cooperative agreement, or cooperative research and development agreement reserved, set aside, or otherwise classified as intended for award to women-owned small business concerns or economically disadvantaged women-owned small business concerns.

(2) Submission of a bid proposal for a Federal grant, contract, subcontract, cooperative agreement or cooperative research and development agreement which in any way encourages a Federal agency to classify the bid or proposal, if awarded, as an award to a women-owned small business concern or economically disadvantaged women-owned small business concern.

(3) Registration on any Federal electronic database for the purpose of being considered for award of a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement, as a women-owned small business concern or economically disadvantaged women-owned small business concern.

(c) *Signature Requirement.* Each solicitation, bid, or application for a Federal contract, subcontract, or grant shall contain a certification concerning the women-owned small business or economically disadvantaged women-owned small business status of a business concern seeking the Federal contract, subcontract or grant. An authorized official must sign the certification on the same page containing the women-owned small business or economically disadvantaged women-owned small business status claimed by the concern.

(d) *Limitation of Liability.* Paragraphs (a)–(c) shall not apply in the case of unintentional errors or technical malfunctions that demonstrate that a misrepresentation of women-owned small business or economically disadvantaged women-owned small business status was not affirmative, intentional or willful. Consideration shall be given to the firm's internal management procedures governing WOSB representation or certification, the clarity or ambiguity of the representation or certification requirement, and the efforts made to correct an incorrect or invalid representation or certification in a timely manner. In no case shall an individual or firm be liable for erroneous representations or certifications made by Government personnel.

(e) *Additional Penalties for Misrepresentation.*

(1) *Suspension or debarment.* The SBA debarring official or the agency debarring official may suspend or debar a person or concern for misrepresentation pursuant to the procedures set forth in 48 CFR subpart 9.4.

(2) *Civil Penalties.* Persons or concerns are subject to severe penalties under the False Claims Act, 31 U.S.C. 3729–3733, and under the Program Fraud Civil Remedies Act, 331 U.S.C. 3801–3812, and any other applicable laws.

(3) Persons or concerns are subject to severe criminal penalties for knowingly misrepresenting the women-owned status of a concern in connection with procurement programs pursuant to section 16(d) of the Small Business Act, 15 U.S.C. 645(d), as amended; 18 U.S.C. 1001; and 31 U.S.C. 3729–3733. Persons or concern are subject to criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing any actions of SBA pursuant to section 16(a) of the Small Business Act, 15 U.S.C. 645(a), as amended, including failure to correct "continuing representations" that are no longer true.

18. Add new § 127.701 to read as follows:

§ 127.701 What must a concern do in order to be identified as a Women-Owned Small Business concern in any Federal procurement databases?

(a) In order to be identified as a Women-Owned business concern in the Online Representations and Certifications Application (ORCA) database (or any successor thereto) a concern must certify its Women-Owned small business status in connection with specific eligibility requirements at least annually.

(b) If a firm identified as a Women-Owned small business concern in ORCA fails to certify its status within one year of a status certification, the firm will not be listed as a Women-Owned small business concern in ORCA, unless and until the firm recertifies its Women-Owned status.

Dated: September 26, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–25656 Filed 10–6–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1204; Directorate Identifier 2010–NM–147–AD]

