§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2008–11–17, Amendment 39–15540 (73 FR 31351, June 2, 2008), and adding the following new AD:

Air Tractor, Inc.: Docket No. FAA–2008–1120; Directorate Identifier 2008–CE–064–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by November 24, 2008.

Affected ADs

(b) This AD supersedes AD 2008–11–17, Amendment 39–15540.

Applicability

(c) This AD applies to the following airplane models and serial numbers that are certificated in any category:

Group 1 models	Serial Nos.
AT–250, AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–402, AT–402A, and AT–402B	–0001 through –1196.
AT–501, AT–502, AT–502A, and AT–502B	–0001 through –2620.
AT–602	–0337 through –1153.
AT–802A	–0003 through –0282.
Group 2 model	**Serial Nos.**
AT–401B	–0952 through –1196.

Unsafe Condition

(d) Since we issued AD 2008–11–17, the manufacturer has notified us that Model AT–401B airplanes also require a modification to the overturn skid plate. Consequently, this proposed AD retains the actions of AD 2008–11–17 and adds the requirement to modify the overturn skid plate installed on Model AT–401B airplanes. We are issuing this AD to prevent the front and rear connections of the overturn skid plate to the airplane from breaking, which could allow foreign debris to enter the cockpit during an airplane overturn. This condition, if not corrected, could lead to pilot injury.

Compliance

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) *For Group 1 airplanes:* If overturn skid plate part number (P/N) 11411–1–500 or an FAA-approved equivalent P/N is already installed then install P/N 11411–1–501 modification kit.	Within the next 180 days after July 7, 2008 (the effective date of AD 2008–11–17).	Follow Snow Engineering Co. Service Letter #97, revised November 7, 2007; or Snow Engineering Co. Service Letter #97, revised September 19, 2008.
(2) *For Group 1 airplanes:* If there is no overturn skid plate installed, then install overturn skid plate kit P/N 11411–1–502 or an FAA-approved equivalent part number.	Within the next 180 days after July 7, 2008 (the effective date of AD 2008–11–17).	Follow Snow Engineering Co. Service Letter #97, revised November 7, 2007; or Snow Engineering Co. Service Letter #97, revised September 19, 2008.
(3) *For Group 2 airplanes:* Install P/N 11411–1–501 modification kit.	Within the next 180 days after the effective date of this AD.	Follow Snow Engineering Co. Service Letter #97, revised September 19, 2008.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Andy McAnaul, Aerospace Engineer, ASW–150, FAA San Antonio MIDO–43, 10100 Reunion Pl., Ste. 650, San Antonio, Texas 78216; telephone: (210) 308–3365; fax: (210) 308–3370. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(g) To get copies of the service information referenced in this AD, contact Air Tractor Inc., P.O. Box 485, Olney, Texas 76374; telephone: (940) 564–5616; fax: (940) 564–5612; e-mail: *airmail@airtractor.com*; Internet: *http://www.airtractor.com*. To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at *http://www.regulations.gov*.

Issued in Kansas City, Missouri, on October 14, 2008.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–25286 Filed 10–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2008–1097; Notice No. 08–12]

RIN 2120–AJ31

Aircraft Noise Certification Documents for International Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action would require operators of U.S. registered civil aircraft flying outside the United States to carry aircraft noise certification information on board the aircraft. This proposed rule is needed to ensure that U.S. operators have consistent noise certification information on board when they fly outside the United States. The intended effect of this proposal is to ensure consistent compliance with the International Civil Aviation Organization, Annex 16, Volume 1, Amendment 8 that requires certain noise information be carried on board the aircraft.

DATES: Send your comments on or before January 21, 2009.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–1097 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:* Bring 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.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

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, go 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.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule contact Laurette Fisher, Office of Environment and Energy (AEE–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3561; facsimile (202) 267–5594; e-mail *laurette.fisher@faa.gov*. For legal questions concerning this proposed rule contact Karen Petronis, Office of Chief Counsel (AGC–200), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3073; e-mail *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 44715, Controlling aircraft noise and sonic boom. Under that section, the FAA is charged with prescribing regulations to measure and abate aircraft noise. This proposed regulation is within the scope of that authority since it would require certain operators to carry on board documentation listing the noise characteristics of the aircraft. These characteristics are already contained in the aircraft flight manual and approved as part of the aircraft's airworthiness certification and compliance with 14 CFR part 36.

