Part 49
Recording of Aircraft Titles and Security Documents

This edition replaces the existing loose-leaf Part 49 and its changes.

This FAA publication of the basic Part 49, effective August 18, 1964, incorporates Amendments 49–1 through 49–9 with preambles.

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The purpose of the new Parts is to revise Parts 501 "Registration of Aircraft," 502 "Dealers' Aircraft Registration Certificates," 503 "Recordation of Aircraft Ownership," 504 "Recordation of Encumbrances Against Specifically Identified Aircraft Engines and Propellers," and 505 "Recordation of Encumbrances Against Aircraft Engines, Propellers, Appliances, or Spare Parts," of the Regulations of the Administrator. The new Parts reduce to two the number of these related regulations on registration and recordation. Also, in order to avoid issuance and then immediate reissuance in a recodified form, the revision is issued as a part of the program of the Federal Aviation Agency to recodify its regulatory material, in conformity with the "Outline and Analysis" for the proposed recodification contained in Draft Release No. 61–25, published in the Federal Register for November 15, 1961 (26 FR 10698).

In the new Parts, provisions generally applicable to persons and transactions are brought together in one place, designated Subpart B in each Part, to avoid redundancy. Substantively, the revision continues to permit operation of aircraft not last previously registered in a foreign country upon transmission of the registration application to the FAA (§ 47.31(b)), and provides for the issuance of a temporary certificate of registration pending review of documents submitted and issuance of the permanent certificate. The revision also provides for increased registration and recordation fees, changes the procedures for special aircraft identification numbers, and introduces other changes designed to clarify the rules and implement their administration.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matters presented. Comments were received on several proposals. Thus, the date and time a conveyance is received by the FAA Aircraft Registry will be considered the effective date of filing for recordation (§ 49.19). This implements the provision of section 503(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1403) that a recorded conveyance should have effect from the time of its filing for recordation. For the latter reason, the new Part 47 also provides that the FAA will consider an aircraft, except one last previously registered in a foreign country, to be registered under it when the required documents are received by the FAA Aircraft Registry (§ 47.39(a)). Several comments urged that the date of mailing or delivery, as provided under Part 501, should be continued as the controlling time. However, the Agency has determined that the new provision permits a more precise determination of priority.

This revision does not change the rule of Part 501 that aircraft last previously registered in a foreign country may not be operated prior to registration (§§ 47.31(b) and 47.39(b)). This applies, of course, only to aircraft brought into this country for registration and does not affect aircraft of foreign registration which are merely flown in and out of this country. The FAA considers as registered an aircraft previously registered in a foreign country, only after the required documents have been received and examined by the FAA Aircraft Registry and the duplicate of the temporary certificate returned to the applicant (§ 47.39(b)). One comment objected to this provision. However, the provision merely clarifies the pre-existing rule.

Some comments were adverse to the increases in fees. Upon further consideration it was found possible to reduce the fee for special identification numbers from $20 to $10, but otherwise the Agency adheres to its determination on the basis, stated in the Notice, that these increases were derived from a consideration of the cost of the services involved as compared with the amounts of user charges collected for these activities. Opposition also was expressed to the bar against recording notices of Federal tax liens under new Part 49. This provision is retained principally because, as stated in the Notice of Proposed Rule Making, these notices are required to be filed elsewhere by the Internal Revenue Code.

In several instances, the suggestions made in comments have been adopted, at least in part. Thus, the reserve status of a special identification number reserved for later assignment may be renewed from year to year upon request accompanied each year by the fee for a special identification number (§ 47.15(h)). Also, the 30-day period specified in § 47.31(b) for temporary authorization to operate aircraft, upon transmission of an application for registration, is extended for such additional time as the applicant may need to begin carrying the temporary or regular certificate in the aircraft. This alleviates situations in

the deceased's registration in effect for 30 days after his death.

The Air Transport Association of America (ATA) requested a hearing on the issues raised in its comments. A meeting was held between representatives of ATA and Agency staff members at which these issues were discussed, and a summary report of the meeting was entered in the rule-making docket.

The citation of form numbers has been changed from "Form FAA–818" (to give an example) to "FAA Form 818." At the same time, Parts A, B, and C of Form 500 have been redesignated Forms 500–1, 500–2, and 500–3, as appears in § 47.31(a). The part of the Form 500 which consists of the final registration certificate is being omitted and the certificate will be furnished by the FAA Aircraft Registry. A new Form 3475 for assignment of special identification numbers is being introduced. No substantive amendments are involved in theses changes.

In consideration of the foregoing, effective August 18, 1964, Chapter III of Title 14 of the Code of Federal Regulations is amended by deleting Parts 501, 502, 503, 504, and 505, and § 406.14(c) and (d), of the Regulations of the Administrator, and Chapter I of that title is amended by adding Parts 47 [New]* and 49 [New] of the Federal Aviation Regulations as hereinafter set forth.

This amendment is issued under the authority of sections 313(a), 501, 503, 505, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1401, 1403, 1405, 1502), and the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830).

Amendment 49–1

Amendments to Part 49

Adopted: March 10, 1966 **Effective: May 1, 1966**

(Published in 31 FR 4494, March 17, 1966)

The purpose of this revision is to delete from Parts 47 and 49 the acknowledgment requirement of section 503(e) of the Federal Aviation Act of 1958; to introduce new forms adapted to computer processing of Certificates of Aircraft Registration; to allow the recording and use of true copies; and to make clarifying and editorial changes. Since almost all of Part 47 is affected, it is being republished in revised form at this time.

P.L. 88–346 amended section 503(e) of the Federal Aviation Act of 1958, and added section 506 to the Act. Amended section 503(e) allows the Administrator to make exceptions by regulation to the requirement that a conveyance or other instrument be acknowledged before it is recorded. New section 506 resolves a problem of conflicts of law by providing that the law of the place of delivery (within the United States) of an instrument governs the validity of the instrument. Also, section 506 creates a presumption that, when the place of intended delivery is stated in an instrument, the instrument was delivered at that place.

The Agency is implementing amended section 503(e) by deleting the acknowledgment requirement from Parts 47 and 49. In concluding that an acknowledgment is an unnecessary condition for recording, the draftsmen of the Uniform Commercial Code have stated: "This section departs from the requirements of many chattel mortgage statutes that the instrument filed be acknowledged or witnessed or accompanied by affidavits of good faith. Those requirements do not seem to have been successful as a deterrent to fraud; their principal effect has been to penalize good faith mortgagees who have inadvertently failed to comply with the statutory niceties. They are here abandoned in the interest of a simplified and workable filing system." (Comment 3, § 9–402 of the Uniform Commercial Code.) This reasoning applies to the National Aircraft Recording System. In addition, since the lack of an acknowledgment results in the

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*FAR Part 47 [New] is published separately.

FAA Form 8050–3, "Certificate of Aircraft Registration". As in the past, the applicant would carry a duplicate copy of the Application for Aircraft Registration as temporary operating authority that is valid no more than 30 days. If for any reason, the FAA Aircraft Registry cannot issue the Certificate of Aircraft Registration within the 30 day period, it will issue a letter of extension. The letter serves as authority to continue to operate the aircraft when it is carried in the aircraft with the copy of the Application.

