

director compensation policy, methodology and/or other related materials, that the compensation and/or expenses to be paid to the directors are not reasonable. In such case, the Director may order the Bank to refrain from making any further payments under that compensation policy. Any such order shall apply prospectively only and will not affect either compensation or expenses that have been earned but not yet paid or reimbursed or payments that had been made prior to the date of the Director's determination and order.

#### § 1261.24 Board meetings.

(a) *Number of meetings.* The board of directors of each Bank shall hold as many meetings each year as necessary and appropriate to carry out its fiduciary responsibilities with respect to the effective oversight of Bank management and such other duties and obligations as may be imposed by applicable laws, provided the board of directors of a Bank must hold a minimum of six in-person meetings in any year.

(b) *Site of meetings.* The bank usually should hold board of director and committee meetings within the district served by the Bank. The Bank shall not hold board of director or committee meetings in any location that is not within the United States, including its possessions and territories.

Dated: March 27, 2010.

**Edward J. DeMarco,**

*Acting Director, Federal Housing Finance Agency.*

[FR Doc. 2010-7418 Filed 4-2-10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 27, 29, 91, 121, 125, and 135

[Docket No. FAA-2005-20245; Amendment No. 27-45, 29-52, 91-313, 121-349, 125-60 and 135-121]

RIN 2120-AJ65

#### Extension of the Compliance Date for Cockpit Voice Recorder and Digital Flight Data Recorder Regulations

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** On March 7, 2008, the FAA published a final rule titled "Revisions to Cockpit Voice Recorder and Digital Flight Data Recorder Regulations." The

rule required certain upgrades of cockpit voice recorder and digital flight data recorder equipment on certain aircraft beginning April 7, 2010. That compliance date is being changed for certain requirements on certain aircraft. **DATES:** These amendments are effective April 5, 2010.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this final rule contact Timothy W. Shaver, Avionics Maintenance Branch, Flight Standards Service, AFS-360, Federal Aviation Administration, 950 L'Enfant Plaza, SW., Washington, DC 20024; telephone (202) 385-4292; facsimile (202) 385-4651; e-mail [tim.shaver@faa.gov](mailto:tim.shaver@faa.gov). For legal questions concerning this final rule contact Karen L. Petronis, Regulations Division, AGC-200, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3073; facsimile (202) 267-7971; e-mail [karen.petronis@faa.gov](mailto:karen.petronis@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Authority for This Rulemaking**

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701. Under that section, the FAA is charged with prescribing regulations providing minimum standards for other practices, methods and procedures necessary for safety in air commerce. This regulation is within the scope of that authority since flight data recorders are the only means available to account for aircraft movement and flightcrew actions critical to finding the probable cause of incidents or accidents, including data that could prevent future incidents or accidents.

##### **I. Background**

###### *A. History of the Regulatory Requirements*

In February 2005, the FAA issued a notice of proposed rulemaking proposing to amend the digital flight data recorder (DFDR) and cockpit voice recorder (CVR) regulations for much of the U.S. fleet of aircraft (70 FR 9752; February 28, 2005). Some of the changes proposed were based on recommendations from the National Transportation Safety Board (NTSB or Board) that were issued as a result of the Board's investigations of several aircraft

accidents and incidents. A full discussion of the NTSB's recommendations and the FAA's proposed changes can be found in the 2005 NPRM.

In March 2008, the FAA issued a final rule adopting many of those proposals (73 FR 12541; March 7, 2008). The requirements were adopted as aircraft certification or operating rules, some of which take effect on April 7, 2010, and include:

- The recording of datalink communications, when the communications equipment is installed on or after April 7, 2010;
- Wiring requirements related to single electrical failures and their effect on the DFDR and CVR systems;
- The addition of a 10-minute independent power source for the CVR;
- Requirements regarding the CVR location and housing;
- Requirements for the duration of DFDR recording;
- Requirements for the duration of CVR recording; and
- Increased sampling rates for certain DFDR parameters.

A detailed discussion of the individual requirements and where they appear in the regulations can be found in the preamble to the 2008 final rule, beginning at page 12556 (Section-By-Section Analysis). Some of the requirements were promulgated to be effective in two years, while others were required within four years of April 7, 2008.

Between May 1, 2009 and December 14, 2009, the FAA received seven petitions from aircraft manufacturers and two from industry associations requesting either that the effective dates in the regulations be changed or that other relief from several of the 2008 requirements be granted for aircraft manufactured on or after April 7, 2010.