RIN 2120–AA64

Airworthiness Directives; Aviation Communication & Surveillance Systems (ACSS) Traffic Alert and Collision Avoidance System (TCAS) Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Aviation Communication & Surveillance Systems (ACSS) traffic alert and collision avoidance system (TCAS) units installed on but not limited to various transport and small airplanes. That NPRM proposed to require upgrading software. That NPRM was prompted by reports of anomalies with TCAS units during a flight test over a high density airport. The TCAS units dropped several reduced surveillance aircraft tracks because of interference limiting. This action revises that NPRM by proposing to require new updated software for certain TCAS units. We are proposing this supplemental NPRM to correct the unsafe condition on these products. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by November 7, 2011.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Aviation Communication & Surveillance Systems, LLC, 19810 North 7th Avenue, Phoenix, Arizona 85027–4741; phone: 623–445–7040; fax: 623–445–7004; e-mail: *acss.orderadmin@L–3com.com;* Internet: *http://www.acss.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Abby Malmir, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5351; fax: 562–627–5210; e-mail: *abby.malmir@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–1204; Directorate Identifier 2010–NM–147–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to Aviation Communication & Surveillance Systems (ACSS) traffic alert and collision avoidance system (TCAS) units with part numbers identified in ACSS Technical Newsletter 8008359, Revision A, dated January 12, 2011, as installed on but not limited to various transport and small airplanes, certificated in any category. That NPRM was published in the **Federal Register** on December 28, 2010 (75 FR 81512). That NPRM proposed to require upgrading software.

That NPRM was prompted by reports of anomalies with TCAS units during a flight test over high density airports (Chicago, New York, and Atlanta). The TCAS units dropped several reduced surveillance aircraft tracks because of interference limiting. This action revises that NPRM by proposing to require new updated software for certain TCAS units. We are proposing this supplemental NPRM to correct the unsafe condition on some of these products (the TCAS II, TCAS 2000, and T2CAS) that have an issue on some installations on which the TCAS unit reverts to the standby (STBY) mode (TCAS OFF) when the active transponder senses an altitude mis-compare between two Gilham altitude input or other possible air data source failure. This potential safety issue is dependent on the altitude interface to the transponder and the transponder used.

Actions Since Previous NPRM Was Issued

Since we issued the previous NPRM, we have determined that certain software referenced in the original NPRM may not adequately address the unsafe condition for certain affected airplanes. ACSS has revised the associated service bulletins, as described below under "Request to Delay AD Pending TCAS Validation." We are issuing this supplemental NPRM to propose installing the new upgraded software via the revised versions of these service bulletins. The revised service bulletins provide instructions on how to accomplish the software upgrade; the specific software approvals, however, are still pending and are expected to be complete before the final rule is issued.

Comments

We gave the public the opportunity to comment on the previous NPRM. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for NPRM

Boeing concurred with the contents of the original NPRM.

Requests To Withdraw NPRM

ACSS disagreed with certain information in the Discussion section of the original NPRM.

The Discussion section stated that anomalies with ACSS TCAS units "occurred during a flight test over a high density airport." ACSS stated that it provided the initial report of the anomaly to the FAA in late 2009, and that the FAA reproduced that scenario during another flight test in early 2010. ACSS noted, however, that in over 35 million flight hours of ACSS TCAS systems in field operation, no operator has ever reported to ACSS any such anomaly being observed. Moreover, ACSS is not aware of any such reports having been provided to the FAA. ACSS concludes that the probability of such an event is low enough that an AD to address the potential situation is unnecessary.

The Discussion section of the original NPRM also stated that dropped tracks by the TCAS units could lead to "possible loss of separation of air traffic and possible mid-air collision." ACSS noted that the calculated probability associated with such a possible event is very low. To support this assertion, ACSS referred to Section 2.3 of ACSS Continuing Operational Safety Probability Assessment of the Interference Limiting Function, Document 8008352–001, Revision C, dated January 6, 2011. ACSS reported that it has never received any report of such an operational anomaly from field operation. ACSS added that this analysis would indicate that the probability of such an event is low enough that an AD to address the potential situation is unnecessary.

We infer that the commenter is requesting that we withdraw the NPRM. We disagree. While the commenter claims that the probability is low, information gathered from several flight tests at different regional airports, analysis of flight and other testing data, and various meetings and discussions among various FAA offices, ACSS, and an FAA TCAS contractor indicate that the risk from the identified condition is unacceptable, and it is necessary to proceed with this action.