Background

Current U.S. regulations require that all U.S. aircraft comply with the noise certification requirements of 14 CFR part 36. Part of that certification includes the noise levels that were obtained during certification testing. Section 36.1501 requires that these certification noise levels be included in the Airplane Flight Manual (AFM) or Rotorcraft Flight Manual (RFM). These manuals must be approved by the FAA. Part 36 also contains two sections (36.1581 and 36.1583) that describe the specific noise certification data to be included in an FAA-approved AFM/RFM. However, there is no specific requirement for the entire FAA-approved AFM to be carried on board an aircraft.

For U.S. air carriers operating under part 121, a carrier is allowed to create an Aircraft Operations Manual (AOM) or a Flight Crew Operating Manual (FCOM) as an alternative to the AFM to be carried on board the aircraft. That manual typically contains only the aircraft limitations and performance information from the FAA-approved AFM. The air carriers' flight, maintenance, and ground crews would normally use these manuals. The AOM or FCOM may or may not contain the noise characteristics pages from the FAA-approved AFM, depending on the operator's needs and the manual's organization.

Several years ago, the FAA became aware of instances in which U.S. aircraft were detained at foreign airports when the noise status of the airplane was questioned. In many cases, the flightcrew had not been able to provide relevant information either because the AOM/FCOM did not contain such information, or because the information was not aggregated in one location in the on-board manual. Some foreign authorities have asked U.S. flightcrews to either produce a noise certificate or show the noise status of the airplane from on-board documents.

ICAO Actions

The issue of noise documentation has been addressed by the Certificate Task Group (CTG) of the ICAO's Committee on Aviation Environmental Protection. In 2001, Noise Technical Working Group 1 of the CTG was tasked with examining the implementation of Annex 16 noise certification documentation requirements, and the possible international standardization of those documents. The CTG includes the FAA and several representatives of the U.S. aviation industry among its members.

The CTG considered various options for standardization of documents to be carried by aircraft operators. The ICAO member States use a variety of administrative systems, with differing requirements for noise documentation at certification and for designating documents that must be carried on board. The CTG proposed three options designed to accommodate these different practices. These three proposed options were drafted with reference to existing regulatory systems in the various States and incorporated into a new Attachment G to Annex 16 Amendment 8. The ICAO adopted Amendment 8 of Annex 16, Volume 1 on February 23, 2005, and it became effective on November 24, 2005. Section 1.4 of Annex 16 now requires that ''documents attesting noise certification shall be approved by the State of Registry and required by that State to be carried on the aircraft.'' Attachment G to Amendment 8 provides the following three options for satisfying the certification documentation requirements of sections 1.4 and 1.5.

1. A stand-alone State-issued noise certificate in which the mandatory information requirements of Annex 16, Volume 1, are contained in a single document.

2. Two complementary documents, one of which may be the Airplane Flight Manual (AFM) or the Airline Operations Manual (AOM).

3. Three complementary documents.

Option 2 was designed to accommodate the system in effect in the United States. One of the documents contemplated under this option was an aircraft's airworthiness certificate, since it is issued only when an aircraft has demonstrated compliance with part 36. However, since U.S. airworthiness certificates do not contain any noise information, the second document would contain the noise certification data that is already required to be in the AFM/RFM.

Currently, no specific format exists for the noise information required to be in the AFM/RFM. In practice, the information may be scattered over several pages and not easily located. Further, since noise data is not required for inclusion in those parts of the manual carried on board, flightcrews may not be familiar with or even have access to this information.