As now written, § 49.33(c) permits the recording of a "certified copy" of a document when neither the original nor a duplicate original is available. In effect, a person who wishes to record a document at the FAA Aircraft Registry in such a situation is forced to first record the instrument under local law, to have a certified copy prepared, and to submit the certified copy to the FAA Aircraft Registry. This is an unnecessary burden. In the light of the sanction of section 1001 of Title 18 of the United States Code, the Agency will accept true copies of documents when the person submitting them attaches his certificate of true copy as provided in § 49.21, and § 49.33(c) is amended to permit this practice.

Other clarifying amendments are adopted. Parts 47 and 49 are amended to use the phrase "evidence of ownership" rather than "proof of ownership", since the Agency issues a Certificate on the basis of the "evidence" an applicant submits with his application. In several sections, the applicant is required to submit a "verified instrument". Since this language has resulted in several inquiries as to what is required, these sections are amended to require an "affidavit". On March 13, 1965, the Agency published its Organization Statement in the Federal Register (30 FR 3395). Paragraph 5(c) (2) of Subpart B, "Agency Organization", states that the "FAA Aircraft Registry" administers Parts 47 and 49 (30 FR 3399). Sections 47.19 and 49.11 are amended to reflect this designation, and to add the Post Office Box number to the address. None of the other editorial and clarifying changes to Part 47 made at this time involves any substantive change. Section 47.69(d) (1) is amended in conformity with outstanding interpretations to clarify that it relates to flight testing of aircraft only.

This amendment relaxes and clarifies existing requirements and does not impose additional burdens on any person. Therefore, the Agency finds that notice and public procedure thereon are not necessary.

In consideration of the foregoing, effective May 1, 1966, Part 47[1] is revised and Part 49 is amended as hereinafter set forth.

The reporting and recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942 (5 U.S.C. 139–139f).

These amendments are made under the authority of sections 307(c), 313(a), 501, 503, 505, 506, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1401, 1403, 1405, 1406, and 1502), and the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830).

Amendment 49–2

Validity of Powers of Attorney

Adopted: December 6, 1966 **Effective: August 18, 1966**

(Published in 31 FR 15349; December 8, 1966)

The purpose of these amendments is to relieve the limitations imposed by §§ 47.13(g) and 49.13(d) on authorizations for a person to sign for another, including powers of attorney. As currently written, both sections limit the validity of these authorizations, for the purposes of registration of aircraft and recordation of aircraft titles and security documents, to a period of two years. However, the validity

[1] Part 47 is published separately.

would be onerous and time consuming, especially in cases where action by a corporate board of directors would be required, and would not have any retroactive effect. Another alternative would be to leave the documents as recorded with the question unsolved. This method is rejected as likely to create more problems in the future, thereby necessitating a more complex solution in the future. Therefore, the purpose of this amendment is to remove a procedural requirement that does not affect the substantive validity of any document. The amendments are made effective retroactively to August 18, 1966 to correct the administrative deficiency and to generally extend the validity of authorizations until August 18, 1967.

The intent of the amendments is to specifically validate each recording or filing, under Part 47* or 49 of the Federal Aviation Regulations, of any document that would otherwise be technically ineligible for recording or filing by operation of § 47.13(g) or 49.13(d) as they read immediately before the date of adoption of these amendments.

These amendments do not postpone or otherwise affect the expiration date of any power of attorney or other authorization beyond the time fixed by its terms or otherwise. In addition, they in no way constitute Agency disposition of the proposal to amend § 47.13 in the Notice of Proposed Rule Making 66–27 of July 26, 1966 (31 FR 10282). Since these amendments are procedural in nature, and relieve a restriction, notice and public procedure thereon are unnecessary and the effective date provisions of 5 U.S.C. § 553(d) do not apply.

In consideration of the foregoing, Chapter I of Title 14 of the Code of Federal Regulations is hereby amended effective August 18, 1966.

These amendments are made under section 313(a) and Title V of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1401–1406).

Amendment 49–3

Aircraft Registration: Miscellaneous Changes

Adopted: April 24, 1967 **Effective: June 1, 1967**

(Published in 32 FR 6553, April 28, 1967)

The purpose of this action is to dispose of the proceedings instituted by Federal Aviation Agency Notice of Proposed Rule Making 66–27, Changes in Certain FAA Aircraft Registry Procedures (31 FR 10282; Docket 7523). Notice 66–27 proposed to limit the activities of the FAA Aircraft Registry to those essential to the discharge of its legally required functions, for the purposes of simplifying and speeding procedures and further increasing the efficiency and reducing the operating costs of the Registry. The principal specific proposals were (1) severance, to the extent possible, of the interrelationship between aircraft registration and recordation of rights in aircraft; (2) permitting registration to continue (for purposes other than operation of the aircraft) in a former owner's name as long as title remained in a U.S. citizen, and correspondingly permitting recordation of documents indicating ownership in a U.S. citizen other than the holder of the last-issued registration certificate; and (3) discontinuation of the "chain of title" requirement. The Notice set forth the actual changes proposed in the text of the regulations and explained them in detail.

Certain comments received indicated a belief that the Agency intended the proposed changes to diminish the nation-wide notice effect of recordation under section 503(d) of the Federal Aviation Act (49 U.S.C. 1403(d)), and the protection form unrecorded prior claims that section 503(c) (49 U.S.C. 1403(c)) affords to persons acquiring rights in aircraft without actual knowledge of those claims. These changes were not intended, and the FAA has no authority under the Federal Aviation Act to make

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*Part 47 is published separately.

determining rights in aircraft.

The comments received almost unanimously opposed the proposal to eliminate the chain of title requirement. The proposal to allow aircraft to remain registered in the name of a former owner for non-operative purposes drew more opposition than support, and the proposal to sever the connection between registration and recordation of rights was also opposed by many of the comments.

In light of these comments, the FAA has determined that a further study of these matters is necessary before determining what policy it will adopt. If, after further study of the matter, the FAA determines to propose further changes to the rules in this area it will issue a new notice of proposed rule making. Those parts of Notice 66–27 that are not adopted as rules by this action are hereby withdrawn.

However, the proposed amendments to §§ 47.13 and 47.47 are substantially adopted at this time. At present § 47.13(d) requires submission of a copy of an authorization from the Board of Directors of a corporation if a person other than the president, vice-president, treasurer or secretary signs for the corporation, and this requirement is made applicable to the recordation of conveyances by § 49.13(b). The notice proposed deletion of the requirement for submission of an authorization from the Board of Directors and acceptance by the Registry of a conveyance signed by any "authorized person" who has any "title" of an "office" in the corporation. One comment opposed this change on the ground that it could mislead third persons to rely on the action of an agent of a corporation who is actually exceeding his authority. In light of this comment § 47.13(d) is amended to extend the present rule applicable to the four named corporate officers to all persons holding a corporate office or managerial position in the corporation, but not to outside agents.

