

Therefore, the FAA has determined that notice and public procedures are unnecessary.

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

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

#### Adoption of the Correction

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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 [Corrected]

■ 2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

**2005-22-10 R1 Airbus:** Amendment 39-14354. Docket 2002-NM-298-AD.

**Applicability:** Model A320-111, -211, -212, -214, -231, -232, and -233 airplanes, certificated in any category; as listed in Airbus Service Bulletin A320-27-1132, Revision 01, dated June 19, 2002.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent excessive vibrations of the elevators, which could result in reduced structural integrity and reduced controllability of the airplane, accomplish the following:

#### Detailed Inspection and Corrective Action

(a) Within 800 flight hours after the effective date of this AD, perform a detailed inspection to determine the position of each tail cone triangle in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320-27-1132, Revision 01, dated June 19, 2002. If the position of the tail cone triangle is not within the limits specified in the service bulletin: Within 3,500 flight hours after the inspection, re-rig the elevator servo controls to adjust the elevator neutral setting, and change the position of the tail cone triangle, in accordance with the service bulletin.

**Note 1:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

#### Actions Accomplished Per Previous Release of the Service Bulletin

(b) Actions accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A320-27-1132, dated March 14, 2001, are considered acceptable for compliance with the corresponding actions required by this AD.

#### No Reporting Requirement

(c) Although the service bulletin specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

#### Alternative Methods of Compliance

(d)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

#### Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions must be done in accordance with Airbus Service Bulletin A320-27-1132, Revision 01, excluding Appendix 01, dated June 19, 2002. This incorporation by reference was approved previously by the Director of the Federal Register as of December 5, 2005 (70 FR 62232, October 31, 2005). To get copies of this service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. To inspect copies of this service information, go to the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or to the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**Note 2:** The subject of this AD is addressed in French airworthiness directive 2002-514(B) R1, dated November 13, 2002.

#### Effective Date

(f) The effective date of this amendment remains December 5, 2005.

Issued in Renton, Washington, on December 15, 2005.

#### Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05-24525 Filed 12-28-05; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Parts 121, 125, 135, and 145

[Docket No. FAA-2000-7952; Amendment Nos. 121-319, 125-49, 135-102, and 145-26]

RIN 2120-A108

#### Service Difficulty Reports

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule and withdrawal of delayed final rule.

**SUMMARY:** The Federal Aviation Administration (FAA) is withdrawing a delayed final rule published on September 15, 2000. That final rule would have amended the reporting requirements for certificate holders concerning failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. We are withdrawing this rule to allow the FAA time to re-examine the service difficulty report (SDR) program and consider the comments received since the delayed final rule was published.

In this action we are also adopting several amendments that improve the functioning of the SDR program.

**DATES:** This amendment becomes effective January 30, 2006.

**FOR FURTHER INFORMATION CONTACT:** Emilio Estrada, Flight Standards Service, Aircraft Maintenance Division (AFS-300), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-5571, e-mail [emilio.estrada@faa.gov](mailto:emilio.estrada@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Availability of Rulemaking Documents

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

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web site (<http://dms.dot.gov/search/>);
- (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 amendment number or docket number of this rulemaking.

## Privacy Act

Using the search function of the Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual submitting the comment (or signing the comment 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 (65 FR 19477-78) or you may visit <http://dms.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 the local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. 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/).

## Statutory Authority

Title 49, section 44701 of the United States Code, authorizes the FAA Administrator to prescribe regulations for practices the Administrator finds necessary for safety in air commerce [49 U.S.C. 44701(a)(5)]. Under that statutory authority, the Administrator prescribed regulations for certificate holders on the reporting of failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components (commonly called Service Difficulty Reports). These regulations are found at 14 CFR 121.703, 121.704, 121.705, 125.409, 125.410, 135.415, 135.416, and 145.221. This rulemaking action amends these regulations.