In a notice of proposed rulemaking (NPRM) published on January 7, 2010 (75 FR 943), the FAA denied all of the petitions and instead proposed that some of the requirements for newly manufactured aircraft be extended from the April 7, 2010 compliance date. Specifically, the FAA proposed that:

1. For increased DFDR sampling rates, the compliance date for newly manufactured aircraft operated under part 121, 125, or 135 would be extended until December 6, 2010.
2. For the datalink recording requirements, the compliance date after which the installation of datalink communications must include recording equipment would be extended until December 6, 2010 for aircraft operating under part 121, 125, or 135.

3. For the ten-minute backup power source for CVRs, the compliance date for part 91 operators (only) would be extended to April 6, 2012.

4. For increased DFDR sampling rates, the compliance date for newly manufactured aircraft operated under part 91 would be extended until April 6, 2012.

5. For aircraft operating under part 91, datalink communications would have to be recorded when datalink communication equipment is installed on or after April 6, 2012.

These proposed changes were the ones the FAA found to be potentially justified by the petitions submitted. All other compliance dates in the 2008 final rule remained as adopted, including the wiring requirements for CVRs and DFDRs; 25-hour solid state memory DFDRs; two-hour solid state memory CVRs; the CVR and DFDR housing requirements; and the ten-minute backup power source for CVRs on aircraft operated under part 121, 125, or 135. A more complete discussion of the requests and the FAA's proposal can be found in the preamble to the NPRM.

#### *B. General Response to the NPRM*

In the NPRM, the FAA invited comment from manufacturers and affected operators that may not consider the proposed extension to be sufficient. The agency requested that comments include specific, detailed information regarding their actions toward compliance, and reasons (such as lack of equipment availability) that continue to affect timely compliance with the 2008 regulations.

The FAA received 14 comment documents to the NPRM, including five from airframe manufacturers, three from avionics equipment manufacturers, two from industry trade associations, three from air carriers, and from the NTSB. The comments generally supported the proposed changes, while three manufacturers requested further extension of the compliance dates based on continuing issues with compliance for certain models. One avionics equipment manufacturer stated that it had been ready to supply equipment and that an extension would serve as a reward to suppliers who did not provide compliant systems by the date required in the 2008 regulations.

The NTSB supported the FAA and stated that our proposed extension of certain compliance dates was "reasonable and realistic." The NTSB opposed any further delay that might be requested, and suggested that some of the original four-year compliance times could be shortened.

#### *C. Aligning Requirements for Parts 91 and 135*

The General Aviation Manufacturers Association (GAMA) and Bombardier, Inc. (Bombardier) each submitted a comment encouraging the FAA to extend the dates for part 135 operation compliance to match those proposed for part 91. Each of the commenters noted that it is common for a business aircraft to spend part of its time operating under the regulations of part 91, and part of its time operating under part 135.

The GAMA stated that the manufacturers of these aircraft have made significant progress toward compliance in the last 18 months, but that technical difficulties remain with full compliance. Since the manufacturers seek to deliver aircraft that meet their customers' need to change operating parts, it means that part 135 compliance is required, but that it cannot be integrated into the manufacturing process for deliveries made beginning April 8, 2010. The proposed part 91 compliance date extension would provide no relief for most of the aircraft they manufacture because of the dual operational use of the aircraft.

Bombardier noted that its primary avionics equipment suppliers focused on the commercial aircraft market (for parts 121 and 125) with their more generalized system architectures as their primary goal for 2010 compliance. Accordingly, Bombardier's aircraft produced for part 121 and 125 operators will meet the April 7, 2010, date without needing to make use of the proposed extension for those operations. But those compliance efforts have resulted in the engineering for Bombardier's business aircraft, which it describes as having "more exotic bus architectures and systems that \* \* \* cannot be supported by other suppliers" remaining incomplete. Bombardier also noted that its Challenger aircraft model will need unanticipated hardware upgrades to meet the 8Hz sampling rates, and these costs and the underlying engineering were unanticipated in the 2008 final rule. This has taken the Challenger aircraft even further out of the normal manufacturing sequence and efforts to achieve compliance with the 2008 regulations. For its Challenger and BD-700 aircraft models, the proposed extension for increased sampling rates to December 2010 would decrease the number of noncompliant aircraft, but would not completely eliminate the need for exemptions to operate under part 135.