The proposed amendment of § 47.47(b) is being adopted so far as it codifies the existing practice protecting lien holders in compliance with the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830) of which the United States is a member.

In addition, as an editorial matter §§ 47.19 of Part 47 and 49.11 of Part 49 are amended to reflect the correct address of the FAA Registry.

In consideration of the foregoing, FAR Parts 47 * and 49 (14 CFR Parts 47 and 49) are amended, effective June 1, 1967.

These amendments are made in the authority of sec. 313 and Title V of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1401 et seq.).

Amendment 49–4

Technical Amendments

Adopted: September 21, 1967 **Effective: September 29, 1967**

(Published in 32 FR 13505, September 27, 1967)

The purpose of these amendments is to update the address of the FAA Aircraft Registry and to correct a technical error in Amendment 47–4 which was printed in the Federal Register on August 30, 1967 (32 FR 12555).

The address of the FAA Aircraft Registry contained in § 47.19 of Part 47 and § 49.11 of Part 49 is amended by addition of a reference to the Department of Transportation to reflect the position of the Federal Aviation Administration as a component of the Department. Section 47.15(a) is being restated in its correct form.

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* Part 47 is published separately.

Clarification on Recordings and Dealers' Aircraft Registration Certificates

Adopted: January 13, 1970 **Effective: January 21, 1970**

(Published in 35 FR 801, January 21, 1970)

The purpose of these amendments is to clarify certain provisions of Parts 47 and 49 of the Federal Aviation Regulations. Part 47 is amended to clarify the use of the Dealers' Aircraft Registration Certificates, and to provide that a person must be a United States citizen to be eligible to hold a dealer's certificate. Part 49 is amended to accommodate all recordings required by the Act against certain aircraft engines, aircraft propellers and spare parts.

The present implication of § 47.61(a)(1) is that a dealer's certificate may be used in aircraft which are under production by holders of type certificates in conjunction with a Special Flight Permit. Thus, any experimental or prototype aircraft of a manufacturer would be excluded by application of the section. However, under §§ 47.61(b) or 47.69(d) (1), a dealer would not be precluded from using a dealer's certificate for such aircraft. This matter is clarified by amending § 47.61(a)(1) so that manufacturers issued Dealers' Aircraft Registration Certificates are allowed to make any required flight tests of aircraft.

Section 505 of the Federal Aviation Act (49 U.S.C. 1405) provides for dealers' certificates and their use in connection with aircraft eligible for registration under the Act. The Act further requires in § 501 (49 U.S.C. 1401) that an aircraft shall be eligible for registration if, but only if, it is owned by a citizen of the United States. "Citizen of the United States" is defined in § 101(13) of the Act (49 U.S.C. 1301(13)). Section 47.65 is amended to conform with § 505 of the Act to provide that a person must be a United States citizen to be eligible for a Dealers' Aircraft Registration Certificate.

Sections 49.41(a) and 49.51(a) as they presently read appear to include as a requirement for the recordation of certain listed conveyances or liens that such instruments be executed for security purposes. These sections taken alone would appear to exclude the recordation of a lease not executed for security purposes. The Act in section 503(2) and (3) (49 U.S.C. 1403(2) and (3)) specifically provides for the recordation of "any lease", as well as mortgages, equipment trusts, etc., and other instruments, executed for security purposes and affecting the title to, or interest in, certain aircraft engines, aircraft propellers and spare parts. Although such leases are accepted for recordation by the aircraft registry as being within the purview of the Act, the regulations are not clear in this regard. As persons in the past may have relied upon the wording of sections 49.41(a) and 49.51(a) these sections are amended so that, except for the provision concerned with notice of tax lien or other lien, the wording of the sections more closely conforms with the language of the Act.

Sections 49.53(a) (2) as it presently reads, requires that one of the parties to the conveyance, submitted for recording under Part 49, Subpart E, must be an air carrier. However, the Act (49 U.S.C. 1403(a)(3)) does not require an air carrier to be a party to the mortgage, lease or other instrument for it to be recordable, but only requires that the aircraft engines, propellers or appliances sought to be recorded against be maintained by or on behalf of an air carrier certificated under § 604(b) (49 U.S.C. 1424(b)) of the Act. The language of the regulation imposes restrictions not imposed by the statute and appears to preclude recordation of instruments filed for recordation under Subpart E when the air carrier is not a party to the instrument.

The amendment to § 49.53(a) allows the recordation of conveyances affecting the title of engines and spare parts maintained by or on behalf of air carriers, although the air carrier for whom they are being maintained is not a party to the transaction. The amendment also requires that such conveyances shall be accompanied by a statement from the air carrier certificated under § 604(b) of the Act (49 U.S.C. 1424(b)).

Amendment 49–6

Validity Period of Signature Authorizations

Adopted: April 29, 1971 **Effective: May 11, 1971**

(Published in 36 FR 8661, May 11, 1971)

The purpose of these amendments is to relieve the limitation imposed by §§ 47.13(g) and 49.13(d) on the 3-year duration period for an authorization by one person to sign for another when the duration of that authorization is specifically stated therein; and to clarify certain other provisions of Part 47.

Amendments 47–2 and 49–2, effective August 18, 1966 (31 FR 15349, December 8, 1966), extended the validity of a power of attorney or other authorization by one person to sign for another from 2 to not more than 3 years after the date the instrument was signed. The amendments stated that a specified expiration of the validity of an authorization was imposed to improve the efficiency of the FAA's registration and recordation systems by purging obsolete records.

For FAA purposes, there is a need to limit the duration of an authorization. However, it is considered unnecessary to invalidate an authorization where the latter specifically provides for a duration longer than 3 years, or where its continuing effectiveness is reaffirmed by the appropriate person.

These amendments accordingly provide that an authorization may be valid for a period longer than 3 years where the instrument itself so provides. If no expiration date is so specified in the instrument itself the 3-year limitation on validity will continue to apply. However, these amendments also provide a method to extend the effective period of an authorization for additional 3-year periods upon appropriate reaffirmance in writing that the authorization is still in effect.

Additionally, these amendments make the applicable provisions in § 47.13(d)(3) consistent by providing that the person who may certify an authorization by the board of directors of a corporation is an officer or other person holding a managerial position in the corporation and the title of his office is stated in connection with his signature. Finally, an ambiguity in § 47.13(d)(3)(i) is removed by identifying ''the signer'' to be the person who signed the application or request.

Since these amendments are procedural in nature, notice and public procedure thereon are not necessary, and they may become effective on less than 30 days' notice

In consideration of the foregoing, Parts 47 and 49 of the Federal Aviation Regulations are amended, effective May 11, 1971.

(Section 313(a) and Title V of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1401–1406. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c). Section 1.47(a) of the Regulations of the Office of the Secretary of Transportation).

(1) clarify § 47.15(f) by specifically stating that an FAA Flight Standards District Office is the place where an applicant who is issued a special identification number may obtain a revised airworthiness certificate, and (2) update certain references to FAA form numbers.