## Background

On September 15, 2000, the FAA published a final rule entitled, "Service Difficulty Reports," Amendment Numbers 121-279, 125-35, 135-77, and 145-22 (65 FR 56191). That final rule, applicable to air carriers and repair station operators, would have amended the requirements for reporting failures, malfunctions, and defects of aircraft, aircraft engines, systems, and components. In the final rule, the FAA also sought comments on the impact of paperwork and other information collection burdens imposed on the public. The final rule effective date was scheduled for January 16, 2001.

The FAA received written comments raising concerns with many of the provisions of the new SDR requirements. In response, the FAA held a public meeting about the final rule on December 11, 2000. Participants at that public meeting raised significant issues concerning the implementation of the final rule.

As a result of the concerns raised during the comment period and at the public meeting, the FAA delayed the effective date of the final rule to January 31, 2006. The purpose of this delay was to provide us more time to consider industry's concerns.

Since the delayed final rule publication, the FAA amended the SDR requirements for repair stations (66 FR 41117, August 6, 2001). This amendment addressed one of the public meeting commenters' concerns about duplicate reporting by a part 145 certificate holder. Under § 145.221(d), a repair station no longer has an independent SDR reporting provision when performing work for a part 121, 125, or 135 certificate holder.

## Discussion of Comments Received

We received five comments on the proposal to withdraw the delayed final rule and make amendments to the existing SDR rule (70 FR 54454, September 14, 2005).

*Comment:* Four of the comments support the FAA's proposal to withdraw the delayed final rule. The other commenter suggests an amendment to part 145 be included in this rulemaking.

*FAA Response:* The comments to the delayed final rule, the comments at the public meeting, and the comments to the proposal to withdraw the delayed final rule request that the agency make revisions to the delayed final rule before we proceed with implementation. The FAA agrees and is withdrawing the delayed final rule.

*Comment:* The Regional Airline Association (RAA), representing the views of a segment of the affected aviation industry, supports adopting the proposed changes to the existing SDR rules that:

- Extend the reporting time to submit SDRs from 72 hours to 96 hours.
- Require certificate holders to submit SDRs directly to the FAA's Oklahoma City, Oklahoma Office.
- Allow electronic submission of SDR reports.

*FAA Response:* The FAA is adopting these amendments as proposed. The increase in reporting time will result in fewer supplemental reports, the centralized reporting will result in greater internal efficiencies, and the

electronic submitting option will benefit the majority of the current submitters.

*Comment:* The Aeronautical Repair Station Association (ARSA), which represents repair stations certificated under 14 CFR part 145, supports the proposed changes to the existing SDR system and requests an additional correcting change.

Section 145.221(d) allows a repair station to submit a SDR on behalf of a part 121, 125, or 135 certificate holder, provided the report meets the requirements of the applicable operational rule. Paragraph (d) states in a parenthetical that such a report may be "operational or structural." This "operational or structural" reference reflects the language in the SDR rule the FAA is withdrawing, which the FAA had issued as a final rule for part 121, 125, and 135 certificate holders before § 145.221 became effective in January 2004. For example, the delayed SDR final rule would have changed the titles of §§ 121.703 and 121.704 to read "Service difficulty reports (operational)" and "Service difficulty reports (structural)," respectively. This distinction was the subject of much controversy. Many commenters, including ARSA, voiced their concerns with the operational and structural categories. The operational and structural distinction is not present in the existing SDR regulatory language. Leaving such language in § 145.221(d) serves no purpose, and can only create confusion for repair stations who prepare SDRs on behalf of part 121, 125, or 135 certificate holders. Therefore, ARSA requests that the FAA remove the parenthetical language, "(operational or structural)," in § 145.221(d) to conform the language in part 145 with the language in parts 121, 125, and 135.

*FAA Response:* The FAA is adopting the change to § 145.221(d) as suggested by ARSA. The change corrects the language of § 145.221 to bring it into conformity with the existing SDR requirements of 14 CFR parts 121, 125, and 135. The correcting change, which is a logical outgrowth of the proposal, would not impose any additional burdens on the regulated public.

*Comment:* An individual commenter asks that the proposed changes to the existing SDR rule be included in 14 CFR 145.221, Reports of failures, malfunctions, or defects.

