

Suite 1100” and adding, in their place, the words “1201 New York Avenue, NW., Suite 300” in the following places:

- a. § 9420.8(d)(ii)(3); and
- b. § 9420.8(h)(i).

## PART 9428—NATIONAL VOTER REGISTRATION ACT

■ 11. The authority citation for part 9420 continues to read as follows:

**Authority:** 42 U.S.C. 1973gg–1 *et seq.*, 15532

### § 9428.7 [Amended]

■ 12. Amend 9428.7 by removing the words “1225 New York Avenue, NW., Suite 1100” and adding, in their place, the words “1201 New York Avenue, NW., Suite 300.”

Signed: August 10, 2010.

**Thomas Wilkey,**

*Executive Director, U.S. Election Assistance Commission.*

[FR Doc. 2010–20089 Filed 8–13–10; 8:45 am]

**BILLING CODE 6820–KF–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. FAA–2009–0810; Amendment No. 25–130]

RIN 2120–AJ21

### Maneuvering Speed Limitation Statement

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Aviation Administration amends the airworthiness standards applicable to transport category airplanes to clarify that flying at or below the design maneuvering speed does not allow a pilot to make multiple large control inputs in one airplane axis or single full control inputs in more than one airplane axis at a time without endangering the airplane’s structure. The FAA is issuing this final rule to prevent pilots from misunderstanding the meaning of an airplane’s maneuvering speed, which could cause or contribute to a future accident.

**DATES:** This amendment becomes effective October 15, 2010.

**FOR FURTHER INFORMATION CONTACT:** For technical questions about this final rule, contact Don Stimson, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, FAA,

1601 Lind Avenue, SW., Renton, WA 98057–3356; telephone (425) 227–1129; facsimile (425) 227–1149, e-mail [don.stimson@faa.gov](mailto:don.stimson@faa.gov). For legal questions about this final rule, contact Doug Anderson, Office of the Regional Counsel, ANM–7, Northwest Mountain Region, FAA, 1601 Lind Avenue, SW., Renton, WA 98057–3356; telephone (425) 227–2166; facsimile (425) 227–1007, e-mail [douglas.anderson@faa.gov](mailto:douglas.anderson@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, “General requirements.” Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design and performance of aircraft. This regulation is within the scope of that authority because it prescribes new safety standards for the design of transport category airplanes.

#### I. Background

##### A. Statement of the Problem

On November 12, 2001, American Airlines Flight 587, an Airbus Industrie Model A300–605R airplane, crashed shortly after takeoff from New York’s John F. Kennedy International Airport. All 260 people aboard the airplane and 5 people on the ground were killed. The airplane was destroyed by impact forces and a post-crash fire. The National Transportation Safety Board (NTSB) determined “that the probable cause of this accident was the in-flight separation of the vertical stabilizer as a result of the loads beyond ultimate design loads that were created by the first officer’s unnecessary and excessive rudder pedal inputs.”

The NTSB’s investigation revealed that many pilots might have a general misunderstanding of what the design maneuvering speed ( $V_A$ ) is and the extent of structural protection that exists when an airplane is operated at speeds below its  $V_A$ .  $V_A$  is a structural design airspeed used in determining the strength requirements for the airplane and its control surfaces. The structural design requirements do not cover multiple control inputs in one axis or control inputs in more than one axis at a time at any speed, even below  $V_A$ .

The NTSB found that many pilots of transport category airplanes mistakenly believe that, as long as the airplane’s speed is below  $V_A$ , they can make any control input they desire without risking structural damage to the airplane. As a result, the NTSB recommended that the FAA amend all relevant regulatory and advisory materials to clarify that operating at or below maneuvering speed does not provide structural protection against multiple full control inputs in one axis or full control inputs in more than one axis at the same time.<sup>1</sup> After making our own assessment, the FAA agrees with the NTSB’s finding and the resulting recommendation.

##### B. Summary of the NPRM

This final rule is based on a notice of proposed rulemaking (NPRM), Notice No. 09–10, published in the **Federal Register** on September 4, 2009 (74 FR 45777). In the NPRM, we proposed to amend 14 CFR 25.1583(a)(3) to change the requirement associated with a statement that must be furnished in the Airplane Flight Manual (AFM) explaining the use of  $V_A$  to pilots. The proposed amendment was intended to clarify that, depending on the particular airplane design, flying at or below  $V_A$  does not allow a pilot to make multiple large control inputs in one airplane axis or single full control inputs in more than one airplane axis at a time without endangering the airplane’s structure. The comment period for the NPRM closed on November 3, 2009.

##### C. Summary of the Final Rule

The FAA is adopting this final rule to prevent pilots from misunderstanding the meaning of  $V_A$ , which could cause or contribute to a future accident. The final rule adopts clarifying changes to certain statements that must be furnished in each AFM identifying the types of control inputs to avoid because they may result in structural failure.