When an aircraft owner applies for a special identification number to replace the one currently assigned to his aircraft, the FAA Aircraft Registry assigns a special identification number on AC Form 8050–64. Within five days after he affixes the number to his aircraft, the owner must complete and sign the receipt contained in that form, state the date he affixed the number to his aircraft, and return the original form to the FAA Aircraft Registry. He carries the duplicate form and present Certificate of Aircraft Registration in the aircraft as temporary authority to operate it. Section 47.15(f) has stated that the FAA then issues a revised Certificate of Aircraft Registration and an airworthiness certificate showing the special identification number.

The rule has not previously stated what FAA organizational unit issued the latter document. Additional language in § 47.15(f) indicates clearly that the FAA Aircraft Registry issues Certificates of Aircraft Registration. However, for over 3 years the applicant has been directed to the nearest Flight Standards District Office for an airworthiness certificate showing the new number, and this instruction has appeared on AC Form 8050–64 since September 1970. These amendments clarify the regulations by specifically including a statement of this procedure. The FAA is issuing simultaneously with these amendments a notice of proposed rule making to provide in Part 91 of the Federal Aviation Regulations that the owner must obtain an airworthiness certificate showing the net number within a specified period of time.

Section 47.15(f) has stated that the temporary authority to operate the aircraft, using the duplicate of AC Form 8050–64 and the present Certificate of Aircraft Registration, is valid only until the date the owner receives both the revised Certificate of Aircraft Registration and the revised airworthiness certificate. Expiration of the temporary authority has been conditioned on receipt of both revised certificates because it was anticipated that, since both would be issued by the Aircraft Registry, they would be sent to the owner together, and would be received simultaneously. However, under the present procedure, the FAA does not consider it necessary to continue the temporary authority until the owner also receives a revised airworthiness certificate, which may occur after be has already received the revised Certificate of Aircraft Registration, because the airworthiness certificate bears the model and serial number of the aircraft and thus applicability of the certificate to the aircraft is evident without display of the duplicate form. Accordingly, these amendments state that the temporary authority to operate the aircraft is valid until the date the owner receives the revised Certificate of Aircraft Registration alone.

These amendments also update the references to certain other form numbers in Parts 47 and 49. These new numbers result from shifting the responsibility for these forms to the Aeronautical Center in 1967. Thus, the new forms show the prefix "AC" instead of "FAA."

Since these amendments are procedural and clarifying in nature, and do not impose a burden on any person, notice and public prodecure thereon is not required, and the amendments may be made effective on less than 30 days' notice.

In consideration of the foregoing, Parts 47 and 49 of the Federal Aviation Regulations are amended, effective December 1, 1972.

(Sections 313(a), 501, and 503 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1401, 1403. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c). Section 1.47(a) of the Regulations of the Office of the Secretary of Transportation; 49 CFR 1.47(a).)

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address for the FAA Aircraft Registry in Oklahoma City, Oklahoma, for use by the public in submitting documents to the Aircraft Registry.

Interested persons have been given an opportunity to participate in the making of these amendments by a Notice of Proposed Rule Making, Notice No. 74–26, published in the Federal Register on July 15, 1974 (39 FR 25953). Forty-four public comments were received in response to the Notice, and each has been considered in the adoption of these amendments.

The majority of the comments opposed the proposals concerning a "close of business" receipt of documents, and the return of documents found to be defective at the time of recordation examination. The FAA has carefully considered these comments and has determined that the intent of the Notice to provide more expeditious and effective service can be met through administrative changes in Registry procedures which can be implemented without rule-making action. Accordingly, the proposed changes to § 49.19 are being withdrawn.

Since these proposals are being withdrawn, it is appropriate to describe current Aircraft Registry procedures:

> Mailed conveyances are delivered to a room where cashier and index personnel are collocated. The mail is opened, the money processed, and the conveyance indexed. Conveyances delivered personally are time-stamped and indexed as they are received. Two indexes are prepared, one using the N number of the aircraft or other identifying description, and the other using an alphabetical listing of the parties to the transactions.
>
> Index sheets are delivered to the title search room each day on an hourly basis, and are computerized at the end of each day and week. This allows individuals who are searching aircraft titles to make their opinions contingent only upon the conveyances filed during the current one-hour period.

In addition to the withdrawal of the proposed changes to § 49.19, the FAA is also withdrawing proposed new § 49.20 regarding the return of defective conveyances. This action is based upon substantive public comments received in response to the proposal. With the withdrawal of this proposal, the Aircraft Registry will continue current procedures which provide for (1) retention of a defective conveyance in suspense with a notice of deficiency being sent to the appropriate party; or (2) return of the conveyance for correction.

The withdrawal of these proposals does not preclude the FAA from issuing, in the future, other notices concerning the subject, nor commit the agency to any future course of action.

With respect to the proposal for a separate post office box number for the exclusive use of the Aircraft Registry, no opposition was submitted and the FAA has determined that the proposal should be adopted. This action will assist in the expeditious processing of all incoming mailed conveyances by reducing handling time.

These amendments are made under the authority of sections 313(a), 501, 502, and 503 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1401, 1402, and 1403) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Parts 47 and 49 of the Federal Aviation Regulations are amended, effective September 8, 1976.

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ances, by eliminating the requirement for a conditional sales vendee to have the consent or a release from the conditional sales vendor before transferring the ownership of the aircraft. The amendments are in keeping with the express language of the Uniform Commercial Code. The amendments are in response to petitions for rulemaking filed by Cessna Finance Corporation and the Aircraft Finance Association.

FOR FURTHER INFORMATION CONTACT: Ms. Agnes M. Jones, Aircraft Registration Branch, (AAC–250), Airmen and Aircraft Registry, Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125; Telephone (405) 686–2284.

SUPPLEMENTARY INFORMATION:

Background

A Federal system for recordation of instruments transferring or affecting interests in aircraft was first established by Congress in 1938. Currently Section 503 of the Federal Aviation Act of 1958 (the Act) requires the FAA to establish and maintain a system for recording conveyances affecting title to, or interest in, civil aircraft. These documents include bills of sale, contracts of conditional sale, mortgages, and other security agreements. The Act also provides that no conveyance shall be valid against any person other than the persons involved in the conveyance, or a person who has actual notice, until the conveyance affecting the aircraft is recorded with the FAA.

Under the Act, an aircraft may only be registered by its owner. Since 1939, as a result of the O'Conner decision (1 C.A.A. 5, 1939), the regulations have recognized the buyer of an aircraft under a contract of conditional sale as the owner for registration purposes. This is true even though the conditional seller retains legal title until the buyer meets the conditions of the contract. The FAA considers certain leases with option to purchase, and bailment leases, as defined in 49 U.S.C. 1301(19), ''conditional sales'', to be equivalent to conditional sales and wherever the terms ''conditional sales'' or ''conditional sales contract'' are used, they include those leases with option and bailment leases.

