

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9814; Amdts. 7, 47-10; 91-72]

PART 13—ENFORCEMENT PROCEDURES

PART 47—AIRCRAFT REGISTRATION

PART 91—GENERAL OPERATING AND FLIGHT RULES

Aircraft Registration Eligibility, Identification, and Activity; and Certain Enforcement Procedures

The purpose of these amendments to Parts 47 and 91 of the Federal Aviation Regulations is to provide for obtaining updated knowledge as to registration eligibility, identification, and activity of aircraft, by the means of new and modified reporting provisions. The amendments to Part 13 add procedures for suspending or revoking issued certificates of aircraft registration in appropriate circumstances.

These amendments were proposed in Notice 69-37, and published in the FEDERAL REGISTER on September 5, 1969 (34 F.R. 14079). Approximately one-quarter of the nearly 100 public comments received on the notice supported the proposals. The remainder of the comments opposed the proposals upon grounds that fall generally into categories that are stated and answered as follows:

(1) *The information is presently available, or present procedures can be ex-*

panded to procure the needed data. Approximately one-half of the public comments received urged that FAA Form 8520-3 (Aircraft Use and Inspection Report) and existing reporting procedures for air carrier aircraft either allow, or can be used for, the collection of the needed information; or that all or most of the requested information is available from the Federal Communications Commission, State aviation agencies, or aviation industry organizations.

(a) The information presently collected by the use of FAA Form 8320-3 does not meet the needs of the FAA, as stated in Notice 69-37, since the form does not apply to the entire aircraft fleet, and since it does not require activity data from the owner, who is more familiar with data on aircraft activity than the persons who periodically inspect the aircraft and who must execute that form. Also, the information provided by FAA Form 8320-3 does not break down the number of hours flown by use categories (purpose of flight), an element that is needed for development of safety measures, as stated in Notice 69-37.

(b) With respect to aircraft operated under Parts 121 and 127, the amendment to Part 91 now issued concerns only reporting of the make and model of the engines installed in the aircraft, since the other information sought by new § 91.53 is obtained from other sources concerning those aircraft.

(c) The FAA considered expanding FAA Form 8320-3 to include the needed additional data elements before issuing Notice 69-37, and it determined that the procedures now adopted provide a more adequate alternative.

(d) Not all of the requested information on communications equipment is available from the Federal Communications Commission. Also, the records maintained by that agency cannot practicably be correlated with individual aircraft records.

(e) Information collected through the FAA aircraft registration system is made available to most State governments and to aviation industry organizations. Information available from those sources would be the same information already provided to them, therefore they would not be fruitful sources for the additional information now sought.

(2) *Collection of the information will cause an increase in the workload and costs of the FAA that in turn will be passed on to the public, will create an unnecessary reporting burden on the aviation public, and may result in imposing additional filing or user fees.* (a) Very little increase in the workload and costs of the FAA will result from the new provisions. A purification of FAA files of records on aircraft no longer eligible for registration will be allowed, with an accompanying decrease in total workload.

(b) The increased reporting burden on the aviation public will be minimal, consisting of information on communications and navigational aids capability of equipment in aircraft, and on hours flown and purpose of flight. Also, as stated in Notice 69-37, the FAA expects

to furnish a preprinted form with all available aircraft data on record to the registered owners, and the latter will be expected only to verify the information that has not changed since the previous reporting, correct any changed items, and supply the additional information.

(c) The proposed rule changes do not contemplate a fee for annual reporting nor any user charges.

(3) *The information will be of little or no value to the aircraft owner or to the public.* The needs of the FAA for the information to be sought under the new provisions are expressed in Notice 69-37, that is, the need for the capability to properly maintain the FAA Aircraft Registry and to limit continued aircraft registration to eligible persons, and the need for adequate knowledge on identification and activity of U.S. registered civil aircraft. As stated there, the result should be a more efficient, safe air traffic system that responds to the needs of the public, as well as greater efficiency of FAA internal management.

(4) *Collection of the information will be an invasion of privacy of the reporting public.* Collection of the information is not considered to be an invasion of privacy. Section 311 of the Federal Aviation Act of 1958 empowers and directs the Administrator to collect and disseminate information relative to civil aeronautics and, as stated in Notice 69-37, section 312 of the Act directs the Administrator to make long range plans for and formulate policy with respect to the orderly development and locating of landing areas, Federal airways, radar installations, and all other aids and facilities for air navigation.

(5) *Some features of the enforcement provisions for violations of new § 47.44 are unfair to the aviation community as a whole, are illegal, or should concern only willful failure to submit required information.* (a) From the known situation concerning the accuracy of the present aircraft registration records, the number of aircraft owners not complying with the regulations is large. This situation has been further substantiated by the results of a sample test conducted since issuing the Notice. The new provisions are not an unfair punishment of the entire aviation community for the failure of a few aircraft owners to comply, as asserted by some commentators, but rather an exercise of the responsibility of the FAA. Objectives of these provisions cannot be fully attained under the regulations as they have previously existed.

(b) Title V of the Federal Aviation Act of 1958 provides the statutory basis for new § 47.44, and for the application of the new enforcement procedures in Part 13.

