

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 21, 121, and 135**

[Docket No.: FAA-2005-23495; Amendment No. 21-87, 121-321, 135-104]

RIN 2120-AI67

Maintenance Recording Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends FAA regulations dealing with recording of maintenance data for large, transport category, propeller-driven aircraft. It changes the requirement for recording engine and propeller "total time in service" for certain aircraft operated under part 121. These relieving changes are necessary to correct an oversight in the rule when it was originally drafted in 1996. The amendment removes the requirement to record total time in service for engines and propellers installed on certain aircraft certificated for cargo operations. We are also amending sections of parts 21 and 135 to correct several outdated references to sections previously deleted in parts 121 and 135.

DATES: This amendment becomes effective February 3, 2006.

FOR FURTHER INFORMATION CONTACT: Emilio Estrada, Aircraft Maintenance Division, Air Carrier Maintenance Branch, AFS-330, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-5571; facsimile (202) 267-5115, e-mail emilio.estrada@faa.gov.

SUPPLEMENTARY INFORMATION:**Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or
- (3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact its local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Authority for this Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart III, section 44713. Under that section, the FAA is charged with prescribing regulations related to aircraft inspections and maintenance.

Background

In 1996, the FAA issued significant amendments to part 121, including new requirements for maintenance records. The 1996 amendments contained new rules for tracking "total time in service" for aircraft engines and propellers. An exception to this requirement allows operators of certain large aircraft having a passenger seating capacity of more than 30 seats to use the "time since last overhaul after January 19, 1996," or to record the total time after March 20, 1997.

The FAA phrased this exception in this way so the new requirements would not apply to certain large, propeller-driven aircraft used in commuter operations, generally in the State of Alaska. The FAA intended this exception to also include large propeller-driven aircraft used for cargo

operations (not just passenger operations). By using the phrase " * * * transport category airplane with a passenger seat configuration of more than 30 seats * * * " the regulation could be interpreted to exclude transport category "cargo" airplanes.

This final rule amends that exception to include the word "cargo airplanes" in maintenance recordkeeping requirements, so that the exception will include large, propeller-driven airplanes certificated as a cargo aircraft instead of a passenger aircraft.

In this final rule, we are also correcting several erroneous citations in 14 CFR parts 21 and 135:

- Section 21.197(c) cites §§ 121.79 and 135.17 when referring to amendments of operations specifications by the Administrator. In 1995, the FAA eliminated those sections (60 FR 65939, Dec. 20, 1995) and recodified them in § 119.51. The FAA inadvertently left the reference unchanged. In this action, we are replacing the references to §§ 121.79 and 135.17 with § 119.51.

- Similarly, we are amending § 135.419 by replacing the reference to § 135.17 with § 119.51.

- We are inserting a reference to § 91.1017 into § 21.197(c). Section 91.1017 contains requirements for management specifications; this information had been omitted in a previous amendment to part 21 (60 FR 65913, Dec. 12, 1995).

Paperwork Reduction Act

An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. Information collection requirements associated with this final rule have been approved previously by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120-0008.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is the FAA's policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the ICAO Standards and Recommended Practices and found no corresponding regulations.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and the benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this rulemaking indicates that its economic impact is minimal because very few operators will be affected by the change. Because the costs and benefits of this action do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory impact analysis." Similarly, we have not prepared a full "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory and Policies and Procedures. We do not need to do a full evaluation where the economic impact of a rule is minimal.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If

the expected cost impact is so minimal that a proposal does not warrant a full evaluation, this Order permits a statement to that effect. The basis for the minimal impact must be included in the preamble, if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for that determination follows:

Since this final rule merely revises and clarifies certain FAA regulations, the expected outcome will have a minimal impact with some possible net benefits, and a regulatory evaluation was not prepared. The FAA has determined this rulemaking action is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures. In addition, the FAA has determined that this rulemaking action: (1) Will not have a significant economic impact on a substantial number of small entities; (2) will not affect international trade; and (3) will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and information requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies consider flexible regulatory proposals, to explain the rationale for their actions, and to solicit comments. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rule merely revises and clarifies certain FAA regulations; the expected outcome will have only a minimal impact on any small entity affected by this rulemaking action. Consequently, the FAA Administrator certifies that the rulemaking action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded

from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 307(k) and involves no extraordinary circumstances. This rulemaking changes maintenance record requirements for certain transport category aircraft.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the Executive Order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

14 CFR Part 21

Certification procedures for products and parts, Airworthiness certificates, Special flight permits.

14 CFR Part 121

Operating requirements: Domestic, flag, and supplemental operations; Maintenance, preventive maintenance, and alterations; Maintenance recording requirements.

14 CFR Part 135

Operating requirements: Commuter and on demand operations and rules governing persons on board such aircraft; Maintenance, Preventive maintenance, and alterations.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration

amends Chapter I of Title 14, Code of Federal Regulations as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44707, 44709, 44711, 44713, 44715, 45303.

■ 2. Amend § 21.197 to revise paragraph (c) introductory text to read as follows:

§ 21.197 Special flight permits.

* * * * *

(c) Upon application, as prescribed in § 119.51 or § 91.1017 of this chapter, a special flight permit with a continuing authorization may be issued for aircraft that may not meet applicable airworthiness requirements but are capable of safe flight for the purpose of flying aircraft to a base where maintenance or alterations are to be performed. The permit issued under this paragraph is an authorization, including conditions and limitations for flight, which is set forth in the certificate holder's operations specifications. The permit issued under this paragraph may be issued to—

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

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

Authority: 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 41721, 44105, 44106, 44111, 44701–44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

■ 2. Amend § 121.380 to revise paragraph (b) to read as follows:

§ 121.380 Maintenance recording requirements.

* * * * *

(b) A certificate holder need not record the total time in service of an engine or propeller on a transport category cargo airplane, a transport category airplane that has a passenger seat configuration of more than 30 seats, or a nontransport category airplane type certificated before January 1, 1958, until the following, whichever occurs first:

(1) March 20, 1997; or

(2) The date of the first overhaul of the engine or propeller, as applicable, after January 19, 1996.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 1. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 2. Revise paragraph (a) in § 135.419 to read as follows:

§ 135.419 Approved aircraft inspection program.

(a) Whenever the Administrator finds that the aircraft inspections required or allowed under part 91 of this chapter are not adequate to meet this part, or upon application by a certificate holder, the Administrator may amend the certificate holder's operations specifications under § 119.51, to require or allow an approved aircraft inspection program for any make and model aircraft of which the certificate holder has the exclusive use of at least one aircraft (as defined in § 135.25(b)).

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Issued in Washington, DC, on December 28, 2005.

Marion C. Blakey,
Administrator.

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