Parts 47 and 49 of the Federal Aviation Regulations (FARs) historically have recognized this special character of a contract of conditional sale. Section 47.11, Evidence of Ownership, requires the transferee under a contract of conditional sale to submit the contract (unless it is already recorded at the FAA Aircraft Registry (Registry)) and the transfer from the original buyer, bailee, lessee, or prior transferee. The transfer must bear the written assent of the seller, bailor, lessor, or transferee thereof under the original contract. To obtain a certificate of aircraft registration under section 47.31, the applicant must submit evidence of ownership acceptable under section 47.11.

In addition, sections 47.11 and 49.17 provide that a transfer of the conditional buyer's interest cannot be recorded and the aircraft cannot be registered to the buyer's transferee without the consent of the conditional seller. However, if a person holds any other kind of security interest in an aircraft, such as a security agreement, or a chattel mortgage, the consent of the secured party is not required for recordation of the transfer and registration of the aircraft to the transferee.

The Uniform Commercial Code (U.C.C. or the code) makes no distinction between contracts of conditional sale and other security agreements. Section 1–201(37) of the code states that the retention or reservation of title by a seller, notwithstanding delivery of the property to the buyer, is limited in effect to a reservation of a ''security interest''. As provided in section 9–306 of the U.C.C., a perfected security interest continues in the collateral regardless of sale or exchange by the debtor. Section 9–311 further states that the debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment, or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default.

interests recorded with the FAA. The FAA proposed to accomplish this, not in the manner requested by CFC, but by eliminating the requirement of written consent of the conditional vendor to the transfer of the original buyer's interest before recording the transfer and registering the aircraft. The FAA explained in the ANPRM that an amendment similar to the one proposed by CFC would discourage transfer of the buyer's interest in the aircraft and thus be contrary to the intent of the U.C.C. In addition, the amendment would involve a substantial increase in the administrative costs and workload of the Registry. The ANPRM further solicited suggestions of alternative courses of action which would be consistent with the U.C.C., administratively reasonable, and also afford protection to persons who hold security interests in aircraft.

Subsequent to the publication of the ANPRM, the Aircraft Finance Association (AFA) filed a petition for rulemaking, dated March 16, 1979, proposing the same requirement as CFC requested. It did not specify, however, when the burden would fall upon the buyer of the aircraft to obtain the consent or release of the security interest by the creditor and when it would fall upon the seller.

NPRM

In response to the AFA petition and in further response to the CFC petition, the FAA published notice of proposed rulemaking (NPRM) No. 80–9 on May 22, 1980 (45 FR 34286). The notice proposed state statutes which, in accordance with the U.C.C., treat alike all instruments executed for security purposes as they concern the rights, duties, and remedies of the parties. Specifically, the notice proposed to amend section 47.11(a) by eliminating the requirement that the transferee under a contract of conditional sale submit with an Aircraft Registration Application, written assent of the seller, bailor, lessor, or assignee thereof, under the original contract, to the assignment. It also proposed to amend section 49.17 to eliminate the consent of the conditional seller and consolidate the recording requirements for instruments executed for security purposes.

In support of the proposal, the FAA made the following observations. For many years, the special character of the contract of conditional sale, i.e., the retention of legal title by the vendor, was thought to have warranted the special protection of consent to transfer. However, the Act does not specifically authorize the Administrator to refuse to record a conveyance affecting title to, or an interest in, aircraft in the absence of a secured creditor's assent to that conveyance. Section 503(c) of the Act leaves the determination of the substantive validity of any conveyance to state law, specifically, the law of the state where the instrument is delivered. To the extent that the Act does not regulate the rights of parties to, and third parties affected by, these transactions, security interests in aircraft are controlled by Article 9 of the U.C.C., which has been adopted in 49 of the 50 states.

The NPRM noted that the CFC, the AFA, and the commenters to the ANPRM had pointed out that the U.C.C. has eliminated the distinction between conditional vendors and other secured creditors. In view of this virtually uniform policy of state law, the FAA stated, as it did in the ANPRM, that the distinction should be abolished for purposes of aircraft registration and recordation. The NPRM pointed to the policy of the U.C.C. that debtor's rights in collateral be freely transferable notwithstanding a provision in a security agreement making such a transfer a default. The notice concluded that it would be contrary to the policy of the U.C.C. to restrain such transfers by requiring, as a condition of aircraft registration and recordation, the assent of the secured creditor to a conveyance of the aircraft. The FAA stated that it is improper to override these state laws, in the absence of specific Federal statutory authority, unless it is necessary to carry out the provisions of a Federal statute or treaty.

Response to the NPRM

Forty-seven comments were received in response to the NPRM. Thirty-seven commenters oppose the FAA proposal. Twenty of those 37 commenters ask that CFC's proposal be implemented.

Six commenters point out that insurance becomes invalid if ownership is transferred without the lienholder's knowledge. However, maintenance of appropriate insurance is the responsibility of the owner

Although the NPRM invited interested persons to submit data concerning any possible impact, no commenter did so. As stated in the NPRM, approximately 15 percent of the security transactions filed with the Registry are contracts of conditional sale. The majority of those which require a release or consent to the sale of such aircraft have the required release or consent attached. Sellers who do not submit a release or consent with other documentation of the sale must be advised of the requirement, and this places an additional burden on the Registry. This process impedes expeditious registration to a new buyer. By removing the requirement, a significant amount of time will be saved by the seller, the security holder, and the FAA in documenting and processing such sales and the registration to subsequent buyers.

Nothing the FAA can do will change the prospect that collateral may be sold out of trust, with or without the security holder's consent. While this final rule may remove an obstacle to a sale out of trust, the agency is not persuaded that this will have an appreciable effect on secured transactions generally. Some commenters suggest that removing the release or consent requirement would increase the amount of down payment required in secured sales, or increase the amount of interest charged the buyer, or increase secured party losses, or all three. However, no information in terms of actual increases or events of transfer which result in loss were provided by the commenters, so these anticipated losses must be considered speculative at this time.

One commenter states that the proposed rule will affect a $6 billion industry. Other banks and aircraft financing concerns also commented that their respective involvement may total over one-half billion dollars a year. Many of these concerns state that they are currently carrying $50–100 million in outstanding obligations. However, no commenter states what proportion of their transactions were conditional sales, if any, or how many conditional sales were affected by sales out of trust.

One commenter, citing section 9–104 of the U.C.C., stated that the U.C.C. does not apply to aircraft because a security interest in aircraft is subject to a statute of the United States which governs the rights of the parties to, and third parties affected by, the transaction. Section 9–103(3)(a) specifically names airplanes as one of the mobile goods covered by the code. The Act provides a central location whereby recorded conveyances and instruments shall be valid as to all persons without further or other recordation; however, it does not prescribe the rights, obligations, and remedies of the parties to the transactions.

