
**Tuesday
May 24, 1994**

Federal Register

Part IV

**Department of
Transportation**

Federal Aviation Administration

14 CFR Part 121

**Extension of Compliance Date for
Installation of Digital Flight Data
Recorders on Stage 2 Airplanes; Final
Rule**

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 27532; Amendment No. 121-238]

RIN 2120-AF34

Extension of Compliance Date for Installation of Digital Flight Data Recorders on Stage 2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule changes the final compliance date for installing improved (11-parameter digital) flight data recorders from May 26, 1994, to the next heavy maintenance check, but no later than May 26, 1995, in Stage 2 airplanes subject to the rules requiring a transition to an all Stage 3 fleet. This change allows carriers more time to take actions necessary to retrofit Stage 2 airplanes and makes the flight data recorder replacement rule more compatible with the noise transition requirements without having a significant impact on safety.

EFFECTIVE DATE: May 24, 1994.

FOR FURTHER INFORMATION CONTACT: Gary E. Davis, Project Development Branch, AFS-240, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8096.

SUPPLEMENTARY INFORMATION:

History

On March 25, 1987, the FAA promulgated a final rule that requires operators, by May 26, 1994, to install improved (11-parameter digital) flight data recorders on all airplanes type certificated on or before September 30, 1969, and operated under part 121 of the Federal Aviation Regulations (52 FR 9622). The final rule, § 121.343(c), was issued in response to a recommendation from the National Transportation Safety Board that was based on accident/incident files for January 1983 to February 1986 that revealed a high failure rate for metal foil flight recorders. The data revealed that 37 recorders (48 percent) had one or more malfunctioning parameters preceding the accident or incident, preventing the recording or readout of pertinent data.

Air Transport Association's Petition for Exemption

In August 1991, the Air Transport Association (ATA) petitioned the FAA

for an exemption from § 121.343(c). The ATA stated that the compliance date for the digital flight data recorder (DFDR) retrofit was inappropriate when considering the schedule for either retrofitting airplanes with noise abatement equipment or retiring airplanes in order to comply with the Stage 3 transition mandated in September 1991 (56 FR 48628, September 25, 1991). The FAA denied the ATA exemption request, stating that the Stage 3 transition rule did not mandate the retirement of any Stage 2 airplanes. The FAA pointed out that noise abatement equipment was expected to be available for virtually the entire active fleet.

In June 1992, the ATA again requested that the FAA extend the May 26, 1994, DFDR compliance date for its members and similarly situated operators. In the alternative, the ATA requested that the FAA establish a delayed DFDR retrofit schedule that coincided with the Stage 3 transition interim compliance dates to avoid having to install new DFDR's on airplanes that were scheduled to be retired. The ATA asserted that the compliance deadline would require its members to install DFDR's on Stage 2 airplanes that would be retired within 5½ years of the May 1994 compliance date to remain in compliance with the part 91 noise operating rule. The ATA also asserted that this DFDR retrofit requirement for Stage 2 airplanes would impose substantial costs on them with little perceived benefit.

On January 29, 1993, after considering all the data presented by the ATA and the commenters, the FAA determined that a grant of exemption was justified and in the public interest. Exemption No. 5593 permits ATA members to operate certain Stage 2 airplanes equipped with DFDR's that have 6 rather than 11 operational parameters. Operation is allowed subject to certain conditions and limitations, including the requirement that air carriers submit a list of their Stage 2 aircraft that will be retired by December 31, 1998. On June 30, 1993, the FAA amended Exemption No. 5593 to clarify certain conditions that were being misinterpreted.

Air Transport Association's Petition for Rulemaking

On November 17, 1993, the ATA submitted a petition for rulemaking to amend § 121.343, requesting that the regulation be amended to require DFDR installation only on airplanes that will remain in the fleet beyond December 31, 1999, with installation on those aircraft accomplished in phases.

As justification for this proposed change, the ATA stated that, if 10 of its operators were to comply with the retrofit requirements of § 121.343(c) by May 26, 1994, the cost would exceed \$29 million. No details were given on how these costs were estimated.

On February 23, 1994, the FAA published a notice of proposed rulemaking (Notice No. 94-4, 59 FR 8570) that detailed the ATA's request but proposed an amendment to § 121.343 that would extend for 1 year the compliance time for DFDR installation on Stage 2 airplanes that are subject to the Stage 3 transition requirements of part 91.

