

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Adminis- tration, Department of Transportation

[Docket No. 9486; Amdts. Nos. 21-29; 37-19;
121-58; 127-15; 135-15; 145-9]

PART 21—CERTIFICATION PROCE- DURES FOR PRODUCTS AND PARTS

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

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

PART 127—CERTIFICATION AND OP- ERATIONS OF SCHEDULED AIR CAR- RIERS WITH HELICOPTERS

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

PART 145—REPAIR STATIONS

Reporting Requirements for Manufac- turers; Failures, Malfunctions, and Defects

The purpose of these amendments to the Federal Aviation Regulations is to require manufacturers to report certain failures, malfunctions, or defects in the products or articles which they manufacture.

This action is based on the notice of proposed rule making set forth in Notice 69-12 and published in the FEDERAL REGISTER (34 F.R. 5441) on March 20, 1969.

Numerous comments have been received in response to Notice 69-12. While the majority of the comments were generally in favor of the proposed regulations, a number of comments recommended changes in specific provisions of the proposal. These comments are discussed in more detail hereinafter. There were also a few comments requesting that the proposal be withdrawn. While these comments are very general in nature, they appear to be primarily concerned with the belief that the proposed regulations are unnecessary and that the proposed system would not accomplish the stated objectives. The FAA, however, does not agree. Contrary to the opinion expressed in these comments, there are no current regulations that provide all the information covered under the proposal. While there may be other systems for obtaining the necessary failure, malfunction, or defect data that would be as ef-

fective as the system proposed, they are not apparent to the FAA at this time.

There were many comments objecting to the reporting time limit proposed in §§ 21.3 and 37.17. These comments were in general agreement that a 4-hour notification limit is unreasonably short since it would not permit the manufacturer time in which to investigate and adequately evaluate a failure, malfunction, or defect which has been "reported" to him. After further consideration, the FAA agrees. A manufacturer, prior to reporting to the FAA a failure, malfunction, or defect, should first confirm its occurrence and determine its effects through a preliminary investigation and analysis. Therefore, the final rule reflects the concern of these commentators and the notification period prescribed in §§ 21.3 and 37.17 is extended to twenty-four (24) hours.

Several comments were received which questioned the meaning of the words "imminent hazard to flight." It appears that these commentators are primarily concerned with the word "imminent" and with the difficulty in administering such a requirement. The FAA appreciates the concern expressed in these comments. As one commentator correctly indicated, the notice related the information concerning failures, malfunctions, and defects which the FAA proposed to require the manufacturers to furnish, to the same such information the air carriers are currently required to report. Thus, the manufacturers should report any failure, malfunction, or defect that could result in a hazard to flight, without the necessity of deciding whether the hazard is an "imminent" one. The final rule has been revised accordingly.

In the light of the various comments and after further consideration, the FAA has decided that it would not be appropriate to prescribe a form on which manufacturers would be required to report under §§ 21.3 and 37.17. The FAA now considers that the manufacturers should report in the most expeditious manner using any method of communication available to them.

Comments were also received suggesting that the FAA should not be notified of a failure, malfunction, or defect until after the problem is solved, or until after the customer has been notified by the manufacturer. Another commentator recommended that the proposal be withdrawn and that there be closer liaison between the FAA and the manufacturers rather than regulations. The purpose of the proposal as expressed in Notice 69-12, is to provide the FAA with the earliest possible notification of failures, malfunctions, or defects in order that the FAA may take appropriate mandatory action.

such as the issuance of an Airworthiness Directive. The FAA has no desire to alter existing manufacture-customer relationships and closer liaison with manufacturers has always been sought by the FAA. However, neither of these recommendations provide a substitute for the proposed regulation.

Several commentators pointed out that many persons holding operating certificates under Parts 121 and 127 also hold STC's and TSO authorizations. They point out that these persons would be required to report the same failure, malfunction, or defect under both the operating rules and the proposed regulation and that this dual reporting requirement is unnecessary. The FAA agrees with this comment. Moreover, the same would apply to persons holding operating certificates under Part 135 as a result of Amendment 135-12 (34 F.R. 19130). Therefore, the final rule provides that failures, malfunctions, or defects already reported under § 21.3 or 37.17 need not be reported under § 121.703, 127.313, or 135.57. A similar provision for manufacturers holding domestic repair station certificates was proposed in Notice 69-12 and the same relief has been provided in the final rule (by amendment to the foreign repair station regulations) to cover U.S. manufacturers holding foreign repair station certificates.