Before Amendment 8 was adopted in 2005, the noise documentation section of Annex 16 was contained in a note and considered advisory material. To address the difficulties that U.S. carriers had experienced, the FAA published a draft notice of availability of proposed Advisory Circular, entitled ''Guidance on Aircraft Noise Certification Documents for International Flights'' (70 FR 60127, October 14, 2005). That AC included an optional form on which operators leaving the United States could compile the noise certification data envisioned by the working group.

With the adoption of Amendment 8 and the new paragraph 1.4, noise documentation must now be carried on board all U.S. aircraft operating outside the United States in order to comply with ICAO, Annex 16, Volume I. We have determined that a regulatory change to require the carriage of noise certification documents is necessary. We have chosen to propose this as an operating requirement rather than a certification requirement, because the information already exists in operators' manuals and does not affect the certification basis of an airplane. As an operating rule, it will not affect operators who do not leave the United States.

Overview of the Proposed Rule

We are proposing to amend part 91 to add a new paragraph in section 91.703 requiring operators that fly outside the United States using aircraft subject to ICAO Annex 16 [1] to carry aircraft noise certification information onboard the aircraft.

While the regulatory amendment is simple, we are seeking comment on the proposed format of the documentation and the best place to have it located on board the aircraft.

Air carriers and other affected operators who leave the country are encouraged to comment on the proposed regulation, and suggest workable alternatives that could be applied to all operators who fly outside the United States.

We are including in this proposal a draft aircraft noise documentation form. We anticipate that the information needed to complete the form will be transferred by the operator from the approved flight manual for *each* of an operator's aircraft. The form included in this proposal is nearly identical to the one we published in the draft Advisory Circular, and includes all of the information that was chosen by Working Group 1 as necessary to comply with the ICAO requirement. We have attempted to maintain the same format in an effort to make the form readily recognizable to foreign authorities. Unless there is compelling reason to do so, we do not plan on altering the placement of information on the form. The FAA will seek approval from the Office of Management and Budget to maintain it as an official form that we recommend be carried on board.

We would especially like to hear from those operators that chose to complete the form as it was published in the draft AC, including where they carry the form, how flightcrews are informed of its location, and whether it has been requested in foreign operations.

Use of this form is optional. An operator may choose to use the appropriate flight manual pages that contain the required noise data as its means of compliance with the documentation requirements of Annex 16. Alternatively, a carrier could develop its own documentation that contains the required noise data. We caution operators that do not use the FAA form to ensure that the materials they carry comply with the requirements of Annex 16, Volume I, sections 1.4 and 1.5.

We seek comment on the best place for the information, if compiled into the recommended form or other single document, to be located on board the aircraft. If it is to be carried on board as part of the AFM/RFM/AOM/FCOM, should it have its own tabbed section, be an Appendix, or be incorporated into another already familiar section? Is there a better place for a document to be located that would be accessible to the flightcrew and common to all operators? We will review the comments and include our recommendations in the final rule.

Noise Certificates Not an Option

The Working Group 1 discussions included a suggestion to the FAA that we issue noise certificates as our means of compliance. While it seems a simpler solution, the FAA does not have the legal authority to issue noise certificates as other ICAO countries do.

In a related issue, the form originally developed by Working Group 1 includes an approval by a Member State's certificating authority, such as the FAA in the United States. The FAA will not be approving the recommended form that contains the information. We interpret that action to be legally indistinguishable from issuing a noise certificate. Instead, as the draft form indicates, the information contained on the page comes from an FAA-approved flight manual. The FAA-approved noise certification data is part of the procedures for operating aircraft and not considered a limitation or restriction. The FAA has found that transfer of the FAA-approved noise data satisfies the ICAO requirement that the information on board ''be approved by the State of Registry.'' Each operator carries the burden of a one-time correct transfer of the information for each of its aircraft.

The FAA Form

Following is a draft of the form that we recommend operators use in complying with this regulation. We anticipate that this form will be available online from the FAA Web site; its particular location on the site has not been decided, but is open for comment on accessibility. Following the form is a description of the material that goes in each section, adapted from the ICAO instructions.

