

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10066; Amdts. 47-9, 49-5]

PART 47—AIRCRAFT REGISTRATION

PART 49—RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Clarification on Recordings and Dealers' Aircraft Registration Certificates

The purpose of these amendments is to clarify certain provisions of Parts 47 and 49 of the Federal Aviation Regulations. Part 47 is amended to clarify the use of the Dealer's Aircraft Registration Certificate, and to provide that a person must be a U.S. citizen to be eligible to hold a dealer's certificate. Part 49 is amended to accommodate all recordings required by the Act against certain aircraft engines, aircraft propellers and spare parts.

The present implication of § 47.61(a) (1) is that a dealer's certificate may be used in aircraft which are under production by holders of type certificates in conjunction with a Special Flight Permit. Thus, any experimental or prototype aircraft of a manufacturer would be excluded by application of the section. However, under § 47.61(b) or § 47.69(d) (1), a dealer would not be precluded from using a dealer's certificate for such aircraft. This matter is clarified by amending § 47.61(a) (1) so that manufacturers issued Dealers' Aircraft Registration Certificates are allowed to make any required flight tests of aircraft.

Section 505 of the Federal Aviation Act (49 U.S.C. 1405) provides for dealers' certificates and their use in connection with aircraft eligible for registration under the Act. The Act further requires in section 501 (49 U.S.C. 1401) that an aircraft shall be eligible for registration if, but only if, it is owned by a citizen of the United States. "Citizen of the United States" is defined in section 101(13) of the Act (49 U.S.C. 1301(13)). Section 47.65 is amended to conform with section 505 of the Act to provide that a person must be a U.S. citizen to be eligible for a Dealer's Aircraft Registration Certificate.

Sections 49.41(a) and 49.51(a) as they presently read appear to include as a requirement for the recordation of certain listed conveyances or liens that such instruments be executed for security purposes. These sections taken alone would appear to exclude the recordation of a lease not executed for security purposes. The Act in section 503 (2) and (3) (49 U.S.C. 1403 (2) and (3)) specifically provides for the recordation of "any lease," as well as mortgages, equipment trusts, etc., and other instruments, executed for security purposes and affecting the title to, or interest in, certain aircraft engines, aircraft propellers and spare parts. Although such leases are accepted for recordation by the aircraft registry as being within the purview of the Act, the regulations are not clear in this regard. As persons in the past may have

relied upon the wording of §§ 49.41(a) and 49.51(a) these sections are amended so that, except for the provision concerned with notice of tax lien or other lien, the wording of the sections more closely conforms with the language of the Act.

Section 49.53(a) (2) as it presently reads, requires that one of the parties to the conveyance, submitted for recording under Part 49, Subpart E, must be an air carrier. However, the Act (49 U.S.C. 1403(a) (3)) does not require an air carrier to be a party to the mortgage, lease or other instrument for it to be recordable, but only requires that the aircraft engines, propellers or appliances sought to be recorded against be maintained by or on behalf of an air carrier certificated under section 604(b) (49 U.S.C. 1424(b)) of the Act. The language of the regulation imposes restrictions not imposed by the statute and appears to preclude recordation of instruments filed for recordation under Subpart E when the air carrier is not a party to the instrument.

The amendment to § 49.53(a) allows the recordation of conveyances affecting the title of engines and spare parts maintained by or on behalf of air carriers, although the air carrier for whom they are being maintained is not a party to the transaction. The amendment also requires that such conveyances shall be accompanied by a statement from the air carrier certificated under section 604 (b) of the Act (49 U.S.C. 1424(b)).

Since this amendment is clarifying in nature, and does not impose a burden on the public, I find that notice and public procedure thereon are not necessary and that it may become effective on less than 30 days notice.

In consideration of the foregoing, Parts 47 and 49 of the Federal Aviation Regulations are hereby amended effective January 21, 1970, as follows:

1. Section 47.61(a) (1) is amended to read as follows:

§ 47.61 Dealers' Aircraft Registration Certificates.

(a) * * * (1) Allow manufacturers to make any required flight tests of aircraft.

2. Section 47.65 is amended to read as follows:

§ 47.65 Eligibility.

To be eligible for a Dealer's Aircraft Registration Certificate, a person must have an established place of business in the United States, must be substantially engaged in manufacturing or selling aircraft, and must be a citizen of the United States, as defined by section 101(13) of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

3. Section 49.41(a) is amended to read as follows:

§ 49.41 Applicability.

(a) Any lease, a notice of tax lien or other lien (except a notice of Federal tax lien referred to in § 49.17(a)), and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which affects

title to, or any interest in, any specifically identified aircraft engine of 750 or more rated takeoff horsepower, or the equivalent of that horsepower, or a specifically identified aircraft propeller capable of absorbing 750 or more rated takeoff shaft horsepower.

4. Section 49.51(a) is amended to read as follows:

§ 49.51 Applicability.

(a) Any lease, a notice of tax lien or other lien (except a notice of Federal tax lien referred to in § 49.17(a)), and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which affects title to, or any interest in, any aircraft engine, propeller, or appliance maintained by or on behalf of an air carrier certificated under section 604(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1424(b)) for installation or use in aircraft, aircraft engines, or propellers, or any spare parts, maintained at a designated location or locations by or on behalf of such an air carrier.

5. In § 49.53(a), subparagraph (1) is amended and subparagraph (2) is revised to read as follows:

§ 49.53 Eligibility for recording: general requirements.

(1) It affects any aircraft engine, propeller, appliance, or spare part, maintained by or on behalf of an air carrier certificated under section 604(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1424(b));

(2) It contains or is accompanied by a statement by the air carrier certificated under that section;

(Secs. 307(c), 313(a), 501, 503, 505, 1107, Federal Aviation Act of 1958 (49 U.S.C. 1348 (c), 1354(a), 1401, 1403, 1405, 1507); sec. 6 (c), Department of Transportation Act (49 U.S.C. 1655(c)); § 1.4(b) (1) of the regulations of the Office of the Secretary of Transportation)

Issued in Washington, D.C., on January 13, 1970.

J. H. SHAFFER, Administrator.

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