Honeywell Aerospace also recommended that part 135 operations be aligned with part 91 and the compliance date for them be extended to 2012, noting the crossover in operations and the lack of available compliant solutions for those aircraft. Gulfstream also requested that the proposed part 91 compliance extension be extended to part 135 operations for aircraft with a capacity of 19 or fewer passengers, but did not detail its specific equipment or certification issues.

The FAA disagrees that aircraft operated under part 135 should be treated the same as aircraft operated under part 91. It is true that the same aircraft may be used in both part 91 and part 135 operations. The FAA has addressed differing equipment and maintenance requirements in the past by requiring that the higher standard be met for all operations when there is mixed use. The agency sees no reason to change that practice in this instance.

The FAA considers part 135 operators more akin to those of part 121 than those of part 91, and proposed the same compliance date extension for both part 121 and 135. The general public, in purchasing air transportation, expects a level of equipment and safety that it would not necessarily expect to see in general aviation. The FAA has always maintained higher standards for aircraft operated for compensation or hire and sees no reason to change its position here. As a practical matter, the shorter compliance date will likely result in the aircraft used solely in part 91 operations complying before the April 2012 compliance date.

No changes are being adopted based on these comments. For part 135 airplanes, the installation of increased DFDR sampling rates and datalink recording equipment is extended until December 6, 2010, as proposed.

#### *D. Rule Language Discrepancy*

Several commenters, including the Boeing Company (Boeing), Airbus, and Avianca Airlines, identified a discrepancy between the text of current § 121.359(k) and the proposed rule text of § 121.359(j) regarding the datalink message set requirements in § 25.1457(a)(6).

The proposed rule text did contain an error. A similar error exists in other proposed operating rule sections. This final rule corrects the references in §§ 91.609(i), 121.359(j), 125.227(h), and 135.151(g)(1) and (g)(2) to indicate the correct compliance date for datalink recording requirements.

### E. Miscellaneous Comments

Boeing noted that in July 2009, it had requested a one-year exemption for all of its production models from the requirement for a ten-minute CVR independent power source. Boeing indicated that it has made significant advancements toward compliance since its original request, and expects to achieve compliance for all models except the Boeing 737. Boeing requested that the compliance date for 737s be changed from April 7, 2010 to July 6, 2010, noting that about 15 aircraft are expected to be produced during that time, which is before the power source equipment can be certificated and installed.

The FAA will not extend the compliance date in the rule for a single model of aircraft. The agency appreciates Boeing's renewed efforts at timely compliance, and will address the need for individual model 737 aircraft to be granted temporary operating exemptions when requested by the operators taking delivery of the affected aircraft. Requests for exemption need to be filed by the affected operators under the procedures of 14 CFR part 11. Any aircraft granted an exemption will need to be retrofitted with the power source equipment before any granted exemption expires.

In its comment, Airbus included detailed descriptions of its efforts toward compliance since it filed a petition for exemption in June 2009 on behalf of affected operators of its aircraft. Airbus indicated that it cannot guarantee that design changes necessary to implement the increased DFDR sampling rates will be ready before the December 6, 2010 extension proposed in the NPRM, and renewed its request that the compliance date be extended a full year.

The FAA has determined that the compliance date for part 121, 125, and 135 aircraft DFDR sampling rates will be extended until December 6, 2010, as proposed. Operators that require relief for aircraft manufactured after that date may apply for temporary exemption relief under 14 CFR part 11.

Airbus also renewed its request to extend the compliance time for datalink recording by one year from the current rule, indicating that the alternative is to have inactive datalink communication equipment installed.

The FAA has again concluded that any future benefit of using datalink equipment alone is outweighed by the risk of not having the communications recorded. Once datalink equipment is installed and is in use for instructions that affect the movement of the aircraft,

a record of those instructions becomes a critical element for post accident and incident investigation. The data provided by these and other recordings play a critical part in understanding the actions and events that lead up to the accident or incident. Once probable cause has been determined, actions can be taken to prevent future accidents of the same type from occurring. The elimination of voice communication and the requirements that it be recorded must be accomplished in a manner that maintains the integrity of the information, and that will occur when datalink communications are recorded. The implementation of the recording requirement cannot be further delayed in favor of some generalized benefit of lessened environmental operational impact and eventual international harmonization. The FAA notes that datalink communication remains optional under our regulations. But when chosen to be installed, the safety issues that attach to its use require that recordation of those communications not be delayed any further.

