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# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11464, Amdt. 91-104]

### PART 91—GENERAL OPERATING AND FLIGHT RULES

#### Aircraft Lease Agreements: Requirement for "Truth in Leasing" Clause

This amendment to Part 91 of the Federal Aviation Regulations prescribes requirements for including a "truth in leasing" clause in certain leases and contracts of conditional sales involving U.S. registered large civil aircraft, and for filing a copy of the lease or contract with the FAA and carrying a copy in the aircraft.

This amendment is based on a notice of proposed rule making (Notice 71-35) published in the FEDERAL REGISTER on October 29, 1971 (36 F.R. 20768).

The wording of the proposal in § 91.54 (a) has been revised to clarify its applicability and also to make it clear that a lease or contract of conditional sale subject to this regulation must be in writing, as well as the required "truth in leasing" clause.

As proposed in Notice 71-35 the requirement for including a "truth in leasing" clause would have applied to large or turbine-powered multiengine aircraft. However, after further study and consideration of the comments received, the FAA has concluded that safety will not be compromised if the "truth in leasing" requirement is only made applicable to large aircraft. Accordingly, as adopted herein, the applicability of § 91.54(a) is limited to U.S. registered large civil aircraft. Nevertheless, the FAA may at a later date, if circumstances warrant, propose additional rule making to require "truth in leasing" for other aircraft.

The exemption provision adopted in § 91.54(b)(1) is essentially the same as proposed, except for certain kinds of leases and contracts which have been added to the exemption provision upon further consideration of the proposal in

the light of comments received. Specifically, the additions are leases and conditional sales contracts, when the party furnishing the airplane thereunder (lessor or conditional seller) is a foreign air carrier; a certificate holder under Part 121, 123, 127, or 141; or a certificate holder under Part 135 having appropriate authority to engage in air taxi operations with large aircraft. Adoption of the exemption provision in § 91.54(b)(1) is considered appropriate, since the FAA is confident that those operators specified therein are fully cognizant of their safety responsibilities as aircraft owners and operators under the Federal Aviation Regulations.

The FAA also recognizes that the problem to which the proposal was directed has not involved those arrangements normally entered into by aircraft manufacturers and dealers for the sale of new aircraft. Accordingly, a provision has been added to § 91.54(b) to exempt contracts of conditional sale when the aircraft involved have not been registered anywhere prior to the execution of the contract, except as new aircraft under a dealer's registration certificate.

Some comments were received which objected to carrying a copy of the lease or contract aboard the aircraft on the grounds that no purpose would be served by such a requirement. The FAA does not agree. A copy of the lease or contract should be aboard the aircraft to permit FAA field inspectors to determine who the parties consider has operational control of the aircraft, the regulations under which the aircraft has previously been maintained, and the regulations under which it will be maintained during the term of the lease or contract.

In addition, the FAA has concluded that if an aircraft is leased to a person who is not a citizen of the United States, the registered owner, rather than the lessee, should be responsible for mailing a copy of the lease to the FAA. Accordingly, such a requirement has been adopted in paragraph (c)(1) of § 91.54.

As stated in paragraph (d) of § 91.54, a lease or contract sent to the FAA in accordance with paragraph (c) is considered to be commercial or financial information obtained from a person, and privileged or confidential under 5 U.S.C. 552 (b)(4). It will not, therefore, be

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made available by the FAA for public inspection or copying, unless recorded with the FAA under Part 49 of this chapter.

For purposes of clarification, a definition of the term lease, as used in § 91.54, has been added in paragraph (e). As defined, it means any agreement by a person to furnish an aircraft to another person for compensation or hire, whether with or without flight crewmembers, that is not a contract of conditional sale under § 101 of the Federal Aviation Act of 1958.

A conditional sale, as defined under the Act and pertinent to this amendment, means (a) any contract for the sale of an aircraft under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract.

Interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended by adding a new § 91.54, effective January 3, 1973, to read as follows:

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

(a) Except as provided in paragraph (b) of this section, the parties to a lease or contract of conditional sale involving a U.S. registered large civil aircraft shall execute a written lease or contract and include therein a written truth in leasing clause as a concluding paragraph in large print, immediately preceding the space for the signature of the parties, which contains the following with respect to each such aircraft:

(1) Identification of the Federal Aviation Regulations under which the aircraft has been maintained and inspected during the 12 months preceding the execution of the lease or contract of conditional sale; and certification by the parties thereto regarding the aircraft's status of compliance with applicable maintenance and inspection requirements in this part for the operation to be conducted under the lease or contract of conditional sale.

(2) Identification of the person the parties consider responsible for operational control of the aircraft under the lease or contract of conditional sale and certification by that person that he understands his responsibilities for compliance with applicable Federal Aviation Regulations.

(3) A statement that an explanation of factors bearing on operational control and pertinent Federal Aviation Regulations can be obtained from the nearest FAA Flight Standards District Office, General Aviation District Office, or Air Carrier District Office.

(b) The requirements of paragraph (a) of this section do not apply—

(1) To a lease or contract of conditional sale when:

(i) The party to whom the aircraft is furnished is a foreign air carrier or certificate holder under Part 121, 123, 127, 135, or 141 of this chapter; or

(ii) The party furnishing the aircraft is a foreign air carrier, certificate holder under Part 121, 123, 127, or 141 of this chapter, or a certificate holder under Part 135 of this chapter having appropriate authority to engage in air taxi operations with large aircraft.

(2) To a contract of conditional sale, when the aircraft involved has not been registered anywhere prior to the execution of the contract, except as a new aircraft under a dealer's aircraft registration certificate issued in accordance with § 47.61 of this chapter.

(c) No person may operate a large civil aircraft of U.S. registry that is subject to a lease or contract of conditional sale to which paragraph (a) of this section applies, unless—

(1) The lessee or conditional buyer, or the registered owner if the lessee is not a citizen of the United States, has mailed a copy of the lease or contract that complies with the requirements of paragraph (a) of this section, within 24 hours of its execution, to the Flight Standards Technical Division, Post Office Box 25724, Oklahoma City, OK 73125; and

(2) A copy of the lease or contract that complies with the requirements of paragraph (a) of this section is carried in the aircraft. The copy of the lease or contract shall be made available for review upon request by the Administrator.

(d) The copy of the lease or contract furnished to the FAA under paragraph (c) of this section is commercial or financial information obtained from a person. It is, therefore, privileged and confidential, and will not be made available by the FAA for public inspection or copying under 5 U.S.C. 552(b) (4), unless recorded with the FAA under Part 49 of this chapter.

(e) For the purpose of this section, a lease means any agreement by a person to furnish an aircraft to another person for compensation or hire, whether with or without flight crewmembers, that is not a contract of conditional sale under § 101 of the Federal Aviation Act of 1958. The person furnishing the aircraft is referred to as the lessor and the person to whom it is furnished the lessee.

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

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J. H. SHAFFER,  
Administrator.