*FAA Response:* Only one of the proposed changes, the requirement for the certificate holder to submit SDRs directly to the FAA's Oklahoma Office, is not already incorporated into § 145.221. The FAA has decided not to add the centralized reporting requirement to § 145.221 in this

rulemaking action. A repair station, operating under part 145, will continue to submit their SDRs to their assigned Principal Inspector using the existing procedures. The FAA would want to receive comments on a change in the reporting procedure for part 145 certificate holders before implementing such a change. The FAA does not want to delay the remainder of this rulemaking while we solicit and review comments on this one change. As part of the FAA's review of the SDR program discussed later in this document we will consider a change to the part 145 reporting procedure as the commenter suggested. Future SDR rulemaking may propose such a requirement.

*Comment:* One individual commenter does not agree with the proposed changes to the existing reporting rule that specifically requires all SDRs be reported to Oklahoma City. The same reasons that are driving the withdrawal of the delayed final rule (software capability, the need for greater FAA efficiency in processing SDRs, etc.) have not been resolved. The commenter claims requiring a person to submit SDRs directly to Oklahoma City will be fraught with error and difficulty.

From the commenter's experience, an SDR submitted electronically creates more work for the individual or air carrier. When submitted electronically, the submitter must continually check the SDR database to insure that the SDR has not been sent back for correction, to make sure that it has been processed. The commenter recently stopped using the electronic submission method because he had a severe back log of unprocessed submitted SDRs. The return to paper submissions has reduced the number of man-hours per week from eight to around one.

The commenter suggests that the FAA fix their internal SDR processing problems before any new SDR requirement of any kind is introduced and made mandatory. Secondly, if the assigned Principal Inspector still has the requirement to review the submissions, then those submissions should go to the inspector first. It would be up to the FAA how to enforce and insure that the principal sends these on to Oklahoma City in a timely manner, not industry.

*FAA response:* The FAA disagrees with the commenter's conclusion about the problems with electronic reporting. Many air carriers, repair stations, and individuals are submitting SDRs electronically without problem. The FAA did experience technical difficulties with electronic reporting prior to 2004. In April 2004, we developed improved SDR web site instructions with the help of a FAA PMI

for a major U.S. air carrier. These instructions resulted in new web procedures, which enabled the FAA certificate management office (CMO) to electronically conduct the same SDR reviews and approvals that they performed with the hardcopy SDRs, but in a shorter period of time. As result, the instructions helped to improve the air carrier's, the CMO's, and FAA's Oklahoma City Office efficiency of operation. These new instructions are in wider use today and are available on the Flight Standards Internet Service Difficulty Reporting (iSDR) web site, which is located at <http://av-info.faa.gov/isdr/>. We have found that once the operator and FAA personnel become familiar with these new procedures we have received only enthusiastic and favorable feedback. These instructions are also available upon request to the Aviation Data Systems Branch (AFS-620) 6500 South MacArthur Blvd., Oklahoma City, Oklahoma 73169 (hand delivered), or P.O. Box 25082, Oklahoma City, Oklahoma 73125 (U.S. Mail), Telephone: (405) 954-4391. A copy has also been placed in the Rules Docket.

The FAA concedes that the SDR system still needs improvements, but with the new instructions the system has been enhanced to the point where electronic submission of SDRs to Oklahoma City benefit the majority of submitters. The electronic submission method continues to be optional.

*Comment:* An individual commenter said the FAA is taking positive steps in the direction developed by the Commercial Airplane Certification Process (CPS) group. The commenter requests the recommendations of the CPS committee group be used as a framework to develop new reporting requirements. The commenter emphasized the members of the CPS represented a good cross section of the industry and FAA.

*FAA response:* The FAA agrees, and as described below, is studying the recommendations of the CPS for future rulemaking action.

#### The Final Rule Withdrawal

The FAA's intent in the delayed final rule was to improve the SDR program without having an adverse impact on industry recordkeeping practices. The SDR requirements were adopted to correct known deficiencies in the SDR program and to improve the quality of the data in the SDR database. Based on the comments received and information gathered at the public meeting, we now realize the delayed final rule does not meet this intent. The industry concerns highlight the need to resolve problems

with the SDR program before increasing the amount and type of data recorded.