Three commenters stated that they did not believe security interests in aircraft were covered by the U.C.C. because section 9–302(3) specifies that the filing of a financing statement, otherwise required by Article 9 of the code, is not necessary or effective to perfect a security interest in property subject to a statute or treaty of the United States which provides for a national or international registration or specifies a different place for filing a security interest. The FAA does not have a provision for the filing of a "notice" of interest in aircraft (the financing statement), but rather section 503(a)(1) of the Act provides for the recording of the conveyance which contains all of the terms and provisions of the transaction affecting an interest in aircraft. The Act provides a preempted location for recording security interests, but otherwise does not displace the U.C.C. as to any substantive or procedural rights. *Philko* v. *Shacket,* 103 S.Ct. 2476 (1983), *In re Gary Aircraft,* 681 F.2d 365 (5th Cir., 1982), *In re Holiday Airlines,* 620 F.2d 731 (9th Cir., 1980). The validity of any instrument is determined by state law, and in the event of default, remedies are in accordance with the provisions of the security instrument and state law.

The FAA does not expect the adoption of the amendment to have an appreciable effect on the choice of security formats available to financers and their customers. The relations, obligations, and rights of the parties are matters of mutual agreement. The agency action in treating all security transactions alike should not have an adverse effect on the reciprocal duties of the parties. Most security agreements, by whatever name they are called, contain provisions restricting transfers, perhaps restricting the base or home location of the aircraft, and specifying events of default. FAA regulations and this amendment do not change these provisions; the obligations of the parties remain the same. It should not be the

places its records at the disposal of the public free of charge and in as expeditious a manner as possible.

As a less sweeping alternative, some commenters suggest that notification be made to all lienholders when registration is transferred (as opposed to a refusal to transfer). However, the implementation of such an alternative would be almost identical to implementation of the complete CFC proposal insofar as increased workload is concerned, with questionable gain to the lienholder, to whom an after-the-fact notification may be untimely.

Three commenters favor the proposal offered in the NPRM. All three oppose the cost of implementing and maintaining the procedures requested by CFC, and two object to the Government taking over the responsibility of furnishing information or a service presently available from the private sector, i.e., the services of aviation title search companies.

Finally, five commenters favor continuing the present procedure. Two state that maintaining the "status quo" is preferable to the "halfway" measures requested by the CFC and changes should be made only if issuance of a "clear and absolutely clean" title replaced the present system. Two others want no change only if CFC procedures could not be implemented. The fifth advocates no change, saying the CFC proposal would only increase the backlog and prolong the time span required to issue a certificate of aircraft registration.

The FAA has carefully considered all comments. However, since the U.C.C. has virtually eliminated any distinction between forms of security interests and the Act provides no basis for such a distinction, the FAA is not justified in perpetuating by regulation, one distinction in one singular type of transaction. The FAA is now fully persuaded that, since the validity of the instruments is governed by state law, and since state law prescribes that collateral shall be fully transferable, regulations should be changed to reflect this law. Without an amendment to the Act specifically authorizing it to do so, the agency cannot continue an archaic practice that has been specifically changed in intent and in fact by the U.C.C.

The expressed purpose of the Administration's regulatory program is to place less, not more, responsibility on the Government for levying requirements on the public and enforcing those requirements. By requiring less documentation for an aircraft transfer, which is subject to a conditional sales contract, the amendment will place all transferors and all holders of security interests on an equal footing; that is, nothing more will be required of persons selling an aircraft subject to a conditional sales contract than of persons selling an aircraft subject to a chattel mortgage or deed of trust. Similarly, a person holding a security interest called a conditional sales contract will be in no different a position than the holder of any other agreement.

Without specific statutory authority to continue the current practice, the FAA has concluded that Parts 47 and 49 should be amended by deleting the requirement for a release or consent of the holder of a conditional sales security interest prior to registration of an aircraft to a buyer who purchases from a conditional sales vendee, or to record a transfer from the same individual.

Paragraph (a)(2) of section 47.47, Cancellation of Certificate for Export Purposes, is being revised to eliminate an unnecessary distinction between contracts of conditional sale and other security agreements. These amendments, however, do not change the requirement for a release or consent from the holders of all recorded rights when the aircraft registration is to be cancelled for export purposes. This requirement implements the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830) (Convention), and is set out in section 47.47 of the FARs. In 1985, over 2,000 U.S. registered aircraft were exported, and consents or releases were provided in all cases where the aircraft were subject to recorded rights. This requirement is placed on all exported aircraft regardless of whether the aircraft is being exported to a country which is also a signatory to the Convention.

Editorial Changes from the NPRM

Editorial changes have been made to the Part 49 amendment from the language of the NPRM in the following manner: all references to "mortgage", or "chattel mortgage", have been changed to

change is intended.

Benefit—Cost Analysis

The FAA is amending Parts 47 and 49 of the FAR's to eliminate the current requirement for a release or consent from the holder of a conditional sales security interest prior to registration of an aircraft to a conditional sales buyer. These amendments would treat conditional sales contracts the same as other security agreements in which the FAA does not require the consent of the secured party to record the transfer and registration of the aircraft to the buyer. A conditional sales contract is one in which the buyer and seller agree to fulfill certain conditions; e.g., observe warranties, provide proper maintenance, meet a payment schedule. The buyer takes possession of the aircraft and registers it with the FAA even though the seller retains legal title until all the conditions of the contract are satisfied.

Registry experience is that about 15 percent of aircraft security documents are conditional sales contracts, generally involving 4,725 aircraft on an annual basis. Although this proportion is small, it appears that some of the major lenders in the industry rely heavily on this type of financial arrangement. Both Cessna Finance and Chase Manhattan Aircraft Finance, which acquired Piper Acceptance Corporation in 1985, have indicated that the bulk of their aviation lending consists of conditional sales contracts. Both of these companies also indicated that 20 percent of these contracts were to the dealer for inventory financing and 80 percent went to the end user. In the case of an end user conditional sales contract, the dealer will "assign" the contract to the lender. Although information on individual aviation lenders' use of this type of contract format is very sketchy, it appears that perhaps about half a dozen major aviation lenders have a significant volume of conditional sales contracts.

The FAA expects that adoption of the proposal would facilitate the sale of used aircraft by requiring less documentation for an aircraft transfer subject to a previously recorded conditional sales contract. As noted above, approximately 15 percent of all security contracts are conditional sales which require the additional documentation. Another expected benefit of this amendment is a reduced workload for the Registry because it would eliminate the need for returning and resubmitting transfer documents when the necessary consents are lacking. This saving in time is not expected to be very significant, however, in view of the fact that only 5 percent of all conditional sales transfer documents (or less than 250 per year) must be returned by the FAA because the required releases have not been obtained.

Another benefit of this rule is consistent treatment of loan collateral involved in conditional sales of aircraft between Federal regulation and the state U.C.C.'s. The U.C.C. makes no distinction between contracts of conditional sale and other forms of security agreements. The validity of the loan instruments is governed by state law and because state law prescribes that collateral shall be fully transferable, the Federal regulation should be consistent.