Finally, there was a comment from a foreign type certificate holder stating that the regulation is not clear as to the agency to whom foreign holders must report. The comment indicated that it would be contrary to accepted practice to report to the FAA directly and that reporting is usually accomplished through their national regulatory authorities. The FAA agrees. There are existing means by which the FAA obtains the necessary information regarding failures, malfunctions, or defects for foreign manufactured parts and products from the appropriate authorities in the country of manufacture. The FAA does not consider that it is necessary or appropriate to apply the proposed rule to foreign manufacturers at this time.

In consideration of the foregoing, Parts 21, 37, 121, 127, 135, and 145 of the Federal Aviation Regulations are amended, effective April 2, 1970, as follows:

1. Part 21 is amended by adding a new § 21.3 to read as follows:

§ 21.3 Notification of failures, malfunctions, and defects.

The holder of a Type Certificate (including a Supplemental Type Certificate), or a Parts Manufacturer Approval (PMA), or the licensee of a Type Certificate shall within twenty-four (24) hours

(As published in the Federal Register 35 F.R. 3154 on February 19, 1970)

after it discovers or is informed of a failure, malfunction, or defect in any product or part manufactured by it, notify the FAA Regional Office in the region in which the holder or licensee is located of any such failure, malfunction, or defect that could result in a hazard to flight. The notification shall be made by the most expeditious method available and shall include as much of the following information as is available:

- (a) Model designation.
- (b) Serial number.
- (c) Identification of the part, component, or system involved.
- (d) Nature of the failure, malfunction, or defect.

2. In Part 37, § 37.17 is amended as follows: the heading is revised, the substance of that section is designated as paragraph (b) and a new paragraph (a) is added. As amended, § 37.17 reads as follows:

§ 37.17 Notification of failures, malfunctions, and defects.

(a) Each manufacturer holding a TSO authorization under this part, shall within twenty-four (24) hours after it discovers or is informed of a failure, malfunction, or defect in any article manufactured by it, notify the FAA Regional Office in the region in which it is located of any such failure, malfunction or defect that could result in a hazard to flight. The notification shall be made by the most expeditious method available and shall include as much of the following information as is available:

- (1) Model designation.
- (2) Serial number.
- (3) Identification of the part, component, or system involved.
- (4) Nature of the failure, malfunction, or defect.

(b) Whenever the investigation of an accident or service difficulty report shows that an article manufactured under a TSO authorization is unsafe because of a manufacturing or design defect, the manufacturer shall, upon the request of the Administrator, report to the Administrator the results of his investigation and any action, taken or proposed by the manufacturer, to correct that defect. If action is required to correct the defect in existing articles, the manufacturer shall submit to the appropriate Chief, Engineering and Manufacturing Branch (in the case of the Western Region, the Chief, Aircraft Engineering Division), the data necessary for the issue of an appropriate airworthiness directive.

3. Part 121 is amended by amending paragraph (f) of § 121.703 to read as follows:

§ 121.703 Mechanical reliability reports.

(f) Failures, malfunctions, or defects reported under § 21.3 or 37.17 of this chapter or under the accident reporting provisions of Part 430 of the regulations of the National Transportation Safety Board need not be reported under this section.

4. Part 127 is amended by amending paragraph (f) of § 127.313 to read as follows:

§ 127.313 Mechanical reliability reports.

(f) Failures, malfunctions, or defects reported under § 21.3 or 37.17 of this chapter or under the accident reporting provisions of Part 430 of the regulations of the National Transportation Safety Board need not be reported under this section.

5. Part 135 is amended by amending paragraph (f) of § 135.57 (published in the *FEDERAL REGISTER* on Dec. 3, 1969, 34 F.R. 19130, 19136) to read as follows:

§ 135.57 Mechanical reliability reports.

(f) Failures, malfunctions, or defects reported under § 21.3 or 37.17 of this chapter or under the accident reporting provisions of Part 430 of the regulations of the National Transportation Safety Board need not be reported under this section.

6. Part 145 is amended as follows:

(a) § 145.63 is amended by adding a new paragraph (c) to read as follows:

§ 145.63 Reports of defects or unairworthy conditions.

(c) Defects or malfunctions reported under § 21.3 or 37.17 of this chapter need not be reported under this section.

(b) Section 145.79 is amended by adding a new paragraph (d) to read as follows:

§ 145.79 Records and reports.

(d) Defects or unairworthy conditions reported under § 21.3 or 37.17 of this chapter need not be reported under this section.

(Secs. 313(a), 601, 603, 604, 607, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423, 1424, 1427, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 11, 1970.

G. S. MOORE,
Acting Administrator.