

About the Commentary: The Commentary addresses selected issues within the AVIATORS' MODEL CODE OF CONDUCT (AMCC) to elaborate on their meaning, provide interpretive guidance, and suggest ways of adopting the AMCC. It is intended primarily for implementers, policy administrators, aviation association management, and pilots who wish to explore the AMCC in greater depth. Please send your edits, errata, and comments to <PEB@secureav.com>. Terms of Use are available at <<http://secureav.com/terms.pdf>>.

COMMENTARY TO AMCC III.e – TRAINING AND PROFICIENCY

e. accurately log hours flown and maneuvers practiced to satisfy training and currency requirements.

Accurately logging flight time¹ requires sound judgment,² ethical conduct,³ and discipline by aviators. It demands great discretion and voluntary compliance. Logging by pilots has a history of uncertainty, regulatory confusion, and worse.

One AMCC reviewer cited a colloquialism among some aviator: *fly what you can; log what you need!* Bob Buck recounted one of his early checkouts –

[the examiner] never looked at my logbook or mentioned my flying time. I guess he realized the fallacy of logbooks that they were, and I suppose still are, suspicious because it's easy to write in hours that have never been flown and to phony up the endorsement—"Parker time" we called it, after the Parker pen. When pilots brag about having thousands and thousands of hours, more worldly pilots often smile knowingly at such "facts".⁴

The FARs prohibit "[a]ny fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or exercise of the privileges of any certificate, rating, or authorization under this part."⁵

NTSB Report CHI98FA296

On August 1, 1998 . . . a Cessna 340A, N5340F [a twin engine aircraft], operated by a private pilot collided with Lake Michigan while taking off . . . from the Merrill C. Meigs Field . . . One passenger drowned as a result of the accident. The pilot and two other passengers received minor injuries He reported the airplane stalled, hit the water, and flipped over

The pilot held a private pilot certificate with an instrument rating On his Airman Certificate and/or Rating Application for his instrument checkride the pilot reported he had a total flight time of 177.6 hours, of which 88.7 hours were pilot-in-command time. On the NTSB Form 6120.1/2 the pilot reported having a total flight time of 1,600 hours, of which 1,450 hours were as pilot-in-command. In addition, he reported having 500 hours total flight time in Cessna 340 airplanes, of which 400 hours was pilot-in-command.

The pilot stated that he had received a multi-engine rating in March or April of 1997. No record(s) of the pilot having received a multi-engine rating were located. The pilot reported he received the majority of his multi-engine training from a flight instructor in Ohio. When this flight instructor was contacted he stated that he had not given the accident pilot multi-engine training.⁶

"Logging is probably one of the most misunderstood portions of FAR Part 61. It is an area of aviation regulation that appears to create much confusion among pilots. This can be observed by

presenting a particular scenario to a group of pilots or flight instructors for their opinion on how the scenario should be legally logged. Immediately conflicting opinions are raised.”⁷

Logging Approaches: Consider FAR 61.57(c)(1), which requires the completion of six approaches, holding procedures, and the intercepting and tracking of courses every six months.⁸ In 1992 a FAA counsel issued an opinion letter declaring that a pilot cannot count an approach for the purpose of FAR 61.57 unless it is flown to the published Minimum Descent Altitude (MDA) or Decision Height (DH) or altitude to which the controller ordered it to be broken off.⁹ Most pilots are neither aware of this interpretation nor conform to it. Consider these perspectives on the logging of approaches by various aviation experts:

- “The rules are not specific as to what constitutes flying an instrument approach under actual IFR conditions, but if the weather is below VFR minimums for any part of the approach that is good enough, we think.”¹⁰
- “It is my understanding that you can log an actual instrument approach if any cloud is penetrated once the approach commences or if the visibility is less than three miles. Based on that, in the last 400 hours in my log there are 24 actual instrument approaches listed. Of those, 14 were in marginal VFR conditions Fourteen were in IFR conditions Only five of the latter 14 were in low IFR, visibility of a mile or less and/or a ceiling of 500 feet or less.”¹¹
- “[Y]ou can log an approach as actual whenever you cloud-fly in the approach phase of flight.”¹²
- “In my many years experience as an FAA inspector, I never once asked an airmen during an investigation if his logged approaches were ‘complete approaches flown to minimums,’ it just wouldn’t matter to me because whatever the pilot tells me is what I would have had to believe.”¹³

Logging PIC Time: Rules for logging Pilot-in-Command (PIC) time are “vital to all pilots”¹⁴ and yet complex, demanding close attention.¹⁵ The rules have proven confusing with regard to acting as PIC versus logging PIC time, pilot and instructor logging of PIC time during instrument training flights, and student pilot logging of PIC time.