Discussion of Comments

Four comments, including one from the ATA, were received in response to the NPRM. One comment was submitted in response to the publication of the ATA petition, before the proposed rule was published. That comment supported the ATA request, but did not address the rule change that was proposed. Only one operator affected by the rule submitted comments on the petition or the proposed amendment.

Comment: The Air Line Pilots Association (ALPA) states that the FAA should not grant the ATA's request to adopt a phased DFDR compliance schedule. The ALPA disagrees with the FAA's finding that the chance of an accident happening on one of the Stage 2 airplanes covered by the rule change is remote.

Response: The FAA did not propose to adopt the ATA's requested phased compliance schedule for DFDR installation; the FAA proposed only to allow a 1-year extension for certain airplanes in the fleet. ALPA did not submit any information to refute the FAA finding that the chance of an accident occurring on a subject airplane during the 1-year extension is remote.

Comment: The National Transportation Safety Board (NTSB) believes that 7 years is sufficient time for the operators to have complied with the DFDR retrofit requirements and is disappointed that the May 26, 1994, compliance date is being delayed. "However, because it would be impossible for the industry to complete the retrofit requirements by May 26, 1994, the NTSB agrees that a maximum 1-year extension for Stage 2 aircraft is the only recourse available to the FAA without requiring large-scale grounding of transport category airplanes." The NTSB also states that operators should be required to submit a list of airplanes affected by this rule change to FAA headquarters, noting that the "industry has failed to comply with a previous

FAA requirement for operators to provide an Aircraft Retirement Schedule" as mandated in the ATA exemption discussed previously.

Response: The FAA appreciates the NTSB's acknowledgement of the ramifications of enforcing the May 26, 1994, compliance date and stresses that the minimum feasible extension was sought. The proposed rule already requires the submission of a list of aircraft covered by this extension. In accordance with the NTSB request, the lists will be submitted to the Flight Standards Service at FAA Headquarters (AFS-200).

With regard to the operator's compliance with the ATA exemption, the FAA notes that not all covered operators have chosen to take advantage of the exemption; operators that do not choose to use the exemption are not required to submit retirement schedules. Further, there was some confusion on the part of some operators as to which airplanes were allowed to appear on an ARS; that confusion has been eliminated after much discussion between the affected operators and the FAA, and the subsequent issuance of an amended exemption. The FAA is not aware of any operators that have chosen to use the exemption and failed to submit the required retirement schedule.

Comment: The ATA states that, as proposed, the amendment "may help some U.S. operators," but suggests several modifications to the proposed rule.

- Expand the applicability of the extension to include certain Stage 3 airplanes for which there currently is no supplemental type certificate or DFDR kit approve for installation. The ATA states that there will be significant service impacts on the affected operators, and suggests that the operators of these airplanes be required to submit documentation as to the anticipated STC approval or retrofit kit delivery dates.

The FAA disagrees. The proposed extension was intended to make the DFDR rule more compatible with the Stage 3 transition rule of part 91 and its first compliance date of December 31, 1994. No Stage 3 airplanes are affected by the transition rule. Operators have had 7 years' notice in which to plan for DFDR retrofit of Stage 3 airplanes, a fact not changed by adoption of the Stage 3 transition rules in 1991. Operators that have failed to use the 7 years to plan for Stage 3 DFDR retrofits cannot now claim a hardship brought on by their own inaction.

The FAA stated to the NPRM that it recognized the economic impact of the effects of the DFDR and Stage 3 transition rules combined. There is no similar argument to be made for airplanes unaffected by the Stage 3 transition rules, and to date the FAA has not made any DFDR retrofit exceptions for Stage 3 airplanes.

The ATA does not justify why these operators that failed to act in a timely fashion after adequate notice should be allowed an extension of the compliance date. Further, the ATA comment does not take into account the safety benefit of DFDR retrofitted airplanes, or state any public interest in extending the amendment to these operators. Further, the ATA suggestion includes a requirement for those operators to show only when they anticipate STC or kit approval and does not mention an installation date.

Finally, the FAA has no reason to expect that the same nonapproved equipment argument could not be made at the time of the 1995 compliance date as well. Accordingly, no change will be made in the final rule to expand the applicability of the extension.