(c) To limit certificate action to instances where FAA has positive proof of willfulness by a registered owner in refusing or failing to comply, would defeat the purposes of the new provisions as stated in Notice 69-37. Also, such a limitation would be inconsistent with section 501(e) of the Act that authorizes the Administrator to suspend or re-

voke any aircraft registration certificate for any cause that renders the aircraft ineligible for registration. The FAA expects to publicize the new rules extensively, and it is considered that this will greatly diminish the possibility of inadvertent noncompliance.

(d) In comments on the provisions for enforcement procedures, it was asserted that the required information should be collected on a voluntary basis. However, it has been found that a voluntary basis for reporting on aircraft registration does not meet the needs of the FAA as stated in Notice 69-37.

(6) *The information should be sought from lessees, not lessor owners of aircraft.* It was asserted that air carriers should be allowed to submit information for their aircraft leased from banks or other financial institutions. However, it is appropriately the responsibility of the owner, the person in whose name the aircraft is registered, to complete the form annually, as well as to obtain any needed information from his lessee. Also, it must be noted that, with one exception, Part 2 data is not requested by new § 91.53 for Part 121 or 127 operations.

(7) *Some procedure should be provided to protect a lessee if his lessor defaults.* This would appear to be a matter properly to be taken care of between the parties.

The suggestions made by a number of commentators have been implemented by these amendments or the accompanying reporting form. Some comments, either supporting or opposing the proposals, asserted that an appropriate breakdown of hours flown and purpose of flight requires appropriate categorization to allow for such matters as separation of corporate from business aircraft, or air taxi from commercial operator, and to allow for separate identification of aircraft rental businesses. These comments have been given careful consideration, and the results are incorporated into the FAA form that will be used for reporting purposes.

Comments also were received that the term "principal operator" should be defined for reporting purposes, in connection with new § 91.53. This definition has been supplied, and as used the term means the person (other than the owner) operating the aircraft, on the reporting date, under a lease or other arrangement for a period of at least 3 months. It is considered that an identification of the principal operator in this manner will substantially assist in the attainment of distribution and effectiveness of Airworthiness Directives and the associated objective of aviation safety, as described in Notice 69-37.

Some comments recommended that reporting before July 1 of each year will allow a too-long reporting period after an anticipated cutoff on December 31 of the preceding year. Neither Notice 69-37 nor the amendments specifically mention a December 31 cutoff. However, it is anticipated that initially the new FAA Form, preprinted with available information from the records will, when mailed out to registered owners as soon as possible after January 1, reflect the records as of December 31. It appears that the

first reporting cycle will be more time consuming for both the FAA and those reporting than subsequent reporting cycles because of the anticipated initial procedural and workload problems within the FAA for the implementation of the rule, period of time for the preparation and dissemination of the form, and need for correction of invalid or outdated information by the persons reporting. However, the FAA expects to continue its consideration of the length of the reporting period and, if feasible, to reduce it in the future to a shorter period, such as 30 or 60 days, as recommended by comments.

It has been determined, in the light of the comments received, that the amendments to Parts 13 and 47, requiring the submission of information contained in Part 1 of AC Form 8050-73 be adopted as proposed. However, it has been determined that the amendment to Part 91 would provide for the submission of the information contained in Part 2 of that form on a voluntary basis. Accordingly, new § 91.53 as written provides that the aircraft owner should, but is not required to, submit the information contained in Part 2 of the report. It is expected that the voluntary reporting of this information under § 91.53 will provide sufficient data to satisfy the FAA needs without the necessity to make this provision mandatory.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented.

In consideration of the foregoing, Parts 13, 47, and 91 of the Federal Aviation Regulations are amended, effective March 7, 1970, as follows:

1. By amending Part 13 as follows:

a. By inserting the following sentence at the end of paragraph (b) of § 13.3:

§ 13.3 Investigations.

(b) * * * For the purpose of investigating alleged violations of title V of the Act, or any regulation or order issued under it, the Administrator's authority under sections 313 and 1004 has been delegated to the Aeronautical Center Counsel.

§ 13.19 [Amended]

b. By inserting the following sentence at the end of paragraph (a):

(a) * * * Under section 501(e) of the Act, any Certificate of Aircraft Registration may be suspended or revoked by the Administrator for any cause that renders the aircraft ineligible for registration.

c. By inserting the words "under section 609 of the Act" after the word "him" in paragraph (b) and by inserting the following sentence at the end of that paragraph:

(b) * * * If the Administrator finds that any aircraft registered under Part 47 of this chapter is ineligible for registration, or if the holder of a Certificate of Aircraft Registration has refused or failed to submit Part 1, AC Form 8050-73, as required by § 47.44 of this chapter,

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the Administrator issues an order suspending or revoking that certificate.

d. By amending the first sentence in paragraph (c) to read as follows:

(c) Before issuing an order under paragraph (b) of this section, the General Counsel, the Regional Counsel concerned, or the Aeronautical Center Counsel (as to matters under title V of the Act) advises the certificate holder of the charges or other reasons upon which the Administrator bases the proposed action and, except in an emergency, allows the holder to answer any charges and to be heard as to why the certificate should not be amended, suspended, or revoked * * *.

e. By amending the last sentence in paragraph (c) to read as follows:

(c) * * * After considering any information submitted by the holder the General Counsel, the Regional Counsel concerned, or the Aeronautical Center Counsel (as to matters under title V of the Act) issues the order of the Administrator, except that if the holder has made a valid request for a formal hearing initially or after an informal conference, Subpart D of this part governs further proceedings.

f. By inserting the following sentence at the end of paragraph (d):

(d) * * * This paragraph does not apply to any person whose Certificate of Aircraft Registration is affected by an order issued under this section.

g. By amending the last sentence in paragraph (b) of § 13.35 to read as follows:

§ 13.35 Request for hearing.

