

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10667; Amdt. No. 121-83]

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

Retention of Flight Recorder Data

The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to increase the retention period for certain flight recorder data from 1 hour to 25 hours, and to permit 1 hour of the required 25 hours to be used for test purposes. The amendment is also applicable to air taxi operations using large aircraft, as provided in § 135.2.

This amendment is based on a notice of proposed rule making, Notice No. 70-46, published in the FEDERAL REGISTER on November 7, 1970 (35 F.R. 17193). All but one of the four public comments received were in favor of the proposal. Based in part on the points raised by the dissenting commentator, minor changes have been made in the amendment as proposed.

Amendment 121-66 (effective September 18, 1970, 35 F.R. 13191) amended § 121.343 to require that additional flight recorder data be recorded on board large turbine engine powered airplanes type certificated after September 30, 1969, and for all other large airplanes type certificated after September 30, 1969, for operation above 25,000 feet. As a part of that addition, the amendment required

that the newly required data be retained for 1 hour, as opposed to the 25-hour retention requirement for data that was required under § 121.343(a)(1). Although a 1-hour retention requirement was adopted, the preamble to the Amendment indicated that due to the current and expected state of the art a 25-hour retention requirement for the newly required data would, if feasible, be the subject of further rule-making action. Based on Notice 70-46, this amendment completes that rule making and adopts a 25-hour retention requirement for the new data as prescribed in § 121.343(a)(2).

The one commentator who objected to the notice, did so on the basis of language in the preamble which indicated that in the case of feasible magnetic tape, the recorder would have to have a capacity greater than 25 hours in order to meet the 25-hour retention requirement and still permit testing without removal of tape. The commentator stated that the majority of recorders being manufactured today are limited to a 25-hour data retention capacity, and thus the 25-hour retention requirement would preclude testing of the flight recorder or flight recorder system without removing the tape or erasing part of the information recorded on it. Accordingly, it was recommended that up to 15 hours of tape time be permitted to be expended for test purposes.

The FAA agrees with this comment to the extent that a reasonable amount of test time is necessary in order to insure an effective recorder system. However, the agency does not agree that the 15 hours recommended is reasonable, because 10 hours of taped information will not yield sufficient operating history for the airplane for the purpose of accident investigation. After examining the current flight recorder technology and obtaining the views of recorder manufacturers, the FAA has determined that a total of 1 hour of tape time is reasonable

and sufficient for the purpose of testing the flight recorder or flight recorder system without removing the tape. In addition, as pointed out by the commentator, its objection relates as well to the current 25-hour retention requirement for data prescribed in § 121.343(a)(1). Accordingly, the provision for up to 1 hour of tape time for testing is made applicable to this data as well.

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

In consideration of the foregoing, paragraph (c) of § 121.343 of the Federal Aviation Regulations is amended, effective January 10, 1972, to read as follows:

§ 121.343 Flight recorders.

(c) Except as provided in paragraph (d) of this section, and except for recorded data erased as authorized in this paragraph, each certificate holder shall keep the recorded data prescribed in paragraph (a) of this section until the airplane has been operated for at least 25 hours of the operating time specified in § 121.359(a). A total of 1 hour of recorded data may be erased for the purpose of testing the flight recorder or the flight recorder system. Any erasure made in accordance with this paragraph must be of the oldest recorded data accumulated at the time of testing. Except as provided in paragraph (d) of this section, no record need be kept more than 60 days.

(Secs. 313(a), 601, 804, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1424; Sec. 6 (c), Department of Transportation Act, 49 U.S.C. 1655(e))

Issued in Washington, D.C., on December 3, 1971.

J. H. SHAFER,
Administrator.

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