- The ATA states that any Aircraft Retirement Schedule (ARS) approved under its exemption should remain valid. The ATA is concerned about a statement in the NPRM about the FAA's proposed reexamination of the exemption terms.

The FAA has no plans to withdraw the approval of any ARS already submitted and approved. In fact, the FAA is considering whether the closing date for the submission of an ARS should be extended to allow for reevaluation of fleet plans based on this amendment. However, the FAA must retain the ability to ensure that the rule and the exemption are not inconsistent or that their combined or separate effects do not unfairly harm or benefit individual operators subject to them. While the FAA currently is not aware of any such circumstances, the agency recognizes its continuing obligation to ensure that such inequities do not exist. No change to the final rule was suggested by this comment.

- The ATA disagrees with the definition of "heavy maintenance check" as being any time the aircraft is taken out of service for 4 or more days. The FAA notes that a normal service check of 1 to 2 days can be extended to 4 days because discrepancies that are found during the scheduled check require additional time to rectify. It argues that an operator cannot always foresee the need for such unscheduled maintenance and have the parts or personnel immediately available to accomplish the DFDR retrofit when such circumstances arise. The ATA proposed that the definition be revised to "any occasion which an airplane is taken out of service for a planned heavy maintenance check that is 4 days or longer in duration."

The FAA agrees that the service requirements of an individual airplane do not always conform to the time initially allotted for maintenance, and that the definition needs clarification. However, the FAA disagrees with the ATA's proposed wording since it includes the words "heavy maintenance check" within the definition, and, as noted in the NPRM, that term has no regulatory meaning and is subject to broad interpretation among operators. The concept the FAA is attempting to convey is one in which the airplane is scheduled to be out of service for 4 or more days; not an unplanned 4-day period. This provision highlights the FAA's expectation that the retrofit be completed as soon as possible, and not

deferred until some time near the extended compliance date. The term "heavy maintenance check" as used in the rule should be thus interpreted.

- The ATA states that operators should not be required to submit evidence that they have ordered sufficient flight data recorder equipment to meet the May 26, 1995, compliance date. The ATA does not see the connection between submitting proof of orders and the FAA's admonition to operators to take full advantage of the additional compliance time. In addition, the ATA considers such documentation to be confidential, and suggests that the FAA use "standard surveillance practices to ensure a carrier's intent to comply with the rule."

The FAA disagrees. The inclusion of the requirement to submit evidence of equipment ordered is based on FAA experience with similar requirements and the tendency for covered operators to delay compliance as long as possible. This very tendency is what leads to routine requests for such extensions. Submission of equipment orders shows good faith on the part of the operator to comply and avoids later delays based on equipment unavailability. Conversely, FAA surveillance cannot determine the intent of an operator to comply, much less ensure an operator's intent, as the ATA states. Likewise, a Flight Standards Information Bulletin telling FAA inspectors to "survey the operators on the status of their DFDR installation plans" would be equally ineffective. It is unrealistic to expect that a survey question from an FAA inspector to a part 121 operator would ensure that DFDR installation becomes a priority. Submission of the equipment orders keeps attention focused on compliance and provides proof of plans to comply that is unavailable by any other means.

Accordingly, that provision will remain in the final rule. Finally, the FAA will treat all such information submitted as proprietary, as it does the planning information submitted under the Stage 3 transition rule.

The ATA also responded to the request for specific cost information in the NPRM. The ATA states that it "did not receive any specific cost data outlining the cost savings/benefits of the proposed rule" from its members. It estimates, however, that 25 percent of the noncomplying fleet will not have to be specially scheduled if the proposed 1-year extension is made final, and that this estimate represents a savings of \$9.8 million to its members. The ATA does not provide any information on how it arrived at this estimate.

The Amendment

The FAA extends the compliance date in § 121.343(c) for all Stage 2 airplanes subject to the Stage 3 transition rule (§ 91.801(c)). The amendment requires that the DFDR installation be accomplished at the next heavy maintenance check, but in no case later than May 26, 1995. A heavy maintenance check is considered any time an airplane is scheduled to be out

of service for 4 or more days. The extension will allow more flexibility in retrofit planning for those operators that have experienced difficulty in obtaining engineering approval for DFDR retrofit designs, or an inability to obtain parts and installation services before the May 26, 1994, compliance date. This change may also function to bring operators past the first interim compliance date of the Stage 3 transition rule, possibly eliminating the necessity for any airplanes to be DFDR retrofitted before being removed from the fleet for noise compliance purposes, depending on the individual circumstances of the operator. By its connection to the Stage 3 transition rule, this amendment does not extend the compliance date for Stage 2 airplanes under 75,000 pounds, since they are not covered by the transition rule.