Request To Delay AD Pending TCAS Validation

Dassault Aviation (Dassault) stated that the technical standard order (TSO)

for TCAS 2000, new part number (P/N) 7517900–55001 (referenced in corresponding ACSS Service Bulletin 8008229–001 (ATA Service Bulletin 7517900–34–6040), Revision 01, dated September 30, 2010), has been approved, but the TSO for TCAS 3000, new P/N 9003000–55004 (corresponding ACSS Service Bulletin 8008235–001 (ATA Service Bulletin 9003000–34–6006), Revision 02, dated February 3, 2011), was scheduled to be approved in June 2011. Dassault reports that, as an airplane manufacturer and system integrator, it must certify those TCAS units against airworthiness requirements and ensure that modified units still operate properly within their target system environment. Dassault proposed that we wait to issue the final rule until the new TCAS units can be validated within their hosting avionics environment.

We agree, for the reasons provided by the commenter. We have reviewed the following revised service bulletins:

- ACSS Service Bulletin 8008221–001 (ATA Service Bulletin 9003500–34–6014), Revision 01, dated February 4, 2011.
- ACSS Service Bulletin 8008222–001 (ATA Service Bulletin 9003500–34–6015), Revision 01, dated February 4, 2011.
- ACSS Service Bulletin 8008223–001 (ATA Service Bulletin 9003500–34–6016), Revision 01, dated February 4, 2011.
- ACSS Service Bulletin 8008229–001 (ATA Service Bulletin 7517900–34–6040), Revision 02, dated June 28, 2011.
- ACSS Service Bulletin 8008230–001 (ATA Service Bulletin 4066010–34–6036), Revision 02, dated June 28, 2011.
- ACSS Service Bulletin 8008231–001 (ATA Service Bulletin 7517900–34–6041), Revision 02, dated June 28, 2011.
- ACSS Service Bulletin 8008233–001 (ATA Service Bulletin 9000000–34–6016), Revision 03, dated June 30, 2011.
- ACSS Service Bulletin 8008234–001 (ATA Service Bulletin 9000000–34–6017), Revision 02, dated June 30, 2011.
- ACSS Service Bulletin 8008235–001 (ATA Service Bulletin 9003000–34–6006), Revision 02, dated February 3, 2011.
- ACSS Service Bulletin 8008236–001 (ATA Service Bulletin 7517900–34–6042), Revision 03, dated June 30, 2011.
- ACSS Service Bulletin 8008238–001 (ATA Service Bulletin 9000000–34–6018), Revision 02, dated June 30, 2011.

These revisions provide procedures for installing new updated software. We have revised this supplemental NPRM to refer to the most recent service information, and provided credit for actions done before the effective date of the AD using previous service information as acceptable for compliance with the AD requirements.

Request To Clarify Applicability

Several commenters reported difficulty determining the applicability of the original NPRM.

David Schober stated that the applicability of the original NPRM is defined in service bulletins that are not available to the general public, so some readers might not be able to determine which airplanes or components are affected. Mr. Schober added that a mechanic or repair station that does not have access to the service bulletins could return a noncompliant airplane to service.

The European Aviation Safety Agency (EASA) requested that we revise the original NPRM to specify the affected part numbers or software version.

ACSS noted that the applicability of the original NPRM did not identify specific TCAS part numbers associated with the referenced service bulletins. ACSS accordingly issued ACSS Technical Newsletter 8008359, which cross-references the service bulletins and specific TCAS part numbers. ACSS recommended that we revise the original NPRM to refer to this document.

We agree with the request. This supplemental NPRM includes the information in table 1 of ACSS Technical Newsletter 8008359, Revision A, dated January 12, 2011, which provides additional information about affected TCAS part numbers. Following paragraph (c) of this supplemental NPRM, we have added new Note 1, which introduces new table 1 to list the service information and the corresponding affected parts.

Request To Explain Effect of Revised Service Information on Applicability

Mr. Schober expressed concern for the potential effect on the applicability if the referenced service information is revised. Mr. Schober asserted that revising the service information to include additional units not considered at this time would bypass the public comment required by the Administrative Procedure Act (APA) (Pub. L. 79–404, 5 U.S.C. 551, *et seq.*).