Use of this form, when properly completed and carried on board, along with an airplane's airworthiness certificate, would demonstrate compliance with the proposed regulation and with ICAO Annex 16, Volume I, Part II Chapter 1, paragraphs 1.4 and 1.5. The information on this form is not new, and is in each operator's FAA-approved flight manual for each aircraft.

The boxes in this form are numbered to maintain similarity with the ICAO version. The descriptions of the information to be entered in boxes 1–2 and 4–20 are not to be altered. Box 3 is optional for use by the operator.

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[1] ICAO Annex 16, Volume I, Part II. Chapter 1, Paragraph 1.1 states that: *The provisions of 1.2 to 1.6 shall apply to all aircraft included in the classifications defined for noise certification purposes in Chapters 2, 3, 4, 5, 6, 8, 10, 11 and 12 of this part where such aircraft are engaged in international air navigation.*

1. **United States of America**			
2. **Aircraft Noise Certification Information** **Name of Operator** (Address, Telephone, and Fax Number)			
3.Document Number: (Optional)	**4. Nationality and Registration Marks:**	**5. Manufacturer; Manufacturer's Designation Of Aircraft (Model/Series):**	**6. Aircraft Serial Number:**
7. Engine:		**8. Propeller: (If applicable)**	
9. Maximum Takeoff Weight/ Mass: _____pounds (_____kg)	**10. Maximum Landing Weight/ Mass:** _____pounds (_____kg)	**11. Noise Standard: (If applicable)** Stage ____	
12. Additional modifications incorporated for the purpose of compliance with the applicable noise certification standards:			
13. Lateral/Full-Power Level (if applicable)	**14. Approach Noise Level (if applicable)**	**15. Flyover Noise Level (if applicable)**	**16. Overflight Noise Level (if applicable)**	**17. Takeoff Noise Level (if applicable)**
18. Subject Aircraft Noise Levels: The aircraft listed on this form meets the requirements of 14 CFR part 36. The noise information on this document has been copied from FAA-approved AFM/RFM/AOM/FCOM, number XXX-XXX-XXX, Revision X, dated MM-DD-YYYY. **19. Date** _____ **20. Signature** _____ (Official of Operator)			

This document supports compliance with ICAO Annex 16, Volume 1 for noise certification documentation carried on board U.S. aircraft. Information on this form has been transferred from an FAA-approved Aircraft Flight Manual by the named operator; that operator is solely responsible for the content.

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The following describes the data to be entered on the form:

1. United States of America (ICAO-required name of member State).

2. Title (Aircraft Noise Certification Information), plus the name of the operator and contact information.

3. Document number (optional for operator's use).

4. The nationality or common mark and registration marks (in the United States, N-number).

5. The aircraft manufacturer and manufacturer's designation of the aircraft (model and series, as appropriate).

6. The aircraft serial number.

7. The type and model of the subject aircraft's engine(s) (for identification and verification of the aircraft configuration).

8. For propeller-driven airplanes, the propeller type and model.

9. The maximum takeoff mass and unit. The primary U.S. unit differs from the international unit: The appropriate conversion factor can be found in ICAO Annex 5. To avoid confusion, a U.S. operator may choose to record weight/mass in both English and metric units. An example of a conversion change from pounds to kilograms is shown below:

Aircraft weight (pounds) conversion to aircraft mass (kilograms)[2]:

To convert aircraft weight from	*to*	*Multiply by*
pound (lb)	kilogram (kg)	4.53592 E–01

Example: For a Boeing 747–400F that weighs 875,000 lb, 875,000 (lb) × 4.53592 E–01 (kg/lb) = 396,893 (kg)

10. The maximum landing mass and unit. To avoid confusion, a U.S. operator may choose to record weight/mass in both English and metric units. See conversion example above.

11. The Part 36 noise stage of the certificated aircraft. The terminology of aircraft certification classification in the United States is ''Stage'' rather than ''Chapter'' as used in Annex 16. The U.S. term is recognized by ICAO and is not considered a difference from Annex 16. Note that the term ''Stage'' is not applicable to airplanes certificated under 14 CFR part 36, Subpart F.