This amendment also requires that by June 23, 1994, each operator submit to the FAA (AFS-200) a list of its Stage 2 airplanes that will be covered by this rule change, and evidence (i.e., a binding contract) that the operator has ordered sufficient flight data recorder equipment to meet the May 26, 1995, DFDR compliance date, either by aircraft retirement or planned retrofit. As detailed in the disposition of comments section above, this provision is designed to ensure that operators take full advantage of the time provided by the extension.

This amendment is considered as providing significant economic relief to the industry and is consistent with recent recommendations from the National Commission to Ensure a Strong Competitive Airline Industry (Commission), a Presidential task force formed in April 1993 to make policy recommendations about the financial health and future competitiveness of the U.S. airline and aerospace industries.

In light of the Commission's recommendations and the information submitted, the FAA has determined that a persuasive case has been made concerning the changing conditions and difficulties that operators have encountered in attempting to meet the May 26, 1994, DFDR compliance date for Stage 2 airplanes subject to the noise transition rule. The FAA does not anticipate any significant impact on safety from the adoption of this amendment. As detailed in the NPRM, flight data recorders, regardless of the number of operational parameters they record, have no direct effect on the safe operation of an airplane. The importance of flight data recorders lies in their ability to reveal the status and operational parameters of an airplane after it is involved in an accident or

other incident. Depending on what is revealed, such data can be used as the basis for altering the operation of physical characteristics of similar airplanes. Thus, for the amendment to have a negative impact, one of the airplanes covered by it would have to be involved in an accident in the additional 1 year, and information essential to the determination of cause must be a part of one of the five additional parameters recorded on the upgraded DFDR but not on the currently required six-parameter flight data recorders.

The FAA has concluded that the chance of these particular circumstances occurring is remote. Further, the FAA has sought to limit this possibility by extending the compliance date only for Stage 2 airplanes, some of which are expected to leave the fleet by December 31, 1994, under the noise transition regulations. By requiring all other airplanes to comply with the DFDR rule as promulgated in 1987, the FAA seeks to maximize the benefit of DFDR installation.

The FAA stresses that all airplanes covered under the extension must still be equipped with one or more approved flight data recorders that record those parameters specified in part 121. It is only the upgrade to 11-parameter DFDR's that is extended for a limited number of airplanes. The FAA also stresses that the relief will have no effect on compliance with the Stage 3 transition. The extension is not available for Stage 2 airplanes not subject to the Stage 3 transition rule, i.e., Stage 2 airplanes that weigh less than 75,000 pounds.

The FAA stresses that carriers should not consider the extension as a period of deferred retrofit action. The FAA does not anticipate granting any further relief from the DFDR requirements for any airplanes beyond that given here. The DFDR rule was promulgated in 1987 and should have been incorporated into fleet planning by part 121 operators. The FAA acknowledges that circumstances such as the Stage 3 transition rules require some reconsideration of rule impacts, and in light of the reported difficulties in obtaining the necessary equipment and support to comply with the DFDR rule, this extension is an example of the kind of relief that the FAA considers to be justified. To date, no other substantial, quantifiable data has been presented to support further delay in compliance with the DFDR regulation.

Paperwork Reduction Act

Information collection requirements in the amendment to § 121.343 have

been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control No. 2120-0581.

Regulatory Evaluation Summary

Executive Order 12866 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The FAA has determined that this rule change is not a "significant rulemaking action," as defined by Executive Order 12866 (Regulatory Planning and Review). The results are stated in this section.

The final rule, by extending the compliance date by up to 1 year, would allow for the installation of DFDR's to coincide with the installation of noise abatement equipment on, or the retirement of aircraft that are affected by the December 31, 1994, noise compliance date. The current exemption limits the relief from the current deadline for installing DFDR to Stage 2 airplanes that will be retired by the end of the decade, leaving aircraft intended for retrofitting with noise abatement equipment subject to the current deadline of May 1994. Any aircraft that are scheduled for retirement by the end of the decade for which an exemption has not been obtained will also be subject to this deadline.