A half dozen conditional sales lenders were contacted by the FAA. They prefer conditional sales contracts because of the additional protection of the collateral in the form of "registration around liens", under which the FAA will not change registration of an aircraft without the consent of the lienholder. Under a standard loan arrangement, the FAA does not require such a consent prior to registering the aircraft in the name of the purchaser. Some lenders are critical of the proposed rule, claiming it would increase their risk exposure. The lenders assert that they would otherwise have no indication that the borrower was attempting to sell or had sold the collateral and would therefore be forced to search the Registry records to determine if a sale had in fact occurred. Also lenders might lose their collateral insurance because policies terminate with the sale of aircraft. Lenders assert they would be forced to change the terms on aircraft loans by increasing rates and down payment requirements which would ultimately reduce the overall volume of their aviation loan portfolios. They indicated that the degree of this change would depend largely on their loss experience which cannot be predicted at this time.

The FAA does not expect the adoption of the amendment to have a significant effect on the risk exposure of aviation lenders using the conditional sales format, however. In the first place, the protection of collateral afforded by the FAA requirement for the consent of the lienholder is not available in

them to institute replevin proceedings (which could take up to 2 years) to recover the collateral in the event of a default, thereby delaying the process and increasing their cost and risk exposure. The FAA maintains that the lenders would not generally be required to follow this protracted course because state laws entitle them to repossess property on which they hold a lien without breaching the peace. Replevin proceedings are not likely to increase since the law presumes that the buyer has knowledge of any debt or security agreement recorded by the Registry that may encumber any purchased aircraft.

In summary, the adoption of the proposal is not expected to have a significant impact on the risk exposure of the lenders. Even if the aircraft is sold out of trust, the lender retains a lien of record on the aircraft in the case of nondealer sales and remains in the same priority with respect to other persons asserting rights in the aircraft. While the possibility exists that FAA may register aircraft to buyers from conditional vendees, thereby creating legal problems for some lenders, lenders can adequately protect their rights to the collateral by specifying the obligations of the parties in the loan agreements. The FAA is not persuaded that the terms of loans will be adversely affected by the implementation of this proposal.

Regulatory Flexibility Analysis

The FAA has determined that the rulemaking action will not have a significant economic impact on a substantial number of small entities.

As noted above, the risks of conditional sales agreements involving aircraft dealers would probably not be affected. The cost of new aircraft to commercial operators of all sizes, which to some extent reflects the financing costs of dealers, would therefore not be affected. Any possible effects on the cost of used aircraft are likely to be minimal in view of the prevalence of the standard ''chattel'' loan format in the aircraft purchase financing industry which would not be affected by this action.

International Trade Impacts

The Registry is aware of only one foreign aircraft manufacturer which specifically selected the conditional sale format for sales to its U.S. distributors in order to take advantage of the requirement for a release or consent before further transfer would be recognized. However, since a purchaser from a dealer takes possession free and clear of any dealer financing, regardless of FAA's requirements, no impact can be shown other than in those situations where the distributor transfers the aircraft to another dealer. This manufacturer did not comment on the proposed rule change. Accordingly, the FAA has determined that the economic impact of the amendment on international trade would be minimal and imposes no significant barrier.

Conclusion

This amendment will provide consistent treatment of aircraft subject to security agreements and result in a minimal cost benefit by requiring less documentation for the registration of certain used aircraft. It is not expected to have a significant impact on the risk exposure of lenders. For these reasons, the FAA has determined that this amendment is not major under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For the same reasons, it is certified that under the criteria of the Regulatory Flexibility Act this amendment will not have a significant economic impact, positive or negative, on a substantial number of entities. A copy of the final regulatory evaluation prepared for this project may be examined in the public docket or obtained from the person identified under the caption ''FOR FURTHER INFORMATION CONTACT''.

of the Federal Aviation Act of 1958 (49 U.S.C. 1401);

(2) Any specifically identified aircraft engine of 750 or more rated takeoff horsepower, or the equivalent of that horsepower;

(3) Any specifically identified aircraft propeller able to absorb 750 or more rated takeoff shaft horsepower; and

use in an aircraft, aircraft engine, or propeller, or any spare part, maintained at a designated location or locations by or for such an air carrier.

(b) Subpart B of this part governs, where applicable by its terms, conveyances subject to this part.

1/67); (Amdt. 49–4, Eff. 9/29/67); (Amdt. 49–8, Eff. 9/8/76)

§ 49.13 Signatures and acknowledgements.

(a) Each signature on a conveyance must be in ink.

(b) Paragraphs (b) through (f) of § 47.13 of this chapter apply to a conveyance made by, or on behalf of, one or more persons doing business under a trade name, or by an agent, corporation, partnership, coowner, or unincorporated association.

(c) No conveyance or other instrument need be acknowledged, as provided in section 503(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1403(e)), in order to be recorded under this part. The law of the place of delivery of the conveyance determines when a conveyance or other instrument must be acknowledged in order to be valid for the purposes of that place.

(d) A power of attorney or other evidence of a person's authority to sign for another, submitted under this part, is valid for the purposes of this section, unless sooner revoked, until—

(1) Its expiration date stated therein; or

(2) If an expiration date is not stated thereon, for not more than 3 years after the date—

(i) It is signed; or

(ii) The grantor (a corporate officer or other person in a managerial position therein, where the grantor is a corporation) certifies in writing that the authority to sign shown by the power of attorney or other evidence is still in effect.

Docket No. 7190 (31 FR 4499) 3/17/66, (Amdt. 49–1, Eff. 5/1/66); (Amdt. 49–2, Eff. 8/18/66); Amdt. 49–6, Eff. 5/11/71)

propeller, or any assignment or amendment thereof, or supplement thereto, recorded under Subpart D—

For each engine or propeller 5.00

(3) Conveyance, made for security purposes, of aircraft engines, propellers, appliances, or spare parts, maintained at a designated location or locations, or any assignment or amendment thereof, or supplement thereto, recorded under Subpart E—

For the group of items at each location 5.00

(b) There is no fee for recording a bill of sale that accompanies an application for aircraft registration and the proper fee under Part 47 of this chapter.

(c) Each conveyance must be accompanied by the proper fee, that may be paid by check or money order to the Federal Aviation Administration.

(Amdt. 49–1, Eff. 5/1/66)

§ 49.17 Conveyances recorded.

(a) Each instrument recorded under this part is a ''conveyance'' within the following definition in section 101(17) of the Federal Aviation Act of 1958 (49 U.S.C. 1301):

(17) *''Conveyance'' means a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other instrument affecting title to, or interest in, property.*

of the State, possession, Puerto Rico, or District of Columbia, as the case may be, in which the instrument was delivered, regardless of the location or place of delivery of the property affected by the instrument. If the place where an instrument is intended to be delivered is stated in the instrument, it is presumed that the instrument was delivered at that place. The recording of a conveyance is not a decision of the FAA that the instrument does, in fact, affect title to, or an interest in, the aircraft or other property it covers.

(d) The following rules apply to conveyances executed for security purposes and assignments thereof:

(1) A security agreement must be signed by the debtor. If the debtor is not the registered owner of the aircraft, the security agreement must be accompanied by the debtor's Application for Aircraft Registration and evidence of ownership, as prescribed in Part 47 of this chapter, unless the debtor—

(i) Holds a Dealer's Aircraft Registration Certificate and submits evidence of ownership as provided in § 47.67 of this chapter (if applicable);

(ii) Was the owner of the aircraft on the date the security agreement was signed, as shown by documents recorded at the FAA Aircraft Registry; or

(iii) Is the vendor, bailor, or lessor under a contract of conditional sale.