12. Any modifications to the aircraft incorporated for compliance with applicable noise certification standards. This item should include any modifications to the basic aircraft described in items 7 and 8.

13. The lateral/full-power noise level, as certificated. Operators of U.S.-registered aircraft must use the 14 CFR part 36 certificated noise levels, expressed as Effective Perceived Noise Level (EPNdB). **NOTE:** For 14 CFR part 36, appendix B, certifications that predate Amendment 36–24 use the term ''sideline'' instead of ''lateral.''

14. The approach noise level, as certificated. Operators of U.S.-registered aircraft must use the 14 CFR part 36, appendices B or H certificated noise levels, expressed as EPNdB.

15. The flyover noise level, as certificated. Operators of U.S.-registered aircraft must use the 14 CFR part 36 certificated noise levels, expressed as EPNdB. For rotorcraft, certificated under appendices H or J, noise levels are expressed as either EPNdB or A-weighted Sound Exposure Level (dBA SEL), respectively. (**Note:** For 14 CFR part 36, appendix B certifications that predate Amendment 36–24 use the term ''takeoff'' instead of ''flyover.'')

16. The overflight noise level, as certificated. Operators of U.S.-registered aircraft must include the 14 CFR part 36 certificated noise levels. For small airplanes, certificated under appendix F, noise levels are expressed as maximum A-weighted sound level (dBA). For rotorcraft, certificated under appendices H or J, noise levels are expressed as either EPNdB or A-weighted SEL (dBA SEL), respectively. Note: The terminology describing this noise level in 14 CFR part 36 is ''flyover'' rather than ''overflight'' as used in Annex 16.

17. The takeoff noise level, as certificated. Operators of U.S.-registered aircraft must use the 14 CFR part 36, appendices G and H certificated noise levels as described in item 16.

18. A statement that the individual aircraft complies with the applicable noise requirements of the U.S. regulations applicable to its type and size.

19. The date on which the noise certification document was created by the operator.

20. The signature of the official of the operator attesting to the accuracy of the information in the FAA Form.

Listing multiple aircraft with similar characteristics on the same document will not be allowed. Only the data for the single aircraft listed in the serial number and registration sections is to be listed on this form. Failure to carry the correct information, regardless of form, would be a violation of the regulation.

Paperwork Reduction Act

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted the information requirements associated with this proposal to the Office of Management and Budget for its review.

Title: Aircraft Noise Certification Documents For International Operations.

Summary: This proposal would add a new paragraph in § 91.703 requiring operators that fly outside the United States, using aircraft subject to International Civil Aviation Organization (ICAO), Annex 16, to carry aircraft noise certification information on board the aircraft. It would ensure that U.S. operators have the noise certification information required to comply with CIAO Annex 16, Volume I, Amendment 8 when flying outside the United States.

Use of: This proposed rule would require operators of U.S.-registered civil aircraft flying outside the United States to carry aircraft noise certification information on board the aircraft. This proposed rule is needed to ensure compliance with ICAO, Annex 16, Volume 1, Amendment 8 that requires certain noise information be carried on board aircraft that fly outside their state of registry. The proposed rule would require that this information be easily accessible to the flight crew and presentable upon request to the appropriate foreign officials.

Respondents (including number of): The likely respondents to this proposed information requirement are operators of U.S.-registered airplanes that fly outside the United States.

Frequency: This form would be completed one time for each aircraft. Thus, the annual frequency of information requirement is a one-time initial response for each aircraft currently owned by the operator, then once per new aircraft acquired or modified by an operator.