We agree to clarify the applicability of this supplemental NPRM. Where an AD refers to a service document for airplanes or components in the applicability, that service bulletin is specifically identified by its revision level. Only that revision level may be used to determine the applicability of the AD. Therefore, since the applicability of the AD cannot change in the future except by revising or superseding the AD, this supplemental NPRM does not violate the APA. We have not changed the supplemental NPRM regarding this issue.

Request To Provide Additional Information

ACSS asserts that the information provided under the Summary and Discussion sections in the original NPRM provides very limited detail regarding the interference limiting issue. To help operators fully understand and assess the operational aspects of the interference limiting issue, ACSS recommended that we provide ACSS Technical Newsletter 8008359, "Change 7 Interference Limiting Airworthiness Directive FAQs," Revision A, dated January 12, 2011.

We agree. As explained previously, we have changed paragraph (c) in this supplemental NPRM to refer to this technical newsletter, which will be submitted to the Office of the Federal Register for approval of incorporation by reference in the final rule AD.

Request To Delay AD Issuance

Empire Airlines (Empire) reported it could not respond to the original NPRM because the necessary information was not available and the proposed modification had not been submitted for TSO approval yet. Empire suggested that we issue the NPRM when more information is available.

We disagree with the request. As noted previously in "Actions Since Previous NPRM was Issued," ACSS is upgrading the software of each TCAS model and submitting it one at a time to the FAA for review and approval. We anticipate that all necessary software will be FAA approved and released before we issue the final rule. In proposing the compliance time of 48 months in the NPRM, we anticipated that the software would be released within the first year after the final rule was issued. Therefore, the compliance time proposed in the NPRM has been reduced from 48 months to 36 months in this supplemental NPRM.

Request To Consider Effect of TCAS Certification

Dassault showed concern about the detrimental effect the original NPRM will have on the airplane delivery process for aircraft manufacturers around the world. Dassault reported that on the production line many airplanes equipped with the old TCAS part numbers are awaiting completion and final delivery. As a result, Dassault will be unable to issue a statement of

conformity (per FAA Order 8130.2G, Airworthiness Certification of Aircraft and Related Products, dated August 31, 2010) or a certificate of airworthiness (per EASA regulations) on these airplanes. Dassault requested relief in the form of two options: (1) Delaying issuance of the final rule for 12 months until ACSS can upgrade affected TCAS units currently installed so that Dassault can certify the interference limiting change and retrofit the equipment, or (2) excluding TCAS 3000 old part numbers currently on Dassault Falcon Jet and Dassault Aviation completion/production lines that are waiting entry into service so that, once in the field, the equipment would be in compliance with the AD.

We disagree that further revision of this supplemental NPRM is necessary. As stated previously, we anticipate that all necessary software will be approved and released before we issue the final rule. Therefore, Dassault will be able to install the required software in each airplane delivered after this AD's effective date and issue statements of conformity for those airplanes.

Request To Clarify Effect of the Supplemental Type Certificate (STC) on Applicability

Mr. Schober stated that many affected TCAS units use an STC as the approved data, and most of those STCs identify equipment eligible for installation by part number. The commenter asserted that the referenced service information rolls the part numbers of the units, so those units would no longer be eligible for installation via the original STC.

We agree to provide clarification. As indicated previously, we have added new table 1 in this supplemental NPRM to match each affected part number to its corresponding service document.

Request To Correct Statement of Unsafe Condition

ACSS noted an inaccuracy in the following text from the NPRM Summary section:

> The TCAS units dropped several reduced surveillance aircraft tracks because of interference limiting. We are proposing this AD to prevent TCAS units from dropping tracks, which could compromise separation of air traffic and lead to subsequent mid-air collisions.

ACSS stated that the IL function—even the changed implementation approved by the FAA and proposed by the NPRM—will still result in dropped tracks, because that is the purpose of the IL function. ACSS agreed with the Relevant Service Information section of the NPRM, which stated that the change simply "improves tracking." The commenter therefore suggested that we revise the NPRM to state that the AD will "minimize" rather than prevent dropped tracks.

