

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

**Dornier Luftfahrt GmbH:** Docket No. FAA–2009–0574; Directorate Identifier 2009–CE–028–AD.

#### Comments Due Date

- (a) We must receive comments by July 27, 2009.

#### Affected ADs

- (b) None.

#### Applicability

(c) This AD applies to Models Dornier 228–100, Dornier 228–101, Dornier 228–200, Dornier 228–201, and Dornier 228–202 airplanes, all serial numbers, certificated in any category.

#### Subject

- (d) Air Transport Association of America (ATA) Code 32: Landing Gear.

#### Reason

- (e) The mandatory continuing airworthiness information (MCAI) states:

A stub axle failure of the main landing gear on a Dornier 228–200 aeroplane was reported to RUAG Aerospace. Investigations revealed that the fracture of the axle—manufacturer Part Number (P/N) A–511000B28B was due to fatigue. Already in the year 1993 two failures of P/N A–511000B28B axles occurred. Those events led in 1994 the Luftfahrt-Bundesamt—Germany's National Aviation Authority—to publish Airworthiness Directive (AD) D–1994–042 to mandate the replacement of A–511000B28B

axles by improved-design axle with P/N A–511000C28B (Dornier Luftfahrt GmbH Service bulletin 228–214).

It is believed that a misinterpretation of the Dornier 228 repair/maintenance documentation caused inadvertent installation of A–511000B28B axle on the accident aeroplane's main landing gear with P/N A–511000C00F. This configuration was not approved for installation and was therefore not addressed by LBA AD D–1994–042 or Dornier SB–228–214.

The actions specified in this Airworthiness Directive are intended to prevent main landing gear failure, which could result in loss of control of the aeroplane during landing operations.

The MCAI requires inspection of the main landing gear (MLG) and, if applicable, replacement of the MLG stub axle.

#### Actions and Compliance

(f) Unless already done, do the following actions following RUAG Aerospace Defence Technology Dornier 228 Service Bulletin SB–228–276, dated October 16, 2008:

- (1) Within the next 14 days after the effective date of this AD, inspect the main landing gear (MLG) stub axle.
- (2) If any P/N A–511000B28B stub axle is found, upon accumulation of 9,500 total landings on the axle or before further flight after the effective date of this AD, whichever occurs later, replace the axle or the housing assembly with a new axle P/N A–511000C28B. If the total number of landings accumulated by the stub axle cannot be positively determined, the stub axle must be considered to have accumulated more than 9,500 total landings.

**Note 1:** Operators that do not have landing (or cycle) records may determine the number of landings (or cycles) by dividing the number of hours time-in-service of each airplane by the time of the average flight for the aircraft of that type in the operator's fleet.

**Note 2:** P/N A–511000C28B axle together with the housings P/N A–511000C27B and P/N A–521000C27B form the Axle Assemblies P/N AD511010A00C and P/N AD521010A00C, which are life limited to 48,000 landings per the Dornier 228 Time Limits/Maintenance Checks Manual (TLMCM) Chapter 05–10–10.

- (3) As of the effective date of this AD, do not install MLG assemblies P/N A–511000C00F and P/N A–521000C00F fitted with a P/N A–511000B28B stub axle on any airplane.

#### FAA AD Differences

**Note 3:** This AD differs from the MCAI and/or service information as follows: No differences.

#### Other FAA AD Provisions

(g) The following provisions also apply to this AD:

- (1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust,

Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

#### Related Information

(h) Refer to EASA AD No.: 2009–0062, dated March 13, 2009; and RUAG Aerospace Defence Technology Dornier 228 Service Bulletin SB–228–276, dated October 16, 2008, for related information.

Issued in Kansas City, Missouri, on June 19, 2009.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9–14994 Filed 6–24–09; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 31

[REG–146893–02, REG–115037–00, REG–138603–03]

RIN 1545–BI78, 1545–BI80, 1545–BI79

#### Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangibles; Stewardship Expense; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to a notice of proposed rulemaking.

**SUMMARY:** This document contains a correction to a notice of proposed rulemaking (REG–146893–02, REG–115037–00, and REG–138603–03) that was published in the **Federal Register**, on Friday, August 4, 2006 (71 FR 44247) providing guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangibles, in particular with respect to contributions

by a controlled party to the value of an intangible owned by another controlled party, and modifying the regulations under section 861 concerning stewardship expenses to be consistent with the changes made to the guidance under section 482.

**FOR FURTHER INFORMATION CONTACT:** Concerning REG-146893-02 and REG-115037-03, Carol B. Tan or Gregory A. Spring, (202) 435-5265; Concerning REG-138603-03, Richard L. Chewning, (202) 622-3850 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking (REG-146893-02, REG-115037-00 and REG-138603-03) that is the subject of this document is under sections 482, 861, 6038, 6662, and 3121 of the Internal Revenue Code.

**Need for Correction**

As published, the notice of proposed rulemaking (REG-146893-02, REG-115037-00, and REG-138603-03) contains regulation identification numbers (RINs) that must be corrected.