Annual Burden Estimate: This proposal would result in an annual recordkeeping and reporting burden as follows:

The cost of the proposed rule per affected airplane was derived by multiplying the technical writer's wage rate of $29.95 per hour by 0.25 hours required to complete the form, and adding to that the chief pilot's wage rate of $79.48 per hour multiplied by 0.17 hours required to review and sign the form. Thus, compliance with this

[2] In 1959, the directors of the national standards laboratories of the United States, Canada, the United Kingdom, Australia, New Zealand, and the Union of South Africa agreed on common definitions of the customary length and mass units. They define the pound avoirdupois as 0.453592 kg. The engineering practice of using lbm for pound mass is obsolete.

regulation would result in a per-airplane cost of $21. As a result, the initial cost of the proposed rule would be $21 per aircraft times 5,066 aircraft, for a total of $106,386.

The agency is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement by December 22, 2008, and should direct them to the address listed in the **ADDRESSES** section at the end of this preamble. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Building, Room 10202, 725 17th Street, NW., Washington, DC 20053.

According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, the FAA policy is to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and is proposing this regulation as a means of compliance with Annex 16 regarding noise documentation carried on board aircraft that leave the United States.

Regulatory Evaluation

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, this 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). However, for regulations with an expected minimal impact, the above-specified analyses are not required.

The 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 the proposal or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it 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 proposed rule. The reasoning for this determination follows:

This proposed rule would require operators of U.S. registered civil aircraft flying outside the United States subject to ICAO Annex 16, Volume 1, Amendment 8, to carry aircraft noise certification data on board the aircraft. Operators may comply with the proposed rule by transferring the data from the Airplane Flight Manual to a suggested form included in this rulemaking. Operators may also choose to carry the required information in a different format. The proposed rule would require that this information be easily accessible to the flight crew and presentable upon request to the appropriate officials.

The FAA was unable to determine the exact number of U.S. registered aircraft that would be subject to this proposed rule. Therefore, the FAA used (as an overestimate) the total number of passenger jet and cargo jet aircraft registered to U.S. mainline carriers in its cost computations. Based on the FAA Aerospace Forecast, there are a total of 5,066 aircraft currently registered to U.S. mainline air carriers (1,034 cargo aircraft [3] and 4,032 passenger jet aircraft [4]).

For the purposes of this analysis, we assume that operators would choose to comply with the proposed rule by using the provided recommended form. This form would be completed one time for each aircraft. We estimate that completion of the form would require 15 minutes of a technical writer's time and 10 minutes of a chief pilot's or chief engineer's time. The average wage rate for a technical writer is $29.95 per hour [5] after accounting for fringe benefits. The average wage rate for a chief pilot or chief engineer is estimated at $79.48 per hour [6] after accounting for fringe benefits.

The cost of the proposed rule per affected airplane was derived by multiplying the technical writer's wage rate of $29.95 per hour by 0.25 hours required to complete the form, and adding to that the chief pilot's wage rate of $79.48 per hour multiplied by 0.17 hours required to review and sign the form. Thus, compliance with this regulation would result in a per-airplane cost of $21. As a result, the initial cost of the proposed rule would be $21 per aircraft times 5,066 aircraft, for a total of $106,386. Operators may subsequently decide to purchase or modify aircraft affected by the proposed rule. If they do so, operators would incur an extra cost of $21 per additional airplane to bring it into compliance with ICAO Annex 16, Volume 1, Amendment 8.

This proposed rule would ensure that U.S. aircraft that fly abroad are in compliance with ICAO Annex 16, Amendment 8. Operators would benefit from the proposed rule by having the proper documentation readily available for foreign authorities, avoiding delays and detainment when noise certification status is questioned. The FAA believes that the negligible cost of compliance with this rule is outweighed by the benefit of compliance with the international standard.

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[3] Table 21, U.S. Mainline Air Carriers, Cargo Jet Aircraft, FAA Aerospace Forecast, FY 2008–2025.

[4] Table 20, U.S. Mainline Air Carriers, Cargo Jet Aircraft, FAA Aerospace Forecast, FY 2008–2025.

[5] FAA, APO–310, N & O Rule Regulatory Evaluation.

[6] Hourly wage derived by taking median salary of $133,916 for a chief pilot, dividing by 2080 hours per year, and multiplying by the fringe benefit factor of 1.2345. Salary source: *http://swz.salary.com/salarywizard/layouthtmls/swzl_compresult_national_TR20000019.html*, last accessed June 30, 2008.