The topic that received the most comments following publication of the delayed final rule was the FAA's economic analysis. The commenters were uniform in their contention that the additional reporting requirements would greatly increase the costs of compliance under the SDR program. The FAA received cost estimates from industry that considerably exceeded our own estimates based, in part, on the wide disparity between the industry's and the FAA's evaluation of the number of SDRs resulting from the rulemaking.

While not completely agreeing with the industry's estimate of the increase in the number of reports or the significant increase in costs, we have determined that varying interpretations of the number of additional reports required by the rule could have led industry to overestimate the costs of compliance with the delayed final rule. We have reevaluated the delayed final rule in light of the data provided in the comments and have determined that the costs of this rulemaking may be higher than projected. We further acknowledge that populating data collection systems with inappropriate data could have a negative impact on our ability to identify and collect meaningful safety data on the operation of aircraft.

Since the public meeting, we have considered how to address industry concerns about the delayed final rule and, at the same time, maintain its original intent to correct deficiencies in the program and improve the quality of data collected. The FAA is also obligated to review and consider the findings about the SDR program noted in the CPS study. The CPS identified certain underlying deficiencies in the SDR program that should be corrected so data collected may provide the maximum safety benefit. A copy of the CPS report has been placed in the docket for this rulemaking.

Based on the comments received and the CPS findings, the FAA has determined there is a need to enhance the SDR program so it meets the needs of the FAA and industry more efficiently and effectively. Rather than continuing to delay the effective date of the final rule while we address this issue, we determined it is prudent to withdraw the delayed final rule. This approach will eliminate uncertainty about the final rule's status and allow us time to thoroughly evaluate and improve the SDR program. The effect of this withdrawal is the retention of the regulations currently in effect.

### The Future of the SDR System

The FAA is still pursuing changes to the SDR system that will address the CPS findings and the feedback we received from this withdrawn final rule. We plan to evaluate the present SDR system and issues related to its associated Management Information System (MIS) database. We will also reexamine the economic impact of any new changes to the SDR system. All amendments to the SDR regulations will be preceded by an NPRM.

### Amending the Existing Rule

The FAA is making several changes to the existing SDR program regulations. Most of these changes were already incorporated in the final rule we are now withdrawing. We are proceeding with these changes because they will improve the SDR program.

*Sections 121.703, 125.409, 135.415, and 145.221*

The FAA is renaming §§ 121.703, 125.409, 135.415, and 145.221 as "Service Difficulty Reports." The existing titles reflect the varying names these reports have been called over the years by different parties, which resulted in some confusion. This amendment uses the most common industry term for SDRs and will result in the use of only one consistent term when referring to these reports.

*Sections 121.703(d), 125.409(b), and 135.415(d)*

The FAA adopts three changes to improve the process of submitting SDRs to the FAA under these sections:

(1) Replacing the terms "send," "mailed," or "delivered" with the term "submit." This change allows for the use of other means, such as electronic transmission, to submit SDRs to the FAA.

(2) Increasing the time for submitting an SDR from 72 hours to 96 hours after an event occurs that requires an SDR. The increased reporting time gives certificate holders additional time to prepare the SDR and should reduce the number of supplemental SDRs that need to be filed. A reduction of supplemental SDRs should reduce the administrative burden on both the FAA and industry.

(3) Changing the location to which the certificate holder must send SDRs. The existing rule required SDRs to be sent directly to the Certificate Holding District Office (CHDO). There, the SDRs are reviewed by the assigned Principal Maintenance Inspector (PMI) and then forwarded to the FAA offices in Oklahoma City, Oklahoma, where all SDRs are entered into the SDR database. The revised rule requires the certificate

holder to send SDRs directly to our Oklahoma City office. The PMI would be instructed by internal agency procedures to review the individual SDR for their assigned certificate holder through an internal FAA computer system that would access the SDR database. This revised procedure removes the intermediate step of processing SDRs through the PMI, but does not relieve the PMI of the responsibility for reviewing them. The change would also facilitate electronic reporting by eliminating the necessity of delivering a copy to the PMI. The certificate holder would retain the option of submitting paper SDRs should it so choose, although the FAA strongly encourages electronic reporting. In this final rule, we made editorial changes to §§ 125.409(b) and 135.415(d) to make them consistent with § 121.703(d). The centralized collection point is the FAA office in Oklahoma City, Oklahoma.

