

**Title 14—Aeronautics and Space**  
**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Docket No. 15537; Amdt. No. 91-143]

**PART 91—AIRCRAFT LEASE AGREEMENTS**

**General Operating and Flight Rules**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment to the Federal Aviation Regulations requires the lessee or conditional buyer, or registered owner if the lessee is not a citizen of the United States, of a U.S. registered large civil aircraft to notify the FAA prior to the first flight of the aircraft under the lease or contract. This change requires 48 hours advance notification, unless authorized by the Administrator, which will enable the FAA to conduct the surveillance or inspections considered appropriate. This rule is necessary so that the FAA will be able to have adequate preflight surveillance of lease and contract operations.

**EFFECTIVE DATE:** November 30, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8716.

**SUPPLEMENTARY INFORMATION:** Interested persons have been afforded an opportunity to participate in the making of these regulations by a notice of proposed rulemaking (Notice No. 76-10) issued March 26, 1976, and published in the FEDERAL REGISTER on April 8, 1976 (41 FR 14897). Due consideration has been given to all comments received in response to the Notice.

A total of 26 comments were received in response to the Notice. Most of the comments received were opposed to the proposal. Some comments suggested minor changes to the requirements in § 91.54 with respect to place of filing of the lease and other considerations. Those recommendations are considered by the FAA to be beyond the scope of Notice No. 76-10. Aircraft leasing companies opposed the proposed rule since they believe that current § 91.54 gives the FAA

adequate control of leasing operations of large aircraft.

Several commentators stated that the FAA should place emphasis on the inspection of a lessor's maintenance facility and procedures rather than on an individual aircraft immediately before its first flight under the lease. The FAA continues to maintain its long-established facility inspection program but does not believe that the inspection program provides the lessee or conditional buyer with sufficient protection in the determination of responsibility for operational control, maintenance and inspection of the aircraft during the 12 months preceding the execution of the lease or contract of conditional sale, and the status of compliance of the aircraft with applicable maintenance and inspection requirements.

The majority of the aircraft leasing companies providing unfavorable comments on Notice No. 76-10 stated that the proposed regulation would jeopardize short notice leasing operations and could, therefore, cause the lessor to suffer loss of business. Although comments were received expressing a concern that the 48-hour prior notification would jeopardize short notice leasing operations, the FAA believes that notification within 48 hours is necessary to insure that the appropriate FAA Flight Standards District Office, General Aviation District Office, Air Carrier District Office or International Field Office is able to conduct the surveillance or inspections considered appropriate. The FAA recognizes that in certain cases notification 48 hours prior to takeoff might cause a hardship. Therefore, the amendment allows the Administrator to authorized receipt of the notification in less than 48 hours. The FAA believes that the regulation adopted herein, uniformly applied, will cause persons leasing aircraft, as well as those buying or leasing newly manufactured aircraft, to adjust to the 48-hour notice of requirement. The FAA is revising Advisory Circular 91-37, entitled "Truth in Leasing", to set forth the procedures for use in the notification required under this amendment.

One commentator stated that a notice provision would prohibit the last-minute substitution of aircraft. The FAA believes that, if the lessor has enough aircraft available to supply the lessee with a substitute aircraft in the event of malfunction, then a provision explaining the substitution can be written into the lease agreement and the substitute aircraft identified as provided in § 91.54.

(As published in the Federal Register  
42 F.R. 57447 on November 3, 1977)

Furthermore, the FAA does not believe that the 48-hour prior notification requirement will unduly inhibit interchange or time-sharing programs as the nature of these agreements implies a continuing arrangement rather than a short notice arrangement.

As was stated in Notice No. 76-10, the FAA believes that the current requirement that a copy of the lease or contract be mailed to the Flight Standards Technical Division, Oklahoma City, Okla., within 24 hours of its execution has not provided the level of safety intended by the rule. Since in many cases the copy of the agreement arrives in Oklahoma City after the flight, or flights, are completed, adequate preflight surveillance of the operation by the FAA is not possible.

Accordingly, to correct this deficiency and to provide for timely surveillance of lease operations, § 91.54 is amended to require the lessee or conditional buyer, or the registered owner if the lessee is not a citizen of the United States, to notify by telephone or in person, the FAA Flight Standards District Office (FSDO), General Aviation District Office (GADO), Air Carrier District Office (ACDO), or International Field Office (IFO), nearest the airport where the flight will originate. Unless authorized by the Administrator, the notification shall be given at least 48 hours prior to takeoff in the case of the first flight of that aircraft under that lease or contract and inform the FAA of: The location of the airport of departure; the departure time; and the registration number of the aircraft involved.

This amendment will provide for sufficient advance notice of the first flight of leased aircraft to facilitate any surveillance and preflight inspections that may be considered appropriate in determining compliance with applicable Federal Aviation Regulations.

The costs to consumers and other agencies have been determined to be insignificant, while benefits are derived from the elimination or reduction of leased aircraft operations which ignore or circumvent the intent of the safety regulations. Certain costs may result to aircraft lessors and operators if delays produce unscheduled aircraft or crew "down time" due to the requirement of notification at least 48 hours prior to takeoff.

The places where notification to the FAA can be made have been expanded in the regulation, as adopted, to include any FAA International Field Office in order to provide for appropriate notifica-

tion for leases that involve the delivery of aircraft at locations outside of the United States. Requirements for mailing a copy of the lease and other relevant information to the FAA that are included in § 91.54 remain the same.

#### DRAFTING INFORMATION

The principal authors of this document are W. T. Brennan, Air Carrier Regulations Branch, Flight Standards Service, and Edward Faberman, Office of the Chief Counsel.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended, effective November 30, 1977, by amending § 91.54 by striking out the word "and" at the end of paragraph (c) (1), by striking out the period at the end of paragraph (c) (2) and adding a semicolon and the word "and" at the end thereof, and by adding a new paragraph (c) (3) to read as follows:

#### § 91.54 Truth in leasing clause requirement in leases and conditional sales contracts.

\* \* \* \* \*

(c) \* \* \*

(3) The lessee or conditional buyer, or the registered owner if the lessee is not a citizen of the United States, has notified by telephone or in person, the FAA Flight Standards District Office, General Aviation District Office, Air Carrier District Office, or International Field Office nearest the airport where the flight will originate. Unless otherwise authorized by that office, the notification shall be given at least 48 hours prior to takeoff in the case of the first flight of that aircraft under that lease or contract and inform the FAA of—

(i) The location of the airport of departure;

(ii) The departure time; and

(iii) The registration number of the aircraft involved.

\* \* \* \* \*

(Secs. 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on October 21, 1977.

LANGHORNE BOND,  
Administrator.