The potential benefits of this rule change will be the cost savings realized by the operators of Stage 2 aircraft in part 121 service that plan to retrofit these aircraft with noise abatement equipment or have not received an exemption for those Stage 2 aircraft they plan to retire by the end of the decade. The rule change will afford these operators up to an additional year in which to install the required DFDR equipment. Operators that plan to retrofit their aircraft with noise abatement equipment before May 1995 would derive the greatest cost savings because DFDR retrofit could be accomplished at the same time that the aircraft was being retrofitted with noise abatement equipment. Therefore, no additional nonroutine downtime will be required for the upgraded DFDR retrofit.

The amount of the potential cost savings accruing to operators planning to retrofit their aircraft prior to the May 1995 deadline was estimated using

industry data. Information provided to the FAA by ATA members indicates that the installation of upgraded DFDR's could require from 2 to 5 days of downtime per airplane, depending on the type of equipment. The major carriers responding to the ATA survey estimated the costs of this downtime from \$14,000 to \$26,000 per day per airplane. The FAA forecasts that about 250 Stage 2 aircraft will be retrofitted with noise abatement equipment over the next year. Operators of these aircraft can therefore expect cost savings between \$10 million (based on 2 days of downtime per aircraft and an average cost of \$20,000 per day) and \$25 million (based on 5 days of downtime per aircraft and a cost of \$20,000 per day) from this rule change.

In its comment, the ATA estimated that 25 percent of the existing noncomplying Stage 2 fleet would not have to be specially scheduled to meet the May 26, 1995, compliance date. The FAA used a slightly higher estimate of the proportion of the fleet that could avoid nonroutine downtime. However, the ATA estimate of the potential cost savings of \$9.8 million was near the low end of the FAA's estimated range (\$10 million).

Operators planning to retrofit their Stage 2 airplanes with noise suppression equipment after May 1995 will not receive as great a benefit in terms of reduced downtime, however, because the additional 1 year afforded by this rule change may not be sufficient for them to avoid any nonroutine downtime. Nevertheless, these operators will be able to benefit from the opportunity to delay incurring installation costs for the upgraded DFDR equipment by up to 1 year, the value of which is calculated in the following paragraph. Available FAA data indicates that about 490 Stage 2 aircraft will fall in this category.

The FAA was able to estimate the opportunity cost of capital savings that operators could expect from being able to delay incurring the expense of installing upgraded DFDR equipment up to 1 year. Responses from a survey of its members conducted by the ATA indicated that the installed cost of the equipment would range from \$20,000 to \$40,000. Given the expected rate of return on capital of 7 percent that is mandated by the OMB, the FAA estimates that the opportunity cost savings expected to result from the rule change would amount to about \$1.03 million, using the midpoint of the expected range of equipment installation costs ($.07 \times \$30,000 \times 490$ aircraft).

A number of operators that plan to retire their Stage 2 aircraft over the next 5 years have not taken advantage of the previously granted exemption from the upgraded DFDR requirement. Those operators of aircraft that plan to remove from service some airplanes by the December 31, 1994, noise transition compliance deadline and that are not using the exemption could also benefit from this rule change. Extension of the DFDR deadline will allow operators to forego installing upgraded DFDR equipment on some aircraft that would otherwise be retired within 7 months of the installation.

The rule change will impose only minimal costs on society in the form of a reduction in safety because of the extremely low probability that one of the 740 airplanes potentially affected by this rule will have an accident during the additional 1 year. Moreover, if there were an accident involving one of these Stage 2 airplanes, the causes of such an accident would have to be determinable only with the additional data provided by an upgraded DFDR. For a safety benefit to be realized, this information would have to be used in rulemaking or some other agency action that would prevent a second future accident with a chain of causation closely resembling that of the first accident. The resulting probability of these two hypothetical accidents actually occurring once the rule change goes into effect is considerably less than the already remote possibility that one of the 740 affected aircraft would have a serious accident over this time period.

The rule change will also require that each air carrier submit to the FAA documentation listing those Stage 2 aircraft scheduled for DFDR retrofit as well as evidence that it has ordered a sufficient number of flight data recorders to meet the May 26, 1995, compliance date for all aircraft on the list. The FAA has estimated that this paperwork information requirement will cost each affected air carrier about \$25. The total cost of this provision will therefore not appreciably alter the overall balance between the costs and benefits of the rule change.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities." The rule change is of a cost relieving

nature and will therefore afford cost savings to individual part 121 operators.