This final rule adopts the proposed rule with minor changes that will resolve a longstanding inconsistency in the current requirements that would have been left in place by the proposed rule. This inconsistency, which goes back to at least the 1953 Civil Air Regulations Part 4b, concerns the reference to “maneuvering speed  $V_A$ ” in the existing § 25.1583(a)(3). Sections 1.2 and 25.335(c) define “ $V_A$ ” as the “design maneuvering speed,” not the “maneuvering speed.” Section 25.1507 defines the “maneuvering speed” as an

<sup>1</sup> See NTSB safety recommendation A–04–060, which is included in the docket for this rulemaking or can be found at [http://www.ntsb.gov/Recs/letters/2004/A04\\_56\\_62.pdf](http://www.ntsb.gov/Recs/letters/2004/A04_56_62.pdf).

operating limitation that must not exceed the design maneuvering speed,  $V_A$ . Since the “maneuvering speed” can be less than  $V_A$ , the reference to “maneuvering speed  $V_A$ ” in the existing § 25.1583(a)(3) is incorrect.

An applicant may wish to establish a maneuvering speed different from the design maneuvering speed, in order to make it easier for pilots to use. For example, the design maneuvering speed,  $V_A$ , is an equivalent airspeed. Applicants might find it desirable to provide a maneuvering speed as a calibrated airspeed equal to or below the corresponding equivalent design maneuvering airspeed at all altitudes, in order to provide the information in a format that is consistent with that used on the flight deck airspeed indicator.

In practice, the maneuvering speed has been identified as  $V_A$  in AFMs even when it is not always exactly the same as the design maneuvering speed defined in § 25.335(c). We have no evidence of this being unsafe and see no reason to prohibit it in the future. However, in order to address the inconsistency in the regulations, for § 25.1583(a)(3), we have changed the reference to “the maneuvering speed  $V_A$ ” proposed in the NPRM to “the maneuvering speed established under § 25.1507” in this final rule. For new § 25.1583(a)(3)(i) and (ii), we have also changed the references to “ $V_A$ ” proposed in the NPRM to “maneuvering speed” in this final rule. We will continue to allow applicants to refer to this maneuvering speed as  $V_A$  in AFMs.

For small airplanes, part 23 defines an operating maneuver speed ( $V_O$ ) to serve the same purpose as the maneuvering speed established under § 25.1507. The part 23 approach has one advantage in that there is a unique V-speed abbreviation for pilots to use that differentiates the maneuvering speed used operationally from the design maneuvering speed used to show compliance with the structural type certification requirements. We chose not to introduce a new V-speed term in part 25 because the  $V_A$  term has historically been used for transport category airplanes for both the speed to be used operationally and for design purposes. Using a new V-speed term could also potentially lead to confusion if different speed terms and definitions are used for new airplane designs compared to current designs.

#### *D. Summary of the Comments*

The FAA received nine comments on the NPRM from four commenters—Airbus, the Air Line Pilots Association (ALPA), the NTSB, and one private citizen. Airbus, ALPA, and the NTSB all

supported the proposed amendment. ALPA also submitted a comment that was beyond the scope of the NPRM. Only the private citizen submitted comments specific to the scope of the NPRM. The private citizen believed the proposed amendment is too weak and does not address the underlying airplane handling, structural, and systems issues. Summaries of the comments and our responses are provided below.<sup>2</sup> No changes were made to the final rule in response to the comments.

## **II. Discussion of the Comments**

### *A. Proposed Language Unclear*

The private citizen stated that the proposed wording does not help the pilot know at what speed a certain input to the airframe is safe and what type of input is likely to cause structural failure. The commenter went on to ask several related questions: How is a pilot to know what “rapid and large” mean? Will the FAA require the AFM to provide a specific and detailed explanation of exactly what the particular airplane is capable of withstanding? Will there be an advisory circular associated with this changed requirement to provide interpretation and guidance as to acceptable means of compliance?

The proposed wording tells the pilot the types of pilot input at speeds above and below  $V_A$  that may lead to structural failure. As stated in the NPRM, “full application of pitch, roll, or yaw controls should be confined to speeds below  $V_A$ .” Therefore, at speeds below  $V_A$ , pilots can make a full control input in a single direction in the pitch, roll, or yaw axis without concern for structural failure. (**Note:** In the final rule, the term “ $V_A$ ” has been replaced with the words “maneuvering speed.”) The proposed regulatory language also states that rapid and large alternating control inputs, especially if combined with large changes in pitch, roll, or yaw, and full control inputs in more than one axis (i.e., pitch, roll, or yaw) at the same time, may result in structural failure at any speed.

The FAA believes the standard dictionary definitions and common usage of the words “rapid and large” accurately convey their meaning. The FAA does not see a need to provide further interpretation or guidance as to the meaning of these terms.

### *B. Applicability*

The private citizen noted the proposed amendment is not retroactive,

so it would not fix the problem for existing aircraft.

Although the proposed amendment would not be retroactive, the FAA has worked with airplane manufacturers to amend their AFMs for all major transport category airplanes used in U.S. operations. The wording now in the limitations section of these AFMs meets the requirements of this final rule.