Nor does the FAA accept the argument that since some datalink communications are captured on the ground, it would be an acceptable alternative to onboard recordation. Such activities are not recognized by federal regulation and raise questions with regard to who intercepts and maintains the record of such communications and to whom they would be accessible. Nor are there any industry standards for the capture or maintenance of data recorded by ground-based systems. While such activities may become acceptable in the future as the technology advances, it does not change the need for recording datalink communications on board an aircraft now.

The Air Transport Association (ATA) commented on behalf of its member operators that the proposed extensions will reduce the number of airplanes that are unable to comply, but will not eliminate the potential need for temporary exemptions. The ATA also renewed its request for a change in the date after which in-service aircraft need to add datalink recording capability when new datalink equipment is installed.

The FAA understands that the compliance extensions for part 121, 125, and 135 operations adopted in this final rule may not capture every aircraft manufactured in 2010. As we noted in response to the Boeing 737 issue with the CVR independent power source, the FAA anticipates that some exemption requests will be filed. The FAA has found that the proposed compliance extension is appropriate under the

circumstances described by the industry, but that further extension is not. The FAA notes that no matter how far in advance compliance dates are set, the agency is almost always faced with requests for temporary exemption as those dates approach. As indicated in the preamble to the proposed rule, the agency has not been persuaded that a different compliance time is either necessary or appropriate for in-service aircraft adding optional new datalink equipment. In response to industry inquiries, the FAA plans to publish on its Web site additional guidance on datalink recording compliance for upgrades to existing aircraft.

### F. Rotorcraft Corrections

In the NPRM, we also proposed changes to the certification rules of parts 27 and 29 to correct references to airplanes that were inadvertently placed in the rotorcraft certification rules. No comments were received on these proposed changes and they are adopted as proposed.

### G. Final Rule Summary

As compared with the final rule adopted in March 2008, this final rule adopts the following flight recorder equipment compliance times:

1. For the ten-minute backup power source for CVRs, the compliance date for newly manufactured aircraft operating under part 91 is April 6, 2012.
2. For increased DFDR sampling rates, the compliance date for newly manufactured aircraft operating under part 91 is April 6, 2012.
3. For increased DFDR sampling rates, the compliance date for newly manufactured aircraft operating under part 121, 125, or 135 is December 6, 2010.
4. For recordation of datalink communications, the compliance date after which newly installed datalink systems must include recording capability for aircraft operating under part 91 is April 6, 2012.
5. For recordation of datalink communications, the compliance date after which newly installed datalink systems must include recording capability for aircraft operating under part 121, 125, or 135 is December 6, 2010.

## II. Regulatory Notice and Analysis

### Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no current

or new requirement for information collection associated with this amendment.

#### *International Compatibility*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

#### *Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment*

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it is to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for this determination follows:

In response to its 2010 NPRM, the FAA received several comments that generally supported the proposed compliance dates. As discussed in the NPRM, the FAA recognizes that technical difficulties have necessitated the extension of certain compliance dates. By extending the compliance dates, this rule will eliminate some retrofit and airplane downtime costs.

Some commenters requested that the proposed part 135 compliance date be aligned with the proposed part 91 compliance date because some newly manufactured airplanes will operate under both part 91 and part 135. The FAA has determined that part 135 operations are more like part 121 operations, and the same compliance date extension is being adopted for those two parts.

The FAA has determined that this rule is cost relieving, is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

#### *Regulatory Flexibility Determination*

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

The compliance dates extensions will reduce the costs by delaying the date after which certain production aircraft must record some parameters at a higher sampling rate. Since these aircraft would not have been able to comply with the original date, this final rule reduces some of these costs. The expected outcome will benefit small operators that purchase new aircraft.

Therefore, as the FAA Administrator, I certify that this rule will not have a

significant economic impact on a substantial number of small entities.

#### *International Trade Impact Assessment*

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rule and has determined that it will reduce costs on both domestic and international entities and thus has a neutral trade impact.

#### *Unfunded Mandates Assessment*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$141.3 million in lieu of \$100 million. This rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

#### *Executive Order 13132, Federalism*

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

#### *Regulations Affecting Intrastate Aviation in Alaska*

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, we requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. We did not receive any

comments, and we have determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation in Alaska.

#### *Environmental Analysis*

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in Chapter 3, paragraph 312f and involves no extraordinary circumstances.