(b) * * * If he does not do so, the General Counsel, the Regional Counsel concerned, or the Aeronautical Center Counsel (as to matters under title V of the Act) issues the order of the Administrator.

h. By amending § 13.67 to read as follows:

§ 13.67 Final order of the Hearing Officer.

(a) If, in proceedings under section 609 of the Act, the Hearing Officer determines that safety in air commerce or air transportation and the public interest so require, he may issue an order amending, suspending or revoking the respondent's certificate. The certificate action imposed may not be more severe than that proposed in the notice of proposed certificate action.

(b) If, in proceedings under section 501(b) of the Act, the Hearing Officer determines that the holder of the Certificate of Aircraft Registration has refused or failed to submit Part 1, AC Form 8050-73, as required by § 47.44 of this chapter, or that the aircraft is ineligible for a Certificate of Aircraft Registration, the Hearing Officer suspends or revokes the respondent's certificate, as proposed in the notice of proposed certificate action.

(c) If, in proceedings under either section 609 or 501(b) of the Act, the final

order of the Hearing Officer makes a decision on the merits, it contains a statement of his findings and conclusions on all material issues of fact and law. If the Hearing Officer finds that the allegations of the notice have been proved, but that no sanction is required, he makes appropriate findings and orders the notice terminated. If the Hearing Officer finds that the allegations of the notice have not been proved, he orders the notice dismissed. If the Hearing Officer finds it to be equitable and in the public interest, he may order the proceeding terminated upon payment by the respondent of a civil penalty in an amount agreed upon by the parties.

(d) If the order is issued in writing, it shall be served upon the parties.

(e) If the Hearing Officer orders respondent's certificate to be amended, suspended, or revoked in proceedings under section 609 of the Act, he shall state in the order that the respondent has the right to appeal to the National Transportation Safety Board.

2. By inserting a new § 47.44 in Part 47 to read as follows:

§ 47.44 Report on registration eligibility of aircraft.

(a) The holder of each Certificate of Aircraft Registration issued under this subpart shall sign and submit an Aircraft Registration Eligibility, Identification, and Activity Report, Part 1, AC Form 8050-73, to the FAA Aircraft Registry before July 1 of each year commencing July 1, 1970, stating—

(1) The name and address of the owner of the aircraft;

(2) Whether he is a United States citizen if not a governmental unit;

(3) The make, model, and registration and serial numbers of the aircraft; and

(4) Whether the aircraft has been registered under the laws of a foreign country.

(b) Signatures and instruments made by representatives of the holders of certificates must be made in the manner prescribed by § 47.13 of this part for Application for Aircraft Registration. However, any one of coowners who are not in business as partners may sign and submit Part 1, AC Form 8050-73.

(c) Refusal or failure to submit Part 1, AC Form 8050-73, containing the required information may be cause for suspension or revocation of the holder's Certificate of Aircraft Registration.

3. By inserting a new § 91.53 in Part 91 to read as follows:

§ 91.53 Report on identification and activity of aircraft.

(a) Except as provided in paragraph (b) of this section, the owner of each aircraft registered in the United States should (but is not required to) submit an Aircraft Registration Eligibility, Identification, and Activity Report, Part 2, AC Form 8050-73, to the FAA Aircraft Registry before July 1 of each year commencing July 1, 1970, stating—

(1) The name and address of the principal operator of the aircraft if other than the owner;

(2) The make and model of the engines installed in the aircraft;

(3) The identification of the communications and navigational aids capability of equipment installed in the aircraft;

(4) Airport where the aircraft is based; and

(5) Activity of the aircraft as shown by hours flown and purpose of flight for the previous calendar year.

(b) The owner of an aircraft operated under Part 121 or 127 of this chapter should include in his report under paragraph (a) of this section only the item listed in subparagraph (2) of that paragraph.

As used in this section, "principal operator" means the person operating the aircraft, on the reporting date, under a lease or other arrangement for a period of at least 3 months.

(Secs. 103, 307, 311, 312, 313(a), 501, 601(a) (6), 609, 901, Federal Aviation Act of 1958, 49 U.S.C. 1303, 1348, 1352, 1353, 1354(a), 1401, 1421, 1429, 1471; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); § 1.4 (b) (1), Regulations of the Office of the Secretary of Transportation)

NOTE: The recordkeeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued in Washington, D.C., on January 6, 1970.

D. D. THOMAS,
Acting Administrator.

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