We disagree. The current ACSS implementation of TCAS is susceptible to dropping surveillance aircraft tracks because of interference limiting. This supplemental NPRM would require revising the current TCAS software to prevent dropping of TA and potential RA tracking cause by interference limiting.We have not changed this supplemental NPRM regarding this issue. The supplemental NPRM also corrects the altitude source issue in some of the ACSS TCAS product installations.

Request for Information on the Incident

J. Twombly asked whether the ACSS anomaly that prompted the NPRM had any effect on the operation of the aircraft's transponder, or whether the transponder continued to operate in a normal manner, broadcasting and responding to interrogations, notwithstanding the ACSS anomaly. The commenter further questioned whether the transponder performance was verified during the investigation.

The Mode S transponder of the airplane was verified to be performing in normal status operation during the flight test, despite the TCAS operational issue of the interference limiting anomaly. This anomaly in TCAS has no effect on Mode S transponder operation. We have made no change to this supplemental NPRM in this regard.

Request To Revise FAA's Determination

ACSS requested that we revise the following sentence from the "FAA's Determination and Requirements of This Proposed AD" section of the original NPRM:

> We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

ACSS clarified that the operation of the IL function in question was not the result of an error in implementation. The IL function was specifically implemented to operate as it does in order to comply with the requirements of the TSO MOPS for Change 7 (*i.e.,* TSO–C119b), as ACSS interpreted those requirements. As such, ACSS considered the NPRM misleading in its statement that the unsafe condition was likely to exist or develop in "other products of these same type designs." ACSS had already implemented the FAA-directed change in all current and future versions (*e.g.,* TSO–C119c; Change 7.1-compliant systems). ACSS recommended that we revise the statement to indicate that the unsafe condition "exists in various ACSS TCAS systems."

We disagree with the request. We have determined that the identified unsafe condition exists in the affected TCAS products, and might develop in products with the same type design, unless the actions proposed in this supplemental NPRM are done. We have not changed the supplemental NPRM regarding this issue.

Request To Revise Certain Assertions Made in Original NPRM

ACSS questioned the accuracy of the following statement from the Discussion section of the NPRM: "When the TCAS unit interrogated aircraft in a high density airport area, some of the targets disappeared from the cockpit display or were not recognized." ACSS asserted that this claim is incorrect, and added that the TCAS system continues to monitor the airspace and receive Mode S squitter information from all aircraft within detection range, even when the interrogation power is being limited by the IL function. ACSS therefore suggested that we revise the statement to remove the words "or were not recognized."

Although the Discussion section from an NPRM is not repeated in a supplemental NPRM, we agree to provide clarification. The statement quoted by the commenter appears to be taken out of context from a more complete document. As long as information is within detection range and is being processed, MODE S recognition exists. But when tracking power is not available as a result of IL, not only will tracks disappear from the display, those targets will not be tracked because the lack of power does not permit maintenance of tracks. Therefore the tracks are dropped and will not be recognized and may result in loss of separation of own aircraft with other target aircraft. We have not changed the supplemental NPRM regarding this issue.

Request To Revise Proposed Cost Estimate

Mr. Schober noted that the Costs of Compliance section of the original NPRM considered only the actual updating of the unit—not the time to remove the unit, package and ship the unit to a repair station, return the unit to the aircraft owner, and re-install the unit, or the down time for the airplane for this maintenance evolution and the associated lost revenue.

Empire asserted that it would be necessary to read each ACSS service

document listed in the original NPRM to determine the applicability, and wondered whether we included this research time in our calculations for determining the financial impact of the original NPRM.

We infer that the commenters want us to revise the estimated costs to account for those variables. We disagree. The cost information in this supplemental NPRM describes only the direct costs of the specific required actions. Based on the best data available, the manufacturer provided the number of work-hours necessary to do the proposed actions. This number represents the time necessary to perform only the actions actually proposed by this supplemental NPRM. We recognize that, in doing actions required by an AD, operators might incur incidental costs in addition to the direct costs. But the cost analysis in AD rulemaking actions typically does not include incidental costs such as the time necessary for planning, airplane down time, or time necessitated by other administrative actions. Those incidental costs, which might vary significantly among operators, are almost impossible to calculate. We have not changed the supplemental NPRM regarding this issue.