Under FAA Order 2100.14A, the criterion for a "substantial impact" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. For operators of aircraft for hire, a small operator is one that owns, but not necessarily operates, nine or fewer aircraft. This rule change will mainly affect part 121 scheduled operators, although some unscheduled operators could be affected as well. The FAA's criterion for a "significant impact" is \$116,300 or more per year for a scheduled operator whose entire fleet has a seating capacity of 60 seats or more, \$65,000 for a scheduled operator with a fleet including smaller aircraft, and \$4,600 or more for an unscheduled operator.

The extent of the annualized cost savings per aircraft resulting from the opportunity cost of capital that would be saved (i.e., what could be earned on alternative investments) would be \$2,100 per aircraft, based on the assumptions used in calculating the potential total cost-savings resulting from this factor in the previous section ($.07 \times \$30,000$). A scheduled carrier with a fleet of smaller aircraft would therefore need to convert more than nine aircraft to exceed its threshold value of \$65,000, in which case it would not be regarded as a small entity. A scheduled carrier with a fleet of larger aircraft would have to convert even more aircraft to exceed its threshold of \$116,300. The threshold value for an unscheduled operator is only \$4,600, however, as noted above. A carrier would therefore only have to convert three airplanes to exceed this threshold, using the estimate of cost savings derived above. No unscheduled operators responded to the request in the NPRM for information pertaining to the number of Stage 2 aircraft that they are planning to retrofit with noise abatement equipment. The FAA therefore concludes that a determination of no "significant economic impact" is warranted in the absence of contrary information.

International Trade Impact Statement

OMB directs agencies to assess the effects of regulatory changes on international trade. The rule change will affect only U.S. air carriers because foreign carriers are not subject to part 121. The economic analysis of the final rule mandating that aircraft receiving an original type certificate before September 30, 1969, install DFDR's capable of recording the required number of parameters by May 1994 concluded that there would not be any

trade impact. Therefore, the provision of relief from the original rule in the form of a deadline extension is not expected to have any impact on international trade.

Federalism Implications

The amendment would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this amendment will not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with the Standards and Recommended Practices of the International Civil Aviation Organization to the maximum extent practicable. The FAA is not aware of any differences that this amendment will present.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this amendment is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this amendment, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the

criteria of the Regulatory Flexibility Act. This amendment is considered not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 121

Air carriers, Aviation safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration to amend part 121 of the Federal Aviation Regulations (14 CFR part 121) as follows:

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

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g).

2. Section 121.343 is amended by revising the first sentence of the introductory text of paragraph (c) and adding a new paragraph (1) to read as follows:

§ 121.343 Flight recorders.

* * * * *

(c) Except as provided in paragraph (1) of this section, no person may operate an airplane specified in paragraph (b) of this section unless it is equipped, before May 26, 1994, with one or more approved flight recorders that utilize a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. * * *

* * * * *

(1) No person may operate an airplane specified in paragraph (b) of this section that meets the Stage 2 noise levels of part 36 of this chapter and is subject to § 91.801(c) of this chapter unless it is equipped with one or more approved flight data recorders that utilize a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The information specified in paragraphs (c)(1) through (c)(11) of this section must be able to be determined within the ranges, accuracies and recording intervals specified in appendix B of this part. In addition—

(1) This flight data recorder must be installed at the next heavy maintenance check after May 26, 1994, but no later than May 26, 1995. A heavy maintenance check is considered to be any time an aircraft is scheduled to be out of service for 4 or more days.

(2) By June 23, 1994, each carrier must submit to the FAA Flight Standards Service, Air Transportation Division (AFS-200), documentation listing those airplanes covered under this paragraph and evidence that it has ordered a sufficient number of flight data recorders to meet the May 26, 1995, compliance date for all aircraft on that list.

(3) After May 26, 1994, any aircraft that is modified to meet Stage 3 noise levels must have the flight data recorder described in paragraph (c) of this section installed before operating under this part.

Issued in Washington, DC, on May 17, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94-12529 Filed 5-19-94; 10:01 am]

BILLING CODE 4910-13-M