Logging Maintenance: Records pertinent to the maintenance of one’s aircraft require accurate logging.¹⁶ As Neil D. Van Sickle asserts, “they contribute significantly to safe and economical flight in any type of aircraft, operating under any conditions.”¹⁷ “With freedom comes responsibility . . . [for] owners who perform preventative maintenance to make maintenance record entries of all work performed.”¹⁸ Although owners of amateur-built experimental aircraft are not required to keep aircraft maintenance records,¹⁹ voluntary record keeping is important “because documentation is a key ingredient of safety.”²⁰

Some logging requirements have been criticized as unnecessarily impinging on pilot privacy.²¹ Nonetheless, even “if you actually have the recent experience, not having it logged just invites FAA skepticism.”²² Moreover, logging time may also be strictly construed by insurers – requiring hours actually flown to be reliably recorded in a pilot’s flight log.²³ Because “[o]ur entire aviation system relies on the truthfulness of its participants to a great degree,”²⁴ pilots should exercise great care in both understanding and accurately representing hours and maneuvers logged and accurately completing other records associated with flight operations and aircraft ownership.

CODE EXAMPLES:²⁵

- “[A pilot] will not knowingly falsify any log or record, nor will he condone such action by other crew members.” *Pilot’s Code of Ethics*, Air Line Pilots Association²⁶

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¹ “Flight Time” is “(1) Pilot time that commences when an aircraft moves under its own power for the purpose of flight and ends when the aircraft comes to rest after landing . . .” FAR 1.1, *available at* < <http://www.faa.gov> >, *also available at* < <http://risingup.com/fars/info/part1-1-FAR.shtml> >. “Pilot time” “means that time in which a person -- (i) Serves as a required pilot flight crewmember; (ii) Receives training from an authorized instructor in an aircraft, flight simulator, or flight training device . . .” FAR 61.1(b)(12), *available at* < <http://www.faa.gov> >, *also available at* < <http://risingup.com/fars/info/part61-1-FAR.shtml> >. The logging of flight time in flight simulators requires further consideration. *See* FAA, *Flight Simulation Training Device Qualification Guidance – Advisory Circulars*, at < http://www.faa.gov/safety/programs_initiatives/aircraft_aviation/nsp/flight_training/ac/ >.

Currency items to be tracked may include: pilot in command (PIC), proficiency checks, complex aircraft time, flight evaluations, required training, takeoff/landing (including night), actual instrument time and approaches, date and class of last FAA medical, additional qualifications (e.g., international). *See* NBAA, *MANAGEMENT GUIDE*, § 1.9 *Pilot Logbook* (Sept. 1999), *available to members at* < <http://web.nbaa.org/member/ops/adm/mgmtguide/1/> >; Commentary to AMCC III.b., notes 27-29 and accompanying text, *available at* < <http://www.secureav.com/Comment-AMCC-III.b-Training.pdf> > (concerning currency).

² “[A]ctual instrument conditions may occur . . . [during a flight on] a moonless night over the ocean with no discernible horizon, if use of the instruments is necessary to maintain adequate control over the aircraft. The determination as to whether flight by reference to instruments is necessary [and thus could be logged under FAR 61.51] is somewhat *subjective*, and based in part on the *sound judgment of the pilot*. . . The log should include the reasons for determining that the flight was under actual instrument conditions in case the pilot later would be called on to prove that the actual instrument flight time logged was legitimate.” Letter of Interpretation from John H. Cassady, Ass’t Chief Counsel, Regs. and Enforcement Div., FAA, to Joseph P. Carr, No. 1984-29 (Nov. 7, 1984) (copy on file with author) (emphasis added). *See* Commentary to AMCC I.c, *Develop and exercise good judgment*, *available at* < <http://www.secureav.com/Comment-AMCC-I.c-General-Responsibilities.pdf> >.

³ Consider the following *Test Pilot* question, “A private pilot departs Seattle at 1955 UTC on a VFR, nonstop cross-country flight to Salt Lake City, where he lands at 0005 UTC. How much flying time may he log?” Answer: “There is no limit. He may legally, *but not morally*, log as much flying time as he desires. However, only four hours, 10 minutes may be logged if the experience is to be used for an additional rating or certificate.” Barry Schiff, *Test Pilot*, *AOPA PILOT*, Jan. 2004, pp. 107, 116 (emphasis added).

