

Recent Concerns

Since the time petitioners first requested that other aircraft be excepted from the applicable FDR regulations, the FAA has learned of at least two circumstances that will affect the way exception requests are analyzed. First, after the initial exemptions were granted, the FAA was informed that operators of exempted aircraft actively sought out more aircraft of these models from overseas and brought them into the United States. Those operators already held exemptions from the FDR regulations for those models, and therefore, believed that those models should be included in their original exemptions. This situation weakens the argument for exception status in at least two ways. First, the greater number of aircraft allows the cost of retrofit to be spread across additional aircraft, reducing the per-aircraft retrofit cost. Second, it lessens any public interest argument an operator may have by increasing the number of aircraft allowed to operate without FDRs. The presence of FDRs has been well established as being in the public interest and an important source of information on accidents and incidents.

The FAA always intended exception status to be very limited. The agency was and remains concerned that older aircraft of which few are left operating under limited circumstances not be denied what use might be left in them. Large numbers of aircraft with considerable economic viability were never meant to be the subject of exception status. For this reason, the FAA will take into account all aircraft worldwide for any model submitted for exception status.

The second circumstance concerns the practice of routinely adding and removing the same aircraft from the registries of the United States and other countries for benefit. The language added to § 135.152 in 1988 was specific in its intent of capturing all aircraft that were brought onto the U.S. register after October 11, 1991, primarily to stop the continued importation of older aircraft that would not need FDRs if the rule had instead used a date of manufacture. In 1997, that provision was expanded to include aircraft that were added to U.S. operations specifications (under foreign registry) after that date. Some of these aircraft were affected by the information bulletin that the agency withdrew in 1997; it was only after withdrawal that the FAA learned that several operators were using the information bulletin, combined with the practice of swapping airplanes between registries, to gain a benefit. The information bulletin

presumed to grandfather any aircraft that had once been registered in the United States from the "brought on the U.S. register" language of § 135.152. Once that information bulletin was withdrawn as being in distinct conflict with the clear language and intent of the rule, the FAA indicated that all persons operating under it had 4 years to bring their aircraft into compliance. It was then that the FAA began to receive numerous requests for exception status. Operators are cautioned that all circumstances will be examined closely. Exception status will most likely *not* be proposed by the FAA when a significant number of any model is still operating. Nor does the fact that an aircraft model is no longer being manufactured automatically mean that exception status will be proposed.

The FAA has been sensitized to the situation that has resulted in distinct benefits being gained by some operators in manipulating the status of their aircraft while the FDR regulations were in flux. The loss of this benefit will not be considered in deciding whether an aircraft model is appropriate for relief from the FDR requirements. This is especially true for aircraft models that have never been brought into compliance with the regulations promulgated in 1988.

Conclusion

All operators are reminded that the compliance date for the 1997 regulations to upgrade FDRs is August 20, 2001. Similarly, aircraft that were affected by the withdrawal of the Flight Standards Information Bulletin in 1997 had the same 4 years to upgrade their aircraft to meet § 135.152. Given the considerable notice of these requirements provided by the final rule, the FAA does not intend to issue exemptions from that date except in the most limited, temporary circumstances, where fully justified. Request for exemption based on lack of installation data (i.e., no STC for their aircraft), parts availability, or generalized plans to retire aircraft will not be granted.

Issued in Washington, DC on May 31, 2001.

Nicholas Sabatini,

Director, Flight Standards Service.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 275

[Release Nos. IC-24991 and IA-1945; File No. S7-06-01]

RIN 3235-A105

Electronic Recordkeeping by Investment Companies and Investment Advisers; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule, which was published on Wednesday, May 30, 2001 (66 FR 29224). This rule relates to electronic recordkeeping by investment companies and investment advisers. In FR Document No. 01-13526 beginning on page 29224 for Wednesday, May 30, 2001, the docket line contains an error. The docket line is correct as set forth above.

EFFECTIVE DATE: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Frances Sienkiewicz at (202) 942-7072.

Dated: May 31, 2001.

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. 00P-1275 and 00P-1276]

Food Labeling: Health Claims; Plant Sterol/Stanol Esters and Coronary Heart Disease

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim final rule; notice of extension of period for issuance of final rule.

SUMMARY: The Food and Drug Administration (FDA) is extending to July 25, 2001, the period for issuance of a final rule in response to its interim final rule of September 8, 2000, entitled "Food Labeling: Health Claims; Plant Sterol/Stanol Esters and Coronary Heart Disease." FDA's regulations require the agency to issue a notice of such extension if it finds, for cause, that it is unable to issue a final rule within 270 days from the date of publication of the