

See Correction

August 22, 1977

[Docket Nos. 16388 and 16389; Special Federal Aviation Regulation No. 33-1]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Flight Recorders and Cockpit Voice Recorders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment removes a provision which excluded certain large airplane flight recorder and cockpit voice recorder installations from the relief provided by Special Federal Aviation Regulation No. 33 ("SFAR No. 33"). The intended effect of this amendment is to allow certain large airplanes, which had a flight recorder and cockpit voice recorder installed on the effective date of SFAR No. 33, to be operated without a flight recorder or cockpit voice recorder for a temporary period. This change is needed in order to relieve certificate holders of the continued use and maintenance of flight recorder and cockpit voice recorder installations on certain large airplanes.

EFFECTIVE DATE: September 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. D. A. Schroeder, (AFS-901), Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-755-8517.

SUPPLEMENTARY INFORMATION:

HISTORY

This amendment is based on a notice of proposed rulemaking (Notice 76-29) published in the FEDERAL REGISTER on December 30, 1976 (41 FR 56827). That notice invited comments by all persons interested in the making of the proposed rule. All interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. Eight commenters responded to Notice 76-29. Except as specifically discussed hereinafter, this amendment and the reasons therefor are the same as those in Notice 76-29.

By way of background, it should be noted that SFAR No. 33 was adopted to avoid possible adverse economic impact which might result from continuation of the flight recorder and cockpit voice recorder requirements during development of new rules in the Part 135 Regulatory Review Program. SFAR No. 33 did not apply to the designated large airplanes which had a flight recorder and cockpit voice recorder installed on the effective date of SFAR No. 33. Notice 76-29 proposed to amend SFAR No. 33 to make it applicable to those airplanes in order to relieve certificate holders of expenses resulting from continued use of the recorders during the time antic-

ipated to be required for completion of rulemaking in the Part 135 Regulatory Review Program.

DISCUSSION OF COMMENTS

Three commenters opposed the proposal and another commenter supported that part of the proposal relating to the flight recorder and opposed the proposal as it related to the cockpit voice recorder. Three commenters supported the proposal and another stated that it did not oppose the proposal. One of the commenters supporting the proposal, an industry association, stated that the flight recorder and cockpit voice recorder do not enhance the safety of a particular flight and the economic detriment resulting from inspections and maintenance is significant. An operator supporting the proposal commented that the proposal would permit standardization of equipment in its fleet of airplanes. That operator noted that under SFAR No. 33 it is necessary to maintain recorder installations in existence on the effective date of SFAR No. 33, but it is not necessary to make recorder installations on its airplanes acquired after that date. Another operator supporting the proposal commented that it had been necessary to repair the flight data recorder frequently which resulted in significant loss of airplane utilization.

Opposition to the proposal centered on the contention that the cockpit voice recorder and flight recorder are useful tools in aircraft accident investigations. It should also be noted that the one comment received on SFAR No. 33 emphasized accident investigation usefulness. However, none of the commenters opposing the proposal on this basis cited any accidents involving airplanes having a maximum passenger capacity of 30 seats or less, a maximum payload capacity of 7,500 pounds or less, and a maximum zero fuel weight of 35,000 pounds or less, operated by a Part 121 or 135 certificate holder, in which the probable cause could not have been determined without cockpit voice recorder and flight recorder information. In addition, although some commenters opposing the proposal minimized the economic impact of maintenance and servicing of the recorders, none submitted any economic data to support its contentions.

One commenter suggested that flight recorder and cockpit voice recorder costs could be reduced to reasonable levels if smaller recorders would be developed. While this suggestion is beyond the scope of the proposal in Notice 76-29 and consequently has not been discussed herein, it is appreciated.

The FAA has carefully considered all of the comments received in response to Notice 76-29, including those which stressed the accident investigation usefulness of the flight recorder and cockpit voice recorder. The FAA has also considered maintenance and servicing expenses and has concluded that safety and the public interest do not require continued use of flight recorder and cockpit voice recorder installations on airplanes described in paragraph (b) (2)

of section 1 of SFAR No. 33, during the period until June 30, 1978, which is the time anticipated to be required for completion of rulemaking in the Part 135 Regulatory Review Program.

DRAFTING INFORMATION

The principal authors of this document are Thomas G. Walenta, Flight Standards Service, and Richard C. Beitel, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Special Federal Aviation Regulation No. 33 is amended, effective September 21, 1977, by revising paragraph (b) of section 1 to read as follows:

1. Applicability. * * *

(a) * * *

(b) This regulation does not apply to Convair 240, 340, and 440; Martin 202 and 404; Fairchild F-27 and FH-227; and Hawker Siddeley 748 airplanes.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424); Sec. 6(c), 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 August 15, 1977.

LANGHORNE BOND,
Administrator.

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OPS Review

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Correction

In FR Doc. 77-24150 appearing at page 42194 in the issue for Monday, August 22, 1977, the effective date now reading "September 12, 1977" should have read "September 21, 1977".