⁴ BOB BUCK, *NORTH STAR OVER MY SHOULDER* 69 (Simon & Schuster 2002). *Cf.* Brian M. Jacobson, *Logbook Proficiency*, *IFR REFRESHER*, May 2003, pp. 1, 4 (“The [accident] pilot . . . apparently logged as instrument time any time that he spent flying on an IFR flight plan . . .”). WILLIAM K. KERSHNER, *LOGGING FLIGHT TIME* 170 (Iowa State Press 2002) (“Some pilots were so unimaginative as to put row after row of entries with the exact same color ink, which looked like the entries of a recalcitrant grade school student . . .”). “I am aware of one specific group of pilots that I believe violates the regulations for logging Instrument Time more than most. I have spoken with several former military pilots who ‘built time’ in the military, but with no civilian FAA rating. Upon acquiring a conventional Instrument Rating, these pilots have told me that they immediately begin to add actual instrument time to their log books to reflect the time that they believe they’re ‘entitled to’ from their military careers (often twenty, thirty or more years past). Email from Michael Radomsky, Pres., Cirrus Owners and Pilots Ass’n (Oct. 18, 2005).

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⁵ FAR 61.59(a), *Falsification, reproduction, or alteration of applications, certificates, logbooks, reports, or records*, available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part61-59-FAR.shtml> >.

⁶ Available at

< http://www.nts.gov/nts/brief2.asp?ev_id=20001211X10781&ntsbn=CHI98FA296&akey=1 >. One aviation expert commented, “[the log book] is a document easily falsified, so why should it constitute proof of any kind? [W]e don’t have a problem, so let’s not create one by requiring a log book to be shown.” Email from Frank Hofmann, Sec’y, Canadian Owners and Pilots Ass’n (June 3, 2003). “I forged my mother’s signature on my application for a student pilot certificate and worked during every spare hour to accumulate the coins needed to buy flying time.” Barry Schiff, *Thanks, Paul*, AOPA PILOT, Nov. 2003, p. 44.

⁷ Email from R. C. Morton, FAA (Ret.) (Sep. 25, 2002). Separately, electronic recordkeeping has distinct requirements which may create confusion or special challenges for neophytes. See FAA, AC 120-78, *Acceptance and Use of Electronic Signatures, Electronic Recordkeeping Systems, and Electronic Manuals* (Oct. 29, 2002); Commentary to AMCC VI, *Use of Technology*.

⁸ *Recent flight experience: Pilot in command*, available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part61-57-FAR.shtml> >.

⁹ Or the approach could be counted if abandoned before the DH or MDA if due to safety. See 14 C.F.R. pts. 1, 61, 141, and 143, *Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules* (Final Rule effective Aug. 4, 1997), available at < <http://www.avweb.com/news/news/184484-1.html#PREAMBLE> > (includes revealing public comments and FAA responses regarding logging of approaches, and states that “the definition of ‘instrument approach’ was modified to remove any requirement that the approach be conducted to DH, MDA, or to a higher altitude selected by ATC in order to be considered an instrument approach.”).

Compare “As for logging an ‘actual’ approach, it would presume the approach to be to the conclusion of the approach that would mean the pilot go down to the decision height or to the minimum decent altitude, as appropriate.” FAA, AFS-600 Part 61 FAQ file, available at < http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afs/afs800/afs810/part_61/media/p61FAQ.doc >. “If that’s the ruling, VERY FEW people are current unless they get their full approaches in as training. I live in Ohio, and even though the weather isn’t great, having to fly an approach to minimums is rare, because that means you made a planning decision to fly to an airport with weather at minimums, planning for an alternate, etc. That’s not the norm for private pilots. Email from Doug Stewart, Pres., Aircraftlogs.com (Oct. 13, 2005). Note that a “pilot need not be in FAR 91.155 IMC to be in ‘actual instrument conditions’ to be flying solely by reference to instruments (such as extremely hazy days with no visible horizon and marginal ground view).” FAA, AFS-600 Part 61 FAQ file, *Id.*

¹⁰ Tom Benenson, *Are you flying legally?*, FLYING, June 2003, pp. 68, 71.

¹¹ Richard L. Collins, *How to Fly Instrument Approaches*, FLYING, July 2003, pp. 84, 85.

¹² Richard L. Collins, *Flying Time, Calendar Time*, FLYING, Feb. 2004, pp. 35, 37.

¹³ Telephone Interview with Anonymous (Sept. 20, 2002) (name withheld by request).

¹⁴ HOWARD FRIED, *BEYOND THE CHECKRIDE 104* (McGraw-Hill, 1997) (providing a detailed analysis of many logging requirements).

¹⁵ See FAR 61.51(e), available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part61-51-FAR.shtml> > (logging pilot-in-command flight time); AOPA, *Logging Pilot in Command (PIC) Time*, at < <http://www.aopa.org/members/files/topics/pic.html> > (asserting that it is a “controversial subject and can be very confusing”). See generally FAR 61.51, available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part61-51-FAR.shtml> > (Pilot logbooks).