#### *Regulations That Significantly Affect Energy Supply, Distribution, or Use*

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *Availability of Rulemaking Documents*

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/)
3. Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

#### **Small Business Regulatory Enforcement Fairness Act**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at [http://www.faa.gov/regulations\\_policies/rulemaking/sbre\\_act/](http://www.faa.gov/regulations_policies/rulemaking/sbre_act/).

#### **Good Cause**

This final rule amends certain compliance dates in various operating regulations and provides relief to operators of certain aircraft manufactured on or after April 7, 2010. Since that date is less than 30 days from the publication of these amendments, the FAA has determined that good cause exists under 5 U.S.C. 553(d) to make this rule effective less than 30 days from publication.

#### **List of Subjects in 14 CFR Parts 27, 29, 91, 121, 125, and 135**

Air carriers, Air taxis, Aircraft, Aviation safety, Charter flights, Safety, Transportation.

#### **The Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends parts 27, 29, 91, 121, 125, and 135 of Title 14, Code of Federal Regulations, as follows:

#### **PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT**

■ 1. The authority citation for part 27 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

■ 2. Amend § 27.1457 by revising paragraph (d)(1)(ii) to read as follows:

#### **§ 27.1457 Cockpit voice recorders.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) It remains powered for as long as possible without jeopardizing emergency operation of the rotorcraft.

\* \* \* \* \*

■ 3. Amend § 27.1459 by revising paragraph (a)(3)(ii) to read as follows:

#### **§ 27.1459 Flight data recorders.**

(a) \* \* \*

(3) \* \* \*

(ii) It remains powered for as long as possible without jeopardizing emergency operation of the rotorcraft.

\* \* \* \* \*

#### **PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT**

■ 4. The authority citation for part 29 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

■ 5. Amend § 29.1457 by revising paragraph (d)(1)(ii) to read as follows:

#### **§ 29.1457 Cockpit voice recorders.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) It remains powered for as long as possible without jeopardizing emergency operation of the rotorcraft.

\* \* \* \* \*

■ 6. Amend § 29.1459 by revising paragraph (a)(3)(ii) to read as follows:

#### **§ 29.1459 Flight data recorders.**

(a) \* \* \*

(3) \* \* \*

(ii) It remains powered for as long as possible without jeopardizing emergency operation of the rotorcraft.

\* \* \* \* \*

#### **PART 91—GENERAL OPERATING AND FLIGHT RULES**

■ 7. The authority citation for part 91 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506-46507, 47122, 47508, 47528-47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

■ 8. Amend § 91.609 by revising paragraph (i)(1) adding new paragraph (i)(3) and revising paragraph (j) to read as follows:

#### **§ 91.609 Flight data recorders and cockpit voice recorders.**

\* \* \* \* \*

(i) \* \* \*

(1) Is installed in accordance with the requirements of § 23.1457 (except for paragraphs (a)(6) and (d)(5)); § 25.1457 (except for paragraphs (a)(6) and (d)(5)); § 27.1457 (except for paragraphs (a)(6) and (d)(5)); or § 29.1457 (except for paragraphs (a)(6) and (d)(5)) of this chapter, as applicable; and

\* \* \* \* \*

(3) For all airplanes or rotorcraft manufactured on or after April 6, 2012,

also meets the requirements of § 23.1457(a)(6) and (d)(5); § 25.1457(a)(6) and (d)(5); § 27.1457(a)(6) and (d)(5); or § 29.1457(a)(6) and (d)(5) of this chapter, as applicable.

(j) All airplanes or rotorcraft required by this section to have a cockpit voice recorder and a flight data recorder, that install datalink communication equipment on or after April 6, 2012, must record all datalink messages as required by the certification rule applicable to the aircraft.

\* \* \* \* \*

■ 9. Amend appendix E to part 91 by revising footnote 5 to read as follows:

**Appendix E to Part 91—Airplane Flight Recorder Specifications**

\* \* \* \* \*

<sup>5</sup> For Pitch Control Position only, for all aircraft manufactured on or after April 6, 2012, the sampling interval (per second) is 8. Each input must be recorded at this rate. Alternately sampling inputs (interleaving) to meet this sampling interval is prohibited.

■ 10. Amend appendix F to part 91 by revising footnote 4 to read as follows:

**Appendix F to Part 91—Helicopter Flight Recorder Specifications**

\* \* \* \* \*

<sup>4</sup> For all aircraft manufactured on or after April 6, 2012, the sampling interval per second is 4.

**PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS**

■ 11. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105.

■ 12. Amend § 121.359 by revising paragraphs (e)(1) and (j)(1), adding new paragraph (j)(4), and revising paragraph (k) to read as follows:

**§ 121.359 Cockpit voice recorders.**

\* \* \* \* \*

(e) \* \* \*

(1) Is installed in accordance with the requirements of § 23.1457 (except paragraphs (a)(6), (d)(1)(ii), (4), and (5)) or § 25.1457 (except paragraphs (a)(6), (d)(1)(ii), (4), and (5)) of this chapter, as applicable; and

\* \* \* \* \*

(j) \* \* \*

(1) Is installed in accordance with the requirements of § 23.1457 (except for paragraph (a)(6) or § 25.1457 (except for paragraph (a)(6)) of this chapter, as applicable;

\* \* \* \* \*

(4) For all airplanes manufactured on or after December 6, 2010, also meets the requirements of § 23.1457(a)(6) or § 25.1457(a)(6) of this chapter, as applicable.

(k) All airplanes required by this part to have a cockpit voice recorder and a flight data recorder, that install datalink communication equipment on or after December 6, 2010, must record all datalink messages as required by the certification rule applicable to the airplane.

■ 13. Amend appendix M to part 121 by revising footnote 18, to read as follows:

**Appendix M to Part 121—Airplane Flight Recorder Specifications**

\* \* \* \* \*

<sup>18</sup> For all aircraft manufactured on or after December 6, 2010, the seconds per sampling interval is 0.125. Each input must be recorded at this rate. Alternately sampling inputs (interleaving) to meet this sampling interval is prohibited.

\* \* \* \* \*

**PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT**

■ 14. The authority citation for part 125 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 15. Amend § 125.227 by revising paragraph (h)(1), adding new paragraph (h)(4), and revising paragraph (i) to read as follows:

**§ 125.227 Cockpit voice recorders.**

\* \* \* \* \*

(h) \* \* \*

(1) Is installed in accordance with the requirements of § 25.1457 (except for paragraph (a)(6)) of this chapter;

\* \* \* \* \*

(4) For all airplanes manufactured on or after December 6, 2010, also meets the requirements of § 25.1457(a)(6) of this chapter.

(i) All airplanes required by this part to have a cockpit voice recorder and a flight data recorder, that install datalink communication equipment on or after December 6, 2010, must record all datalink messages as required by the certification rule applicable to the airplane.

■ 16. Amend appendix E to part 125 by revising footnote 18, to read as follows:

**Appendix E to Part 125—Airplane Flight Recorder Specifications**

\* \* \* \* \*

<sup>18</sup> For all aircraft manufactured on or after December 6, 2010, the seconds per sampling interval is 0.125. Each input must be recorded at this rate. Alternately sampling inputs (interleaving) to meet this sampling interval is prohibited.

\* \* \* \* \*

**PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT**

■ 17. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 18. Amend § 135.151 by revising paragraphs (b)(1), (g)(1)(i), (g)(2)(i), and (h) and by adding paragraphs (g)(1)(iv) and (g)(2)(iv) to read as follows:

**§ 135.151 Cockpit voice recorders.**

\* \* \* \* \*

(b) \* \* \*

(1) Is installed in accordance with the requirements of § 23.1457 (except paragraphs (a)(6), (d)(1)(ii), (4), and (5)); § 25.1457 (except paragraphs (a)(6), (d)(1)(ii), (4), and (5)); § 27.1457 (except paragraphs (a)(6), (d)(1)(ii), (4), and (5)); or § 29.1457 (except paragraphs (a)(6), (d)(1)(ii), (4), and (5)) of this chapter, as applicable; and

\* \* \* \* \*

(g)(1) \* \* \*

(i) Is installed in accordance with the requirements of § 23.1457 (except for paragraph (a)(6)); § 25.1457 (except for paragraph (a)(6)); § 27.1457 (except for paragraph (a)(6)); or § 29.1457 (except for paragraph (a)(6)) of this chapter, as applicable; and

\* \* \* \* \*

(iv) For all airplanes or rotorcraft manufactured on or after December 6, 2010, also meets the requirements of § 23.1457(a)(6); § 25.1457(a)(6); § 27.1457(a)(6); or § 29.457(a)(6) of this chapter, as applicable.