FAA's Determination

We are proposing this supplemental NPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist in other products of these same type designs. Certain changes described above expand the scope of the original NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Proposed Requirements of the Supplemental NPRM

This supplemental NPRM would require upgrading software.

Costs of Compliance

We estimate that this proposed AD affects 9,000 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Software upgrade	2 work-hours × $85 per hour = $170	$2,870	$3,040	$27,360,000

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(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),

(3) Will not affect intrastate aviation in Alaska, and

(4) 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.

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 airworthiness directive (AD):

Aviation Communication & Surveillance Systems, LLC: Docket No. FAA–2010–1204; Directorate Identifier 2010–NM–147–AD.

(a) Comments Due Date

We must receive comments by November 7, 2011.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Aviation Communication & Surveillance Systems (ACSS) traffic alert and collision avoidance system (TCAS) units with part numbers identified in ACSS Technical Newsletter 8008359, as installed on but not limited to various transport and small airplanes, certificated in any category.

Note 1: Table 1 of this AD also provides a cross-referenced list of part numbers with associated service bulletins to help operators identify affected parts.

TABLE 1—SERVICE BULLETIN AND LRU CROSS-REFERENCE

ACCS product—	Affected LRU part Nos. (P/Ns)—	ACSS Service Bulletin—
TCAS 3000SP	9003500–10900, –10901, –10902, –55900, –55901, –55902, –57901, –65900, –65901, –65902.	8008221–001, Revision 01, dated February 4, 2011 (ATA Service Bulletin 9003500–34–6014).

TABLE 1—SERVICE BULLETIN AND LRU CROSS-REFERENCE—Continued

ACCS product—	Affected LRU part Nos. (P/Ns)—	ACSS Service Bulletin—
TCAS 3000SP	9003500–10001, –10002, –10003, –10004, –55001, –55002, –55003, –55004, –65001, –65002, –65003, –65004.	8008222–001, Revision 01, dated February 4, 2011 (ATA Service Bulletin 9003500–34–6015).
TCAS 3000SP	9003500–10802	8008223–001, Revision 01, dated February 4, 2011 (ATA Service Bulletin 9003500–34–6016.
TCAS 2000	7517900–10003, –10004, –10006, –10007, –10011, –55003, –55004, –55006, –55007, –55009, –55011, –71003, –71004, –71006, –71007, –71011.	8008229–001, Revision 02, dated June 28, 2011 (ATA Service Bulletin 7517900–34–6040).
TCAS II	4066010–910, –912	8008230–001, Revision 02, dated June 28, 2011 (ATA Service Bulletin 4066010–34–6036).
Military TCAS 2000	7517900–56101, –56102, –56104, –56105, 56107	8008231–001, Revision 02, dated June 28, 2011 (ATA Service Bulletin 7517900–34–6041).
T2CAS	9000000–10002, –10003, –10004, –10005, –10006, –10008, –10204, –10205, –10206, –10208, –20002, –20003, –20004, –20005, –20006, –20008, –20204, –20205, –20206, –20208, –55002, –55003, –55004, –55005, –55006, –55008, –55204, –55205, –55206, –55208.	8008233–001, Revision 03, dated June 30, 2011 (ATA Service Bulletin 9000000–34–6016).
T2CAS	9000000–10110, –11111	8008234–001, Revision 02, dated June 30, 2011 (ATA Service Bulletin 9000000–34–6017).
TCAS 3000	9003000–10001, –10002, –10003, –55001, –55002, –55003, –65001, –65002, –65003.	8008235–001, Revision 02, dated February 3, 2011 (ATA Service Bulletin 9003000–34–6006).
Military TCAS 2000 MASS	7517900–20001, –20002, –65001, –65002	8008236–001, Revision 03, dated June 30, 2011 (ATA Service Bulletin 7517900–34–6042).
Military T2CAS MASS	9000000–30006, –40006, –60006	8008238–001, Revision 02, dated June 30, 2011 (ATA Service Bulletin 9000000–34–6018).