¹⁶ For example, aircraft records regarding inoperable instruments and equipment must be diligently maintained. FAR 91.213(a)(4), available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part91-213-FAR.shtml> > (Inoperative instruments and equipment); FAA, AC 91-67, available at < [http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/13c094a06437c5fa862569d900744d86/\\$FILE/Chap1-2.pdf](http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/13c094a06437c5fa862569d900744d86/$FILE/Chap1-2.pdf) > (Minimum Equipment Requirements for General Aviation Operations Under Part 91). Other records requirements include those specified in FAR 43.9, available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part43-9-FAR.shtml> > (Content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records), FAR 43.11, available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part43-11-FAR.shtml> > (Maintenance record entries), and FAR 91.417, available at < <http://www.faa.gov> >, also available at < <http://risingup.com/fars/info/part91-417-FAR.shtml> > (Maintenance records).

¹⁷ NEIL D. VAN SICKLE, MODERN AIRMANSHIP 710 (D. Van Nostrand Co., 1976).

¹⁸ Steven W. Ells, *Do-it-yourself maintenance*, AOPA PILOT, Aug. 2005, pp. 161, 165. Jim Cavanagh, quoted in David Kowalski, et al., *Convention & Fly-in 2005 Gets High Marks*, PIPERS, Sept. 2005, p. 40 (“What gets into a logbook comes down to personal ethics.”).

¹⁹ FAR 43.1(b).

²⁰ Scott M. Spangler, *Homebuilt Logbooks*, EAA SPORT AVIATION, July 2005, p. 128. (“An aphorism used in all aspects of life is that ‘the Job is not complete until the paperwork is done’.” *Id.*).

²¹ Consider the following excerpt from an article by one Canadian aviation expert:

6.1 It is recommended that Log books no longer be required for Recreational Aircraft.

It is questionable that the Journey Log Book Order is constitutional vis a vis the Canadian Charter of Rights And Freedoms. Section 8 of the Legal Rights chapter of the Charter protects citizens against unreasonable search, i.e., against having to declare one’s constant and daily movements. Section 15 of the Equality Rights chapter protects against discrimination and guarantees freedom of association: in what way is this compatible with the regulation requiring disclosure of names and numbers of passengers?

Is it an unconstitutional intrusion into the personal lives of pilots to require that personal logs be kept, and be presented upon demand? What purpose is served by logs? Why are automobile drivers not required to keep and produce logs?

How is the public interest served by requiring logs of any kind to be kept on any private aircraft? Is the Government treading onerously on Canadians’ rights and freedoms if it makes such demands?

Frank Hofmann, Canadian Owners and Pilots Ass’n, *Freedom to Fly*, RECOMMENDATION REPORT (Aug., 1994), available at < http://www3.sympatico.ca/fhofmann/art_free_fly1.html >. See generally Tom Gilmore, MCFI, *Keeping Records*, NAFI MENTOR, Aug. 2002, pp. 10-12 (urging that logs should serve as an essential safety tool rather than exclusively as a mechanism to violate pilots).

Separately, query the public safety benefits under the Pilot Records Improvement Act of 1996 (PRIA), Pub. L. No. 104-264 § 502, 49 U.S.C. § 44703(h), available at < <http://www.faa.gov> >, and FAA, AC 120-68C, *Pilot Records Improvement Act* (Jan. 28, 2003), available at < [http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/23aaac333cc9b0886256e370075f9c9/\\$FILE/AC120-68C.pdf](http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/23aaac333cc9b0886256e370075f9c9/$FILE/AC120-68C.pdf) >.

²² John S. Yodice, *Recent-experience requirements*, AOPA PILOT, Nov. 2004, p. 58.

²³ *Melvin Potter v. United States Specialty Insurance Co.*, 2 CA-CV 2003-0182, (Ariz. Ct. App. 2004) [P.2d _ 2005], available at < <http://www.omlaw.com/attachments/11.pdf> >. See John S. Yodice, *Your Insurance and Logged Flight Time*, AOPA PILOT, Feb. 2005, pp. 56, 58.

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²⁴ Brett D. Venhuizen, *The Legal Aftermath: Lying to the FAA Holds Grave Legal Consequences*, FLYING, Oct. 2004, pp. 82, 84. See Carolyn Marshall, *U.S. Says 46 Pilots Lied to Obtain their Licenses*, N.Y. TIMES, Jul. 20, 2005, p. A13; Commentary to AMCC VII.e, *Promote ethical behavior within the GA community*, available at < <http://www.secureav.com/Comment-AMCC-VIIe-Ethics.pdf> >.

²⁵ *Code Examples* are examples from relevant codes of conduct that are presented for background, perspective, and comparison. Code Examples are not necessarily endorsed by the AMCC Commentary.

²⁶ Available at < <http://www.alpa.org> >.