Finally, for only § 135.415, the FAA is removing the provision for aircraft operated where mail is not collected. This was an outdated provision that was rarely used by the industry. Mail service is available now in most locations and various alternatives to the U.S. Mail exist.

#### *Section 121.703(e)*

The amended rule requires certificate holders to submit SDRs in a form or format acceptable to the Administrator. Many operators have voluntarily adopted reporting formats compatible with the FAA's electronic systems to simplify their reporting under the existing rule. Electronic submission of SDRs through the FAA Web site is an acceptable format. This provision is intended to assure that, regardless of the method and format chosen for use, the information we receive is readable. However, when using electronic technology, the electronic language used must be one the FAA is capable of reading.

#### *Section 145.221(d)*

The amended rule would delete the parenthetical (operational or structural) to bring the SDR requirements in part 145 into conformity with the language of the existing SDR rules.

### Paperwork Reduction Act

Information collection requirements associated with this final rule have been approved previously by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120-0008 (part 121), 2120-0085 (part 125), 2120-0039 (part

135), and 2120-0003 (part 145). In the NPRM, we incorrectly referenced a single OMB Control Number 2120-0663 for all four parts cited above.

This final rule contains several changes to the existing SDR rule. We changed the mailing address for SDR reports; we replaced the words "send," "mailed," and "delivered" with "submit"; and we lengthened the submittal period for the SDR to reduce the number of supplementary reports from certificate holders.

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 Office of Management and Budget (OMB) control number.

### Economic Assessment, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to 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 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531-2533) 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 also requires agencies to consider international standards and, where appropriate, use them as 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.)

In conducting these analyses, FAA has determined this rule: (1) Has benefits that justify its costs, is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866 and is not "significant" as defined in Department of Transportation Regulatory Policies and Procedures; (2) will not have a significant economic impact on a substantial number of small entities; (3) would have only a domestic impact and therefore no effect on any trade-sensitive activity; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the

private sector. These analyses, available in the rulemaking docket, are summarized below.

#### Costs

This final rule imposes minimal new costs on industry, and results in cost-savings ranging from \$16.13 million (\$11.33 million, discounted) to \$38.96 million (\$27.36 million, discounted). This results in a net cost savings to industry ranging from \$15.98 million (\$11.23 million, discounted) to \$38.97 million (\$27.37 million, discounted). The impacts to the FAA are additional costs of \$145,200 (\$102,000, discounted) and savings of \$9,300 (\$6,500, discounted). The FAA has determined this rule to be cost beneficial.

#### Benefits

A significant effort is underway to improve the quality of aviation safety data identification and collection. This rulemaking is a component of this effort and proposes changes to improve the existing SDR program. These changes include:

- Extending the reporting time to submit SDRs from 72 hours to 96 hours.
- Requiring part 121, 125, and 135 certificate holders to submit SDRs directly to a centralized collection point, thus allowing the reports to be entered into the SDR database quicker and reducing the administrative workload of the certificate-holding district office (CHDO).
- Allowing electronic submission of SDR reports.

#### Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. 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 proposed or final 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 Act.

However, if an agency determines that a proposed or final rule is not expected

to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 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.

For this rule, the small entity group is considered to be 14 CFR part 121, 125, and 135 certificate holders (North American Industry Classification System [NAICS] 481111). For this analysis, the FAA considers each part 125 and 135 certificate holder to be a small entity, and some of the part 121 and 121/135 certificate holders are also small entities.