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.

This proposed rule would ensure that U.S. operators have consistent noise certification information on board when they fly outside the United States. This rule is needed to ensure compliance with the ICAO Annex 16 that requires certain noise information be carried on board. Under the proposed rule, each small entity would incur a one-time cost of $21 per aircraft currently in its fleet. Operators may subsequently decide to purchase or modify aircraft affected by the proposed rule; if they do so, they would incur an extra cost of $21 per airplane to comply. The FAA does not consider this a significant cost. Therefore, the FAA certifies that this proposed rule would not have a significant impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

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 proposed rule and has determined that it would affect only those U.S. operators that conduct international operations. The expected outcome of this proposed rule will be a minimal impact on affected operators with the net benefits of ICAO compliance.

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 (adjusted annually for inflation with the base year 1995) 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 $136.1 million in lieu of $100 million.

This proposed rule does not contain such a mandate.

Executive Order 13132, Federalism

The FAA has analyzed this NPRM 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.

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 312f and involves no extraordinary circumstances.

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

The FAA has analyzed this NPRM 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 a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Additional Information

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and also identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and we place a note in the docket that we have received it. If we

receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

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/*; 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, notice number, or amendment number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the internet through the Federal eRulemaking Portal referenced in paragraph (1).

List of Subjects in 14 CFR Part 91

Aircraft, Noise control, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. 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).

2. Section 91.703 is amended by adding paragraph (a)(5) to read as follows:

§ 91.703 Operations of civil aircraft of U.S. registry outside of the United States.

(a) * * *

(5) For aircraft subject to ICAO Annex 16, carry on board the aircraft documents that summarize the noise operating characteristics and certifications of the aircraft that demonstrate compliance with this part and Part 36 of this chapter.

* * * * *

Issued in Washington, DC on October 17, 2008.

Carl Burleson,

Director, Office of Environment and Energy.

[FR Doc. E8–25271 Filed 10–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08–11–000]

Version Two Facilities Design, Connections and Maintenance Reliability Standards

Issued October 16, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to section 215 of the Federal Power Act, the Commission is proposing to approve three revised Reliability Standards developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. The three revised Reliability Standards, designated by NERC as FAC–010–2, FAC–011–2 and FAC–014–2, set requirements for the development and communication of system operating limits of the Bulk-Power System for use in the planning and operation horizons.

DATES: Comments are due November 24, 2008.

ADDRESSES: Comments and reply comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. Documents created electronically using word processing software should be filed in the native application or print-to-PDF format and not in a scanned format. This will enhance document retrieval for both the Commission and the public. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Attachments that exist only in paper form may be scanned. Commenters filing electronically should not make a paper filing. Service of rulemaking comments is not required. Commenters that are not able to file electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Cory Lankford (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6711; Eddy Lim (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 502–6713.

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215 of the Federal Power Act,[1] the Commission is proposing to approve three revised Reliability Standards concerning Facilities Design, Connections and Maintenance (FAC) that were developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization (ERO) responsible for developing and enforcing mandatory Reliability Standards. The three revised Reliability Standards, designated by NERC as FAC–010–2, FAC–011–2 and FAC–014–2, set requirements for the development and communication of system operating limits of the Bulk-Power System for use in the planning and operation horizons.[2]

I. Background

A. Mandatory Reliability Standards

2. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[3]

B. NERC's Proposed Version Two FAC Reliability Standards

3. On November 15, 2006, NERC filed 20 revised Reliability Standards and three version one FAC Reliability Standards for Commission approval. The Commission addressed the 20 revised Reliability Standards in Order

[1] 16 U.S.C. 824o (2006).

[2] The Commission is not proposing any new or modified text to its regulations. Rather, as set forth in 18 CFR Part 40, a proposed Reliability Standard will not become effective until approved by the Commission, and the ERO must post on its Web site each effective Reliability Standard.

[3] 16 U.S.C. 824o(e)(3).