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TITLE 14 - AERONAUTICS AND SPACE

CHAPTER I - FEDERAL AVIATION AGENCY

[Regulatory Docket No. 580; Amendment 43-13]

Pt 43

PART 43 - GENERAL OPERATION RULES

Installation and Use of Flight Recorders in Certain Airplanes Used by Air Carriers and Commercial Operators

The currently effective provisions of Parts 40, 41, and 42 of the Civil Air Regulations require the installation and use of an approved flight recorder on all large airplanes (more than 12,500 pounds maximum certificated takeoff weight) certificated for operations above 25,000 feet, and on all large turbine-powered airplanes, when such airplanes are being operated under the terms of an air carrier or commercial operator certificate. These rules are not applicable while the airplanes are being used by an air carrier or a commercial operator for flight checks, training flights, ferry flights, airworthiness test flights, or other operations conducted in accordance with the general operation rules of Part 43.

Civil Air Regulations Draft Release No. 60-18, dated November 23, 1960 (25 F.R. 12299, 12524), proposed to amend Part 43 to require the holder of an air carrier or commercial operating certificate to have installed and in operation an approved flight recorder on all large turbine-powered airplanes, and on all other large airplanes certificated for operation above 25,000 feet, when such airplanes are being used for flights conducted in accordance with the general operation rules. For purposes of clarity, the usual types of operation to which the rule would be applicable were listed in the proposal as flight checks, training flights, ferry flights, or airworthiness test flights. Provisionally certificated airplanes falling

within the scope of this proposed rule were to be allowed until May 1, 1961, to comply.

As stated in Draft Release 60-18, the safety considerations which formed the basis of the flight recorder provisions of Parts 40, 41, and 42 are equally applicable to other operations, such as flight checks, training flights, airworthiness test flights, and ferry flights, when such flights are conducted by air carriers and commercial operators with large airplanes certificated for operation above 25,000 feet and with large turbine-powered airplanes. It is essential, therefore, that information be obtained for accident investigation and other safety purposes when these airplanes are being used to conduct any flight, regardless of the regulations under which such flights are conducted.

All comments received in response to Draft Release 60-18 indicated general concurrence with the rule as proposed. However, several persons pointed out the need for greater flexibility in the conduct of ferry flights with an inoperative flight recorder, and of airworthiness test flights with the recorder turned off. In light of these comments, the rule as adopted herein will permit the ferry flight of a newly acquired airplane not equipped with a flight recorder from the place of delivery to a base where a recorder is to be installed. Also, the rule will permit an airplane with an inoperative flight recorder, when located at a place where repair or replacement facilities are not available, to be ferried to a place where the recorder can be repaired or replaced. In addition, in the event of failure of the flight recorder after the airplane becomes airborne on a ferry flight, the flight will be permitted to continue as planned, rather than required to

terminate at the next stop where repairs or replacements can be made. Provisions have also been included to allow the flight recorder to be turned off during airworthiness test flights conducted to test the operations of the recorder, or communication or electrical systems, when the successful conduct of such tests so requires.

Since the effective date of this amendment is later than the May 1, 1961, compliance date proposed for provisionally certificated airplanes, the requirement for flight recorders on such airplanes is not stated as a separate provision in the rule. However, the requirement for flight recorders, as set forth herein, is applicable to provisionally certificated airplanes.

Interested persons have been afforded 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, Part 43 of the Civil Air Regulations (14 CFR Part 43, as amended) is amended by adding a new § 43.32 to read as follows, effective June 6, 1961.

43.32 Flight recorders.

(a) The holder of an air carrier or commercial operator certificate shall not operate any of the following airplanes in the conduct of flights (other than a ferry flight conducted for the purpose of delivering a newly acquired airplane from the place where an air carrier or commercial operator takes possession to a base where a flight recorder is to be installed), unless there is installed on the airplane an approved flight recorder which records at least time, altitude, airspeed, vertical acceleration, and heading:

(1) Airplanes of more than 12,500 pounds maximum certificated takeoff weight which are certificated for operations above 25,000 feet altitude;

(2) Turbine-powered airplanes of more than 12,500 pounds maximum certificated takeoff weight.

(b) When an air carrier or commercial operator conducts a flight with an airplane which has a flight recorder installed as required by paragraph (a) of this section, the flight recorder shall be operated continuously from the instant the pilot commences the takeoff roll until he has completed the landing roll at a place of landing, subject to the following exceptions:

(1) If an airplane with an inoperative flight recorder is located at a place where facilities for the repair or replacement of the recorder are not available, the airplane may be ferried with the flight recorder inoperative to a base where the recorder can be repaired or replaced.

(2) If the flight recorder becomes inoperative after the airplane has become airborne, the particular flight may be continued and completed as originally planned.

(3) During an airworthiness flight test, the flight recorder may be turned off for any period of time necessary to conduct tests of the operation of the recorder, or any communication or electrical equipment, installed in the airplane.

(c) Recorded information shall be retained by the air carrier or commercial operator for a period of at least 60 days. For a particular

flight or series of flights, the information shall be retained for a longer period if requested by an authorized representative of the Administrator or the Civil Aeronautics Board.