These regulations result in cost savings for all 121, 125, and 135 certificate holders of between \$16.13 million (\$11.33 million, discounted) to \$38.96 million (\$27.36 million, discounted) over the next ten years or, on average, between \$1.61 million to \$3.90 million per year. Assuming that the cost savings is spread among the types of 121, 125, and 135 certificate holders in proportion to the number of SDRs each type generated from January 1, 2002, through August 31, 2004, the average part 121 certificate holder will save between \$13,010 and \$31,424 a year, the average part 121/135 certificate holder will save between \$3,511 and \$8,479 a year, the average part 125 certificate holder will save between \$16 and \$39 a year, and the average part 135 certificate holder will save between \$68 and \$165 a year. Thus, the economic impact is minimal. Therefore, I certify that this action would not have a significant economic impact on a substantial number of small entities.

#### International Trade Impact Assessment

The Trade Agreement Act of 1979 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 final rule and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

#### Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among

other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act 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) 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 \$120.7 million in lieu of \$100 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 will not have a substantial direct effect on the States, or the relationship between the national 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 Appendix 4, paragraph 4(j) of the FAA Order, 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 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.

**List of Subjects**

*14 CFR Part 121*

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

*14 CFR Part 125*

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 135*

Air taxis, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 145*

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

**The Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration withdraws the final rule published at 65 FR 56192 on September 15, 2000 and delayed at 66 FR 21626, April 30, 2001; 66 FR 58912, November 23, 2001; 67 FR 78970, December 27, 2002; and 68 FR 75116, December 30, 2003. The FAA also amends Chapter I of Title 14, Code of Federal Regulations as follows:

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

■ 1. The authority citation for part 121 continues to read as follows:  
**Authority:** 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

**§ 121.703 Service difficulty reports.**

■ 2. Amend § 121.703 to revise the heading as set forth above and to revise paragraphs (d) and (e) introductory text to read as follows:

\* \* \* \* \*

(d) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to the FAA offices in Oklahoma City, Oklahoma. Each report of occurrences during a 24-hour period shall be submitted to the collection point within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day.

(e) The certificate holder shall submit the reports required by this section on a form or in another format acceptable

to the Administrator. The reports shall include the following information:  
 \* \* \* \* \*

■ 3. Amend § 121.705 to revise the introductory text to read as follows:

**§ 121.705 Mechanical interruption summary report.**

Each certificate holder shall submit to the Administrator, before the end of the 10th day of the following month, a summary report for the previous month of:

\* \* \* \* \*

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

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

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

**§ 125.409 Service difficulty reports.**

■ 5. Amend § 125.409 to revise the heading as set forth above and to revise paragraph (b) to read as follows:

\* \* \* \* \*

(b) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to the FAA office in Oklahoma City, Oklahoma. Each report of occurrences during a 24-hour period shall be submitted to the collection point within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next work day.

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

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

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

**§ 135.415 Service difficulty reports.**

■ 7. Amend § 135.415 to revise the heading as set forth above and to revise paragraph (d) to read as follows:

\* \* \* \* \*

(d) Each certificate holder shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to the FAA offices in Oklahoma City, Oklahoma. Each report of occurrences during a 24-hour period shall be submitted to the collection point within the next 96 hours. However, a report due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next workday.

\* \* \* \* \*

**PART 145—REPAIR STATIONS**

■ 8. The authority citation for part 145 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44709, 44717.

**§ 145.221 Service difficulty reports.**

■ 9. Amend § 145.221 to revise the heading as set forth above and to revise paragraph (d) introductory text to read as follows:

\* \* \* \* \*

(d) A certificated repair station may submit a service difficulty report for the following:

\* \* \* \* \*

Issued in Washington, DC, on December 22, 2005.

**Marion C. Blakey,**  
*Administrator.*

[FR Doc. 05–24536 Filed 12–28–05; 8:45 am]

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**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Parts 1926 and 1928**

[Docket No. S–270–A]

RIN 1218–AC15

**Roll-Over Protective Structures**

**AGENCY:** Occupational Safety and Health Administration (OSHA), DOL.

**ACTION:** Direct final rule.

**SUMMARY:** In 1996, OSHA published a technical amendment revising the construction and agriculture standards that regulate testing of roll-over protective structures (“ROPS”) used to protect employees who operate wheel-type tractors. This revision removed the original ROPS standards and replaced them with references to national consensus standards for ROPS-testing