

FAA NCT Update

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On February 9, 2012, the FAA published a Proposed Policy Clarification (PPC) regarding the use of Non-Citizenship Trusts (NCTs) by non-US citizen owners of US/FAA-registered aircraft. In the PPC, the FAA requested comments by March 31, 2012.¹

On March 14, 2012, the FAA, responding to initial reactions to its PPC, published **a notice scheduling a public meeting regarding the PPC on June 6, 2012 and extending the deadline for public comment to the same date.**

After analyzing the PPC, many industry representatives made clear to the FAA that, although certain changes to the NCT process might enhance the FAA's information-gathering efforts when investigating an accident, the PPC comments and proposed clarifications were troublesome for many reasons. Commentators raised various concerns regarding the responsibility of registered owners for matters pertaining to the operation and condition of registered aircraft, impractical requirements imposed on owner trustees if and when demanded by an FAA representative, and invoking new procedural requirements without following proper rule-making protocols.

By scheduling the meeting, and extending the time for comment after the meeting, the FAA appears to be acknowledging that further exchanges among the FAA and industry members are necessary so that with policy clarification and valid rule making, consistent with industry input, the FAA may accomplish its purpose without wreaking havoc on accepted and benevolent industry practices. The continuing collaborative efforts by industry members and the FAA should result in certain NCT procedural changes, but the scope and effective date will be better determined this summer after the meeting and written submissions.

¹ See, "FAA Publishes Proposed Policy Clarification Regarding Non-Citizen Trusts: Permitted, but Conditioned," *Global Transportation Finance Bulletin* (Feb. 2012).