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by reports of anomalies with TCAS units during a flight test over a high density airport. The TCAS units dropped several reduced surveillance aircraft tracks because of interference limiting. We are issuing this AD to prevent TCAS units from dropping tracks, which could compromise separation of air traffic and lead to subsequent mid–air collisions.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Upgrade Software

Within 36 months after the effective date of this AD, upgrade software for the ACSS TCAS, in accordance with the Accomplishment Instructions of the applicable ACSS publication identified in table 1 of this AD.

Note 2: ACSS Service Bulletin 8008233–001 (ATA Service Bulletin 9000000–34–6016), Revision 03, dated June 30, 2011, contains three part numbers (P/Ns 9000000–10007, –20007, and –55007) that were never produced.

(h) Actions Done in Accordance With Previous Service Information

A software upgrade done before the effective date of this AD in accordance with the applicable service bulletin identified in paragraphs (h)(1) through (h)(13) of this AD is acceptable for compliance with the requirements of paragraph (g) of this AD.

(1) ACSS Service Bulletin 8008221–001 (ATA Service Bulletin 9003500–34–6014), dated May 27, 2010.

(2) ACSS Service Bulletin 8008222–001 (ATA Service Bulletin 9003500–34–6015), dated May 27, 2010.

(3) ACSS Service Bulletin 8008223–001 (ATA Service Bulletin 9003500–34–6016), dated May 27, 2010.

(4) ACSS Service Bulletin 8008229–001 (ATA Service Bulletin 7517900–34–6040), Revision 01, dated September 30, 2010.

(5) ACSS Service Bulletin 8008230–001 (ATA Service Bulletin 4066010–34–6036), Revision 01, dated February 1, 2011.

(6) ACSS Service Bulletin 8008231–001 (ATA Service Bulletin 7517900–34–6041), Revision 01, dated October 15, 2010.

(7) ACSS Service Bulletin 8008233–001 (ATA Service Bulletin 9000000–34–6016), Revision 02, dated February 1, 2011.

(8) ACSS Service Bulletin 8008234–001 (ATA Service Bulletin 9000000–34–6017), Revision 01, dated February 1, 2011.

(9) ACSS Service Bulletin 8008235–001 (ATA Service Bulletin 9003000–34–6006), dated June 4, 2010.

(10) ACSS Service Bulletin 8008236–001 (ATA Service Bulletin 7517900–34–6042), dated May 27, 2010.

(11) ACSS Service Bulletin 8008236–001 (ATA Service Bulletin 7517900–34–6042), Revision 02, dated February 1, 2011.

(12) ACSS Service Bulletin 8008238–001 (ATA Service Bulletin 9000000–34–6018), dated June 4, 2010.

(13) ACSS Service Bulletin 8008238–001 (ATA Service Bulletin 9000000–34–6018), Revision 01, dated February 1, 2011.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Abby Malmir, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5351; fax: 562–627–5210; e-mail: *abby.malmir@faa.gov.*

(2) For service information identified in this AD, contact Aviation Communication & Surveillance Systems, LLC, 19810 North 7th Avenue, Phoenix, Arizona 85027–4741; phone: 623–445–7040; fax: 623–445–7004; e-mail: *acss.orderadmin@L–3com.com;* Internet: *http://www.acss.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on September 29, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–26084 Filed 10–6–11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125949–10]

RIN 1545–BJ64

Retail Inventory Method

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the retail inventory method of accounting. The regulations restate and clarify the computation of ending inventory values under the retail inventory method and provide a special rule for certain taxpayers that receive margin protection payments and similar vendor allowances. The regulations affect taxpayers that are retailers and elect to use a retail inventory method.