### *C. Airplane Handling Problems Not Addressed*

The private citizen stated that the underlying handling problem that led to the Flight 587 accident has not been addressed. In certain circumstances, a pilot is required to take firm and, if not aggressive, then immediate and positive action, yet seemingly has no way to know how much or when this action is likely to break the airplane. The commenter noted that the dilemma faced by the pilot is that there is some unspecified (or poorly specified) point where the kind of control inputs that he would almost routinely need to apply during landing or takeoff are no longer safe.

The FAA believes the kinds of control inputs that the pilot may need to apply during takeoff or landing, or to counter an upset, continue to be safe and are not precluded by this final rule. The control inputs made by Flight 587’s first officer, which included five alternating full rudder inputs, would not be needed for any reason.

### *D. Safety Issues Not Addressed*

The private citizen noted that the structural and systems issues arising from the Flight 587 accident have not been addressed. The commenter believes different kinds of modifications to 14 CFR part 25 would be required, including consideration of composite structure failure characteristics compared with traditional (metal) structure. The commenter stated that this rulemaking must not proceed in isolation from the other recommendations made by the NTSB. This action responds to only one of seven NTSB safety recommendations.

The commenter is correct in that this final rule responds only to NTSB Safety Recommendation A-04-60. The other safety issues arising from the Flight 587 accident are beyond the scope of this rulemaking and will be addressed by other means.

## **III. 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

<sup>2</sup> The full text of each commenter’s submission is available in the docket for this rulemaking.

and other information collection burdens imposed on the public. We have determined that there is no current or new requirement for information collection requirement associated with this amendment.

#### *International Compatibility*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform 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.

#### **IV. 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 final 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 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 final rule.

The reasoning for this determination follows. As a result of its investigation of the crash of American Airlines Flight 587 on November 12, 2001, the NTSB determined “that the probable cause of the accident was the in-flight separation of the vertical stabilizer as a result of the loads beyond ultimate design loads that were created by the first officer’s unnecessary and excessive pedal inputs,” including five alternating full rudder inputs. The NTSB’s investigation identified what appears to be a widespread misunderstanding among pilots about the degree of structural protection that exists when full or abrupt flight control inputs are made at airspeeds below an airplane’s design maneuvering speed. In fact, even below the design maneuvering speed, the structural design standards do not ensure the airplane structure can withstand multiple control inputs in one axis or control inputs in more than one axis simultaneously. This amendment will require the AFM to clarify that flying at or below the design maneuvering speed does not allow a pilot to make multiple large control inputs in one airplane axis, or single full control inputs simultaneously in more than one axis, as such control inputs will endanger the airplane’s structure. A similar change has been made voluntarily to the AFM by manufacturers of transport category airplanes currently in service. Consequently, this amendment will entail no crew-training costs, as well as no costs of testing, analysis, or changes to airplane design, and the expected outcome will be minimal costs.

This amendment addresses an identified safety issue, so the final rule has benefits. Consequently, the final rule will have minimal costs and positive net benefits and a full regulatory evaluation was not prepared. In the NPRM we requested comments on our determination of positive net benefits and did not receive any.

The FAA has, therefore, determined that this final rule 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. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

As we noted in the NPRM, all U.S. transport category aircraft manufacturers exceed the Small Business Administration small-entity criterion of 1,500 employees. We received no comments disputing this determination. Moreover, we have determined that the rule will have minimal costs and positive net benefits. Therefore, as the 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), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. 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 effects of this rule and determined that it would promote international trade by harmonizing with

corresponding EASA regulations thus reducing the cost of joint certification.

#### 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 \$143.1 million.

This final rule does not contain such a mandate. The requirements of Title II 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 would not have a substantial direct effect on the States, on 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, would not have federalism implications.

#### Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in Title 14 of the CFR 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, 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

paragraph 4(j) and involves no extraordinary circumstances.

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

The FAA has 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, and it is unlikely 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/); 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 or amendment 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/).

#### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

#### The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations part 25, as follows:

#### PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 continues to read as follows:

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

■ 2. Amend § 25.1583 by revising paragraph (a)(3) to read as follows:

#### § 25.1583 Operating limitations.

- (a) \* \* \*
- (3) The maneuvering speed established under § 25.1507 and statements, as applicable to the particular design, explaining that:
- (i) Full application of pitch, roll, or yaw controls should be confined to speeds below the maneuvering speed; and
- (ii) Rapid and large alternating control inputs, especially in combination with large changes in pitch, roll, or yaw, and full control inputs in more than one axis at the same time, should be avoided as they may result in structural failures at any speed, including below the maneuvering speed.

\* \* \* \* \*

Issued in Washington, DC, on August 8, 2010.

**J. Randolph Babbitt,**  
Administrator.

[FR Doc. 2010-20195 Filed 8-13-10; 8:45 am]

**BILLING CODE 4910-13-P**

#### FEDERAL TRADE COMMISSION

#### 16 CFR Part 305

[RIN 3084-AB03]

#### APPLIANCE LABELING RULE

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Trade Commission ("Commission") is issuing a technical correction to a final rule published on July 19, 2010 (75 FR 41696). In particular, the Commission is correcting text in Sample Label 13 in Appendix L published on page 41724 of that document.

**EFFECTIVE DATE:** July 19, 2011.