(Secs. 313(a), 601; 72 Stat. 752, 775; 49 U.S.C. 1354(a), 1421)

N E Halaby

Administrator

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TITLE 14 - AERONAUTICS AND SPACE

CHAPTER I - FEDERAL AVIATION AGENCY

[Regulatory Docket No. 832 ; Amendment No. 43- 147]

PART 43 - GENERAL OPERATION RULES

Use of Private Pilots in Charity Airlifts

Section 43.60 of the Civil Air Regulations provides that a private pilot shall not pilot aircraft for compensation or hire. However, this regulation also provides that a private pilot may pilot aircraft in connection with a business if the flight is merely incidental thereto; and that an aircraft salesman holding a private pilot certificate may demonstrate aircraft in flight to a prospective purchaser if he has logged 200 hours of pilot flight time.

For many years charitable organizations used the "Charity Airlift" as a means of raising funds. In such an airlift, the charitable organization offered an airplane ride in exchange for a personal donation. Many of the rides were given in aircraft furnished and operated by private pilots who provided their services without compensation. The money donated by the passengers was retained by the charitable organization, and no payment for the service rendered was made to the pilot or aircraft owner; however, in some cases the organization paid for or supplied the fuel and oil consumed during the flights.

Shortly before the Federal Aviation Agency was established, Civil Aeronautics Board Examiners rendered several opinions on violation cases involving private pilots who had donated their services for fund-raising

flights. The Examiners concluded that § 43.60 required pilots engaging in such flights to hold commercial pilot certificates. For some time thereafter, the Federal Aviation Agency permitted the operation of charity airlifts using private pilots, by issuing an individual exemption to the sponsor of each airlift. These exemptions specified safety requirements believed necessary for the particular airlift being conducted. This procedure was discontinued in June 1960 on the premise that passengers who receive rides because of charitable donations are entitled to fly with pilots who meet commercial pilot standards.

In May of 1961, the National Foundation (March of Dimes) petitioned the Federal Aviation Agency to reconsider the matter of charity airlifts involving private pilot participation. The Foundation pointed out that the prohibition against the use of private pilots for such airlifts had adversely affected fund-raising efforts and that the practical effect had been to reduce pilot participation in the 1961 March of Dimes airlifts by nearly 75 percent. They suggested an amendment to the regulations, with the incorporation of special provisions as necessary, which would permit private pilots to participate in charity airlifts.

Consideration has been given to their petition. We have determined that (1) the use of private pilots operating under reasonable restrictions and with adequate supervision should provide a level of safety comparable to that expected of a commercial operation; (2) the heavy administrative burden formerly associated with the issuance of specific exemptions would be eliminated by an appropriate amendment to Part 43 of the Civil Air

Regulations; and (3) private pilot participation in charity airlifts, with suitable safety provisions, is in the public interest.

Since this amendment relieves a restriction and delay in extending such relief would impose an unnecessary burden on certain persons, the Administrator for good cause finds that notice and public procedure hereon would be contrary to the public interest and may be omitted, and that this amendment may be made effective on less than 30 days' Notice.

In consideration of the foregoing, § 43.60 of Part 43 of the Civil Air Regulations (14 CFR Part 43, as amended) is hereby amended to read as follows, effective August 9, 1961 :

43.60 Private pilot. A private pilot shall not pilot aircraft for compensation or hire, except as provided in paragraphs (a) through (c) of this section.

(a) A private pilot may pilot aircraft in connection with any business or employment, if the flight is merely incidental thereto and does not involve the carriage of persons or property for compensation or hire.

(b) An aircraft salesman holding a private pilot certificate may demonstrate aircraft in flight to a prospective purchaser if he has at least 200 hours of flight time credited in accordance with the provisions of Part 20 of the Civil Air Regulations.

(c) Subject to the provisions of subparagraphs (1) through (6) of this paragraph, a private pilot may pilot an aircraft used in a passenger-carrying airlift sponsored by a charitable organization, where the passengers make a donation to the organization for such carriage.

NOTE: For the purpose of this regulation, charitable organizations are those listed in Publication No. 78 of the U. S. Treasury Department entitled "Cumulative List, Organizations Described in Section 170(c) of the Internal Revenue Code of 1954," and additions thereto. This list is compiled by the Internal Revenue Service and is issued by the Superintendent of Documents, Government Printing Office, Washington 25, D. C., and is available for reference at District Offices of the Internal Revenue Service.

(1) The sponsor of the airlift shall notify the FAA General Aviation District Office having jurisdiction over the area concerned, at least 7 days in advance, and shall furnish that office with any essential information regarding the airlift, on request.

(2) All flights shall be conducted from public airports adequate for the aircraft used, or from other airports that have been approved for the operation by an FAA inspector.

(3) Each participating private pilot shall have logged at least 200 hours of flight time credited in accordance with the provisions of Part 20 of the Civil Air Regulations.

(4) No acrobatic or formation flights shall be conducted.

(5) Each aircraft used shall be certificated in the standard category, and shall comply with the 100-hour inspection requirement of § 43.22.

(6) All flights shall be conducted in conformity with visual flight rules and during daylight hours.

(Secs. 313(a), 601, 72 Stat. 752, 775, 49 U.S.C. 1354, 1421)

Administrator

Issued in Washington, D. C., on August 1, 1961.

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