DATES: Written or electronically generated comments and requests for a public hearing must be received by January 5, 2012.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–125949–10), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–125949–10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–125949–10).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Natasha M. Mulleneaux, (202) 622–3967; concerning submission of comments and requests for a public hearing, Richard Hurst at *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 relating to the retail inventory method under § 1.471–8 of the Income Tax Regulations.

Section 471 provides that a taxpayer's method of accounting for inventories must clearly reflect income. Section 1.471–2(c) provides that the bases of inventory valuation most commonly used and meeting the requirements of section 471 are (1) cost and (2) cost or market, whichever is lower (LCM). Section 1.471–8 allows retailers to approximate cost or LCM by using the retail inventory method. A last-in, first out (LIFO) taxpayer that elects to use the retail inventory method must approximate cost.

Under the retail inventory method, the retail selling price of ending inventory is converted to approximate cost or approximate LCM using a cost-to-retail ratio, or cost complement. The numerator of the cost complement is the value of beginning inventory plus the cost of purchases during the taxable year, and the denominator is the retail selling prices of beginning inventories plus the initial retail selling prices of purchases. The cost complement is then multiplied by the retail selling price of ending inventory (multiplicand) to determine the ending inventory value.

Section 1.471–3 provides that, for inventory valuation purposes, the cost of purchases during the year generally includes invoice price less trade or other discounts. A discount may be based on a retailer's sales volume (sales-based allowance) or on the quantity of merchandise a retailer purchases (volume-based allowance), or may relate to a retailer's reduction in retail selling price (markdown allowance or margin protection payment). A vendor may provide a retailer with a markdown allowance or margin protection payment when the retailer temporarily or permanently reduces the retail selling price of its inventory to sell it. A markdown allowance or margin protection payment differs from other types of discounts because it is intended to maintain the retailer's profit margin and therefore is directly related to the inventory selling price.

Under proposed § 1.471–3(e) (75 FR 78944), the amount of an allowance, discount, or price rebate a taxpayer earns by selling specific merchandise (a sales-based vendor allowance) is a reduction in the cost of the merchandise sold and does not reduce the inventory cost or value of goods on hand at the end of the taxable year.

Explanation of Provisions

1. Overview

The proposed regulations restructure and restate the regulations under § 1.471–8 in plain language. The proposed regulations also add rules addressing the treatment of sales-based vendor allowances and of vendor markdown allowances and margin protection payments in the retail inventory method computation.

2. Sales-Based Vendor Allowances

The proposed regulations clarify the interaction of proposed § 1.471–3(e) with the retail inventory method by excluding from the numerator of the cost complement formula the amount of a sales-based vendor allowance.

3. Computation of Cost Complement Under the Retail LCM Method

The retail inventory method determines an ending inventory value by maintaining proportionality between costs and selling prices. Under the retail LCM method, a reduction in retail selling price reduces the value of ending inventory in the same ratio as the cost complement.

If a taxpayer earns an allowance, discount, or price rebate, the inventory cost in the numerator of the cost complement declines, resulting in a reduction of ending inventory value computed under the retail inventory method. If the allowance, discount, or price rebate is related to a permanent markdown of the retail selling price (as in the case of a markdown allowance or margin protection payment), ending inventory value is further reduced as a result of the decrease in ending retail selling prices (the multiplicand in the formula). This additional reduction of ending inventory value caused by reducing both the numerator of the cost complement and the multiplicand (1) Generally results in a lower ending inventory value for a retail LCM method taxpayer than for a similarly situated first-in, first-out (FIFO) taxpayer that values inventory at LCM, and (2) does not clearly reflect income.

To address this distortion, the proposed regulations provide that a retail LCM method taxpayer may not reduce the numerator of the cost complement for an allowance, discount, or price rebate that is related to or intended to compensate for a permanent markdown of retail selling prices. Thus, in the case of markdown allowances and margin protection payments, the value of ending inventory as computed under the retail LCM method is reduced solely as a result of the reduction in retail selling price, avoiding an unwarranted