

## APA Opposes 25-Hour Cockpit Voice Recorders

**APA Opposition:** The Allied Pilots Association did not support the 25-hour Cockpit Voice Recorder (CVR) mandate that was included in the 2024 FAA Reauthorization Act, which requires that all newly-manufactured large commercial aircraft from 1 year after the passage of the Act include 25-hour CVR capability.

The basic reason APA did not support this change is that an extended CVR recording time beyond the current 2-hour CVR will not dramatically improve accident and incident reconstruction for the purpose of enhancing flight safety. APA (along with other professional pilot organizations and noted flight safety experts) believes that this invasion of privacy and extended recording time will actually have the *opposite* effect – the pervasive recording will have a chilling effect on the open, intra-cockpit communication that is the cornerstone of Crew Resource Management (CRM). This will increase the likelihood of concerns or actual errors going unnoticed or unmentioned, removing barriers from the highly-effective Threat and Error Management (TEM) flight safety protocol.

For extended reading on the history of CVRs; their purpose, recording time increases, actual usage, loss of/unauthorized disclosure of CVR data (sound and transcripts), please refer to the FAA’s Notice of Proposed Rulemaking at [https://www.faa.gov/newsroom/media/25-Hr-CVR\\_NPRM\\_Issuance.pdf](https://www.faa.gov/newsroom/media/25-Hr-CVR_NPRM_Issuance.pdf). There are official published comments on this change from individuals and concerned organizations & companies (including various airlines, pilot unions, and even a Personal Injury Trial Lawyer Association) that are also worth noting at <https://www.regulations.gov/document/FAA-2023-2270-0001/comment>.

There is no particular “magic solution” to the loss of CVR data – poor procedural adherence and/or lack of communication is what has caused the loss of CVR data in every instance cited by the NTSB – NOT a lack of adequate recording time. The Air France 447 accident, one of the longest recent sequences, took less than 5 minutes from the initial errors to ocean impact. Most accidents begin and end in half that time. The original 30-minute analog CVRs would have covered that period of time without issue; the current digital two-hour CVR is already overkill. Most accidents/incidents occur in the last few minutes of flight – this should be self-evident. 25 hours is an overreach enabled by the availability of solid-state digital recorders (as opposed to magnetic tape), and investigative bodies frustrated by their inability to execute their own incident/accident procedures and protocols. In 2016, the EASA landed on a 25-hr requirement after factoring in the longest flights in the world, plus pre- and post-flight power on time, plus margin of error. “25 hours” was simply an arbitrary extended recording time that would be certain to record an entire flight’s worth of CVR data in the “worst case” scenario of an incident or accident at the tail-end of a long-haul flight. 25 hours has nothing to do with “multiple flights in multiple days” as asserted by certain proponents of the change. If there is an immediately reportable incident or accident, there ought not be one (or several) additional flights before the data is impounded and captured. When NTSB immediate reporting regulations are not followed, regardless of reason, CVR data will be lost, whether the recording time is two hours or 200 hours.

**APA Recommendations:** The FAA Reauthorization Act of 2024 is now enacted law, and 25-hour CVRs will be included on new aircraft. Additionally, within six years all large commercial aircraft will be retrofitted with 25-hour CVRs. While we are disappointed with this outcome, we are pleased that the Act includes language protecting against unlawful or unauthorized disclosure of CVR data to the public. The Act further specifies that CVR data is to be used exclusively by a federal agency or a foreign accident investigative agency for criminal investigation, aircraft accident, or

aircraft incident investigation, and that the data is not to be deliberately erased or tampered with. Unfortunately, this type of language has existed for years and exists today in a variety of CFRs and FARs, yet unauthorized disclosures continue to occur. 25-hour CVRs are recorded and transmitted on digital media and as such they will be even more susceptible to loss and disclosure due to persistent gaps in cyber security. It is not a question of “if,” but “when.”

The Act also specifies that the “Administrator or any covered operator may not use a cockpit voice recorder recording for certificate action, civil penalty, or disciplinary proceedings against a flight crewmember,” but it does not limit other federal agencies, or individuals, from seeking civil liability from flight crews.

Given this human element, the APA recommends more action be taken to:

- Establish enforceable steep federal penalties and personal liability for loss or unauthorized disclosure of CVR (or cockpit image recorder) data
- Add verbiage that requires a foreign investigative agency to work *in conjunction with* (and not independent of) a US federal agency such as the NTSB, FAA, FBI, etc.
- Strengthen language preventing a federal agency, operator/commercial entity, or individual from seeking civil penalties or legal liability for an involved flight crew member in all cases except for exceedingly rare willful, purposeful malfeasance.

One final item to be addressed is how the fundamental working environment for Airline Transport Pilots will change overnight with the advent of a 25-hour CVR and the next step change, a cockpit image recorder. Constant surveillance of this kind would be unthinkable in any other working environment, and presents a personal financial risk and liability level to flight deck crew members that has not been factored into any current compensation packages. ***Crew members must have regulatory protections from Congress and/or financial protections from their employers to ensure their families and estates are protected from any civil penalties sought when (not “if”) CVR footage will inevitably be leaked to the public.***

Allied Pilots Association will continue to advocate for these regulatory solutions that are in the best interest of aviation safety, our flight deck crews, and our traveling public.

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