**Correction of Publication**

Accordingly, the publication of a notice of proposed rulemaking (REG-146893-02, REG-115037-00, and REG-138603-03), which was the subject of FR Doc. 06-6674, is corrected as follows:

On page 44247, in the document heading, the language "RIN 1545-BB31, 1545-AY38, 1545-BC52" is corrected to read "RIN 1545-BI78, 1545-BI80, 1545-BI79".

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E9-14927 Filed 6-24-09; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Part 1910**

[Docket No. OSHA-2007-0006]

RIN 1218-AC29

**Abbreviated Bitrex® Qualitative Fit-Testing Protocol**

**AGENCY:** Occupational Safety and Health Administration (OSHA); Labor.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** After thoroughly reviewing the comments and other information

available in the record for the proposed rulemaking, OSHA decided that the abbreviated Bitrex® qualitative fit test is not sufficiently accurate to include among the qualitative fits tests listed in Part II of Appendix A of its Respiratory Protection Standard. Therefore, OSHA is withdrawing the proposed rule without prejudice, and is inviting resubmission of the proposed fit test after conducting further research to improve the accuracy of the protocol.

**DATES:** Effective June 25, 2009, the proposed rule published December 26, 2007 (72 FR 72971) is withdrawn.

**FOR FURTHER INFORMATION CONTACT:**

*General information and press inquiries:* Contact Ms. Jennifer Ashley, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-1999.

*Technical inquiries:* Contact Mr. John E. Steelnack, Directorate of Standards and Guidance, Room N-3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2289; *facsimile:* (202) 693-1678. Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's Web page at <http://www.osha.gov>.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Part I to Appendix A of OSHA's Respiratory Protection Standard at 29 CFR 1910.134 currently includes four qualitative fit-testing protocols using the following challenge agents: Isoamyl acetate; saccharin-solution aerosol; Bitrex® (denatonium benzoate) aerosol in solution; and irritant smoke (stannic chloride). Part II to Appendix A specifies the procedure by which OSHA determines whether to propose adding a new fit-testing protocol to the Respiratory Protection Standard. The criteria used in making this determination include: (1) A test report prepared by an independent government research laboratory (e.g., Lawrence Livermore National Laboratory, Los Alamos National Laboratory, the National Institute for Standards and Technology) stating that the laboratory tested the protocol and found it to be accurate and reliable; or (2) an article published in a peer-reviewed industrial-hygiene journal describing the protocol and explaining how the test data support the protocol's accuracy and reliability. If a fit-testing protocol meets one of these criteria, OSHA must initiate notice-and-comment rulemaking on the proposed fit-testing protocol under Section 6(b)(7)

of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655).

**II. Summary and Explanation of the Withdrawal Notice**

**A. Introduction**

In the letter submitting the abbreviated Bitrex® qualitative fit-testing (ABQLFT) protocol for review under the provisions of Appendix A of OSHA's Respiratory Protection Standard (Ex. OSHA-2007-0006-0002), Dr. Michael L. Runge of the 3M Company included a copy of a peer-reviewed article from an industrial-hygiene journal describing the accuracy and reliability of the ABQLFT protocol (Ex. OSHA-2007-0006-0003). This article also described in detail the equipment and procedures required to administer the ABQLFT protocol. According to this description, the protocol is a variation of the existing Bitrex® qualitative fit-testing protocol developed by the 3M Company in the early 1990s, which OSHA approved for inclusion in the final Respiratory Protection Standard. The ABQLFT protocol uses the same fit-testing requirements and instrumentation specified for the existing Bitrex® qualitative fit-testing protocol in paragraphs (a) and (b) of Part I.B.4 of Appendix A of the Respiratory Protection Standard, with the following two exceptions:

- Exercise times are reduced from 60 seconds to 15 seconds; and
- The ABQLFT protocol is used only with test subjects who can taste the Bitrex® screening solution within the first 10 squeezes of the nebulizer bulb (referred to as "Level 1 sensitivity").

The peer-reviewed article submitted by the 3M Company describing the study conducted on the ABQLFT, entitled "Development of an Abbreviated Qualitative Fit Test Using Bitter Aerosol," appeared in the Fall/Winter 2003 issue of the *Journal of the International Society for Respiratory Protection* (hereafter, "the ABQLFT study" or "the study"; Ex. OSHA-2007-0006-0003). The authors of the study were T.J. Nelson of NIHS, Inc., and L.L. Janssen, M.D. Luinburg, and H.E. Mullins of the 3M Company; the 3M Company supported the study. The study described by the article determined whether performing a fit test involving seven exercises lasting 15 seconds each while exposed to Bitrex® solution aerosol yielded fit-testing results similar to results obtained with a generated-aerosol (i.e., corn oil) quantitative fit test (GAQNFT) using one-minute exercises (i.e., the GAQNFT was the criterion measure or "gold standard").