the growing complexity of private pilot training is not meeting the type of flying most of these people want –which is the simple ability to fly close to home as a recreational

pursuit. This is why there has been such impressive growth in the ultralight community. By allowing the owners of transitioning aircraft to have submitted their registration application packet by January 31, 2008 and then complete their airworthiness inspection at a later date, the FAA will be allowing the public to fully meet the need for a lower cost and less time-consuming entry point to flight in a variety of aircraft categories, while assuring a safe fleet of training aircraft to meet the public demand for recreational flight training – the gateway to all future pilots.

Therefore, the public hopes the FAA will show some flexibility with this fixed date. By allowing owners of FAR 21.191(i)(1) transitioning ELSA aircraft to have their aircraft registration application submitted by January 31, 2008, and have their aircraft airworthiness certification inspection completed at a later date, the FAA will be acting in the best public interest.

### **Description of the Relief Sought**

This petition seeks an exemption from Federal Aviation Regulation (FAR) 21.191(i)(1) to allow qualifying aircraft to be issued an experimental light-sport aircraft airworthiness certificate after January 31, 2008.

EAA understands January 31, 2008 is the firm deadline established by DOT Docket No. FAA-2001-11133. EAA acknowledges that as of November 7, 2007 there were 4,387 FAR 21.191(i)(1) ELSA's registered, but not yet certificated.

In seeking this exemption, EAA is asking that the following two conditions and limitations be applied to this exemption when issued:

1. *“Aircraft owners seeking airworthiness certification per FAR 91.121(i)(1) must have their aircraft registration (n-number) application packet received and annotated with a clock-in time & date stamp of January 31, 2008, by the FAA Aircraft Certification Branch. The FAA Aircraft Registration Branch (AFS-750) will deny any new/initial aircraft registration application packet for FAR 21.191(i)(1) aircraft that is received on/after February 1, 2008.”*

2. *“The FAA Aircraft Registration Branch may continue to issue aircraft registration numbers to FAR 21.191(i)(1) aircraft after January 31, 2008 if the application packet was received and annotated with a clock-in date and time of January 31, 2008 or earlier. This includes application packets that were received with errors and are in process to correct the recorded errors.”*

Dated: December 17, 2007



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