(2) The name of a cosigner may not appear in the security agreement as a debtor or owner. If a person other than the registered owner signs the security agreement, that person must show the capacity in which that person signs, such as ''cosigner'' or ''guarantor''.

(3) An assignment of an interest in a security agreement must be signed by the assignor and, unless it is attached to and is a part of the original agreement, must describe the agreement in sufficient detail to identify it, including its date, the names of the parties, the date of FAA recording, and the recorded conveyance number.

(4) When the debt secured by a conveyance given for security purposes has been satisfied, or any of the encumbered aircraft have been released from the conveyance, the holder shall execute a release on AC Form 8050–41, Part II—Release, provided to him by the FAA when the conveyance was recorded by the FAA, or its equivalent, and shall send it to the FAA Aircraft Registry for recording. If the debt is secured by more than one aircraft and all of the collateral is released, the collateral need not be described in detail in the release. However, the original conveyance must be clearly described in enough detail to identify it, including its date, the names of the parties, the date of FAA recording, and the recorded conveyance number.

(6) A contract of conditional sale, as defined in section 101(19) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(19)), must be signed by all parties to the contract.

(Amdt. 49–1, Eff. 5/1/66); (Amdt. 49–7, Eff. 12/1/72); (Amdt. 49–9, Eff. 2/25/88)

§ 49.19 Effective date of filing for recordation.

A conveyance is filed for recordation upon the date and at the time it is received by the FAA Aircraft Registry.

§ 49.21 Return of original conveyance.

If a person submitting a conveyance for recording wants the original returned to him, he must submit a true copy with the original. After recording, the copy is kept by the FAA and the original is returned to the applicant stamped with the date and time of recording. The copy must be imprinted on paper permanent in nature, including dates, and signatures, to which is attached a certificate of the person submitting the conveyance stating that the copy has been compared with the original and that it is a true copy.

lien, or other instrument affecting title to, or any interest in, aircraft.

(b) A release, cancellation, discharge, or satisfaction of a conveyance named in paragraph (a) of this section.

§ 49.33 Eligibility for recording: general requirements.

A conveyance is eligible for recording under this subpart only if, in addition to the requirements of §§ 49.11, 49.13, and 49.17, the following requirements are met:

(a) It is in a form prescribed by, or acceptable to, the Administrator for that kind of conveyance;

(b) It describes the aircraft by make and model, manufacturer's serial number, and United States registration number, or other detail that makes identification possible;

(c) It is an original document, or a duplicate original document, or if neither the original nor a duplicate original of a document is available, a true copy of an original document, certified under § 49.21;

(d) It affects aircraft registered under section 501 of the Federal Aviation Act of 1958 (49 U.S.C. 1401); and

If the seller of an aircraft is not shown on the records of the FAA as the owner of the aircraft, a conveyance, including a contract of conditional sale, submitted for recording under this subpart must be accompanied by bills of sale or similar documents showing consecutive transfers from the last registered owner, through each intervening owner, to the seller.

§ 49.37 Claims for salvage or extraordinary expenses.

The right to a charge arising out of a claim for compensation for salvage of an aircraft or for extraordinary expenses indispensable for preserving the aircraft in operations terminated in a foreign country that is a party to the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830) may be noted on the FAA record by filing notice thereof with the FAA Aircraft Registry within three months after the date of termination of the salvage or preservation operations.

to, or any interest in, any specifically identified aircraft engine of 750 or more rated takeoff horsepower, or the equivalent of that horsepower, or a specifically identified aircraft propeller capable of absorbing 750 or more rated takeoff shaft horsepower.

(b) An assignment or amendment of, or supplement to, an instrument named in paragraph (a) of this section.

(c) A release, cancellation, discharge, or satisfaction of a conveyance named in paragraph (a) or (b) of this section.

(Amdt. 49–5, Eff. 1/21/70)

§ 49.43 Eligibility for recording: general requirements.

A conveyance is eligible for recording under this subpart only if, in addition to the requirements of §§ 49.11, 49.13, and 49.17, the following requirements are met:

(a) It affects and describes an aircraft engine or propeller to which this subpart applies, specifi-

requirements.

(a) A release, cancellation, discharge, or satisfaction of an encumbrance created by an instrument recorded under this subpart must be in a form equivalent to AC Form 8050–41 and contain a description of the encumbrance, the recording information furnished to the holder at the time of recording, and the collateral released.

(b) If more than one engine or propeller, or both, are listed in an instrument, recorded under this subpart, that created an encumbrance thereon and all of them are released, they need not be listed by serial number, but the release, cancellation, discharge, or satisfaction must state that all of the encumbered engines or propellers are released. The original recorded document must be clearly identified by the names of the parties, the date of FAA recording, and the document date.

(Amdt. 49–7, Eff. 12/1/72)

executed for security purposes, which affects title to, or any interest in, any aircraft engine, propeller, or appliance maintained by or on behalf of an air carrier certificated under section 604(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1424(b)) for installation or use in aircraft, aircraft engines, or propellers, or any spare parts, maintained at a designated location or locations by or on behalf of such an air carrier.

(b) An assignment or amendment of, or supplement to, an instrument named in paragraph (a) of this section.

(c) A release, cancellation, discharge, or satisfaction of a conveyance named in paragraph (a) or (b) of this section.

(Amdt. 49–5, Eff. 1/21/70)

§ 49.53 Eligibility for recording: general requirements.

(a) A conveyance is eligible for recording under this subpart only if, in addition to the requirements of §§ 49.11, 49.13, and 49.17, the following requirements are met:

(1) It affects any aircraft engine, propeller, appliance, or spare part, maintained by or on behalf of an air carrier certificated under section 604(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1424(b));

(2) It contains or is accompanied by a statement by the air carrier certificated under that section;

by type, the engines, propellers, appliances, or spare parts covered by it.

(Amdt. 49–5, Eff. 1/21/70)

§ 49.55 Recording of releases, cancellations, discharges, and satisfactions: special requirements.

(a) A release, cancellation, discharge, or satisfaction of an encumbrance on all of the collateral listed in an instrument recorded under this subpart, or on all of the collateral at a particular location, must be in a form equivalent to AC Form 8050–41, signed by the holder of all of the collateral at the particular location, and contain a description of the encumbrance, the recording information furnished to the holder at the time of recording, and the location of the released collateral.

(b) If the encumbrance on collateral at all of the locations listed in an instrument recorded under this subpart is released, canceled, discharged, or satisfied, the locations need not be listed. However, the document must state that all of the collateral at all of the locations listed in the encumbrance has been so released, canceled, discharged, or satisfied. The original recorded document must be clearly identified by the names of the parties, the date of recording by the FAA, and the document number.

(Amdt. 49–1, Eff. 5/1/66); (Amdt. 49–7, Eff. 12/1/72)

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