(2) \* \* \*

(i) Is installed in accordance with the requirements of § 23.1457 (except for paragraph (a)(6)); § 25.1457 (except for paragraph (a)(6)); § 27.1457 (except for paragraph (a)(6)); or § 29.1457 (except for paragraph (a)(6)) of this chapter, as applicable; and

\* \* \* \* \*

(iv) For all airplanes or rotorcraft manufactured on or after December 6, 2010, also meets the requirements of § 23.1457(a)(6); § 25.1457(a)(6);

§ 27.1457(a)(6); or § 29.457(a)(6) of this chapter, as applicable.

(h) All airplanes or rotorcraft required by this part to have a cockpit voice recorder and a flight data recorder, that install datalink communication equipment on or after December 6, 2010, must record all datalink messages as required by the certification rule applicable to the aircraft.

■ 19. Amend appendix C to part 135 by revising footnote 4 to read as set forth below.

#### Appendix C to Part 135—Helicopter Flight Recorder Specifications

\* \* \* \* \*

<sup>4</sup> For all aircraft manufactured on or after December 6, 2010, the sampling interval per second is 4.

■ 20. Amend appendix E to part 135 by revising footnote 3 to read as set forth below.

#### Appendix E to Part 135—Helicopter Flight Recorder Specifications

\* \* \* \* \*

<sup>3</sup> For all aircraft manufactured on or after December 6, 2010, the sampling interval per second is 4.

■ 21. Amend appendix F to part 135 by revising footnote 18 to read as set forth below.

#### Appendix F to Part 135—Airplane Flight Recorder Specifications

\* \* \* \* \*

<sup>18</sup> For all aircraft manufactured on or after December 6, 2010, the seconds per sampling interval is 0.125. Each input must be recorded at this rate. Alternately sampling inputs (interleaving) to meet this sampling interval is prohibited.

Issued in Washington, DC, on March 30, 2010.

J. Randolph Babbitt,  
Administrator.

[FR Doc. 2010-7660 Filed 4-2-10; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 67

[Docket No. FAA-2009-0773

#### Special Issuance of Airman Medical Certificates to Applicants Being Treated With Certain Antidepressant Medications

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Policy statement; request for comment.

**SUMMARY:** This policy statement is intended to serve as notice that the

Federal Aviation Administration (FAA) will consider for a special-issuance medical certificate applicants for first-, second-, and third-class airman medical certification who are being treated for depression with one of four antidepressant medications. The FAA will evaluate affected applicants on a case-by-case basis and will issue certificates based on a medical finding that an individual's use of such medication will not endanger public safety.

**DATES:** This policy goes into effect April 5, 2010. Comments must be submitted on or before May 5, 2010.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2009-0773 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket, or, the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Judi Citrenbaum, Federal Air Surgeon's Office, Office of Aerospace Medicine,

Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9689; facsimile (202) 267-5200, e-mail [Judi.M.Citrenbaum@faa.gov](mailto:Judi.M.Citrenbaum@faa.gov).

#### SUPPLEMENTARY INFORMATION:

*Availability of the Policy Statement:* You can get an electronic copy of this document using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA's Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies) or
3. Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number.

#### Background

Under Title 14 of the Code of Federal Regulations (14 CFR) 67.107(c), 67.207(c), and 67.307(c) and 67.113(c), 67.213(c) and 67.313 (c), the FAA generally considers a diagnosis of depression and use of psychotropic medication medically disqualifying for applicants for FAA medical certification. Disqualifying medication generally includes all sedatives, tranquilizers, antipsychotics, antidepressants (including selective serotonin reuptake inhibitors (SSRIs)), analeptics, anxiolytics, and hallucinogens. Aviation Medical Examiners (AMEs) defer medical certificate issuance for any applicant with a disqualifying medical condition, including any applicant who reveals on a medical certificate application usage of psychotropic medication for treatment of depression.

Under 14 CFR 67.401 the Federal Air Surgeon may, at his discretion, authorize special issuance of airman medical certificates to applicants who are disqualified under the certification standards set forth in subparts B, C, or D of part 67. The FAA, however, has long considered the use of a psychotropic medication for treatment of depression as a basis to deny a special-issuance medical certificate. Current FAA special-issuance practice has been to consider applicants who had taken psychotropic medication only if they had discontinued it for at least 3 months prior to application. Upon careful review and reconsideration, the FAA is modifying its long-standing, special-issuance practice. The FAA has determined that aviators diagnosed with depression taking one of four specific