

statutory authority to disaffirm or repudiate contracts, reclaim, recover, or recharacterize as property of the institution or the receivership such transferred financial assets, provided that such transfer satisfies the conditions for sale accounting treatment set forth by generally accepted accounting principles in effect for reporting periods after November 15, 2009, except for the "legal isolation" condition that is addressed by this rule.

(4) *For Securitization Not Meeting Sale Accounting Requirements.* With respect to any securitization for which transfers of financial assets were made, or for revolving trusts for which obligations were issued, after March 31, 2010, and which complies with the requirements applicable to that securitization as set forth in paragraphs (b) and (c) of this section, but where the transfer does not satisfy the conditions for sale accounting treatment set forth by generally accepted accounting principles in effect for reporting periods after November 15, 2009, the FDIC as conservator or receiver consents to the exercise of the rights and powers listed in 12 U.S.C. 1821(e)(13)(C), and will not assert any rights to which it may be entitled pursuant to 12 U.S.C. 1821(e)(13)(C), after the expiration of the specified time, and the occurrence of the following events:

(i) If at any time after appointment, the FDIC as conservator or receiver is in a monetary default under a securitization, as defined above, and remains in monetary default for ten (10) business days after actual delivery of a written request to the FDIC pursuant to paragraph (d) of this section to exercise contractual rights because of such monetary default, the FDIC hereby consents pursuant to 12 U.S.C. 1821(e)(13)(C) to the exercise of any such contractual rights, including obtaining possession of the financial assets, exercising self-help remedies as a secured creditor under the transfer agreements, or liquidating properly pledged financial assets by commercially reasonable and expeditious methods taking into account existing market conditions, provided no involvement of the receiver or conservator is required.

(ii) If the FDIC as conservator or receiver of an insured depository institution provides a written notice of repudiation of the securitization agreements, and the FDIC does not pay the damages due pursuant to 12 U.S.C. 1821(e) by reason of such repudiation within ten (10) business days after the effective date of the notice, the FDIC hereby consents pursuant to 12 U.S.C. 1821(e)(13)(C) for the exercise of any

contractual rights, including obtaining possession of the financial assets, exercising self-help remedies as a secured creditor under the transfer agreements, or liquidating properly pledged financial assets by commercially reasonable and expeditious methods taking into account existing market conditions, provided no involvement of the receiver or conservator is required.

(e) *Consent to certain actions.* During the stay period imposed by 12 U.S.C. 1821(e)(13)(C), the FDIC as conservator or receiver of the sponsor consents to the payment of regularly scheduled payments to the investors made in accordance with the securitization documents and to any servicing activity with respect to the financial assets included in securitizations that meet the requirements applicable to that securitization as set forth in paragraphs (b) and (c) of this section.

(f) *Notice for Consent.* Any party requesting the FDIC's consent as conservator or receiver under 12 U.S.C. 1821(e)(13)(C) pursuant to paragraph (d)(4)(i) of this section shall provide notice to the Deputy Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, 550 17th Street, NW., F-7076, Washington, DC 20429-0002, and a statement of the basis upon which such request is made, and copies of all documentation supporting such request, including without limitation a copy of the applicable agreements and of any applicable notices under the contract.

(g) *Contemporaneous Requirement.* The FDIC will not seek to avoid an otherwise legally enforceable agreement that is executed by an insured depository institution in connection with a securitization or in the form of a participation solely because the agreement does not meet the "contemporaneous" requirement of 12 U.S.C. 1821(d)(9), 1821(n)(4)(I), or 1823(e).

(h) *Limitations.* The consents set forth in this section do not act to waive or relinquish any rights granted to the FDIC in any capacity, pursuant to any other applicable law or any agreement or contract except the securitization transfer agreement or any relevant security agreements. Nothing contained in this section alters the claims priority of the securitized obligations.

(i) *No waiver.* This section does not authorize, and shall not be construed as authorizing the waiver of the prohibitions in 12 U.S.C. 1825(b)(2) against levy, attachment, garnishment, foreclosure, or sale of property of the FDIC, nor does it authorize nor shall it be construed as authorizing the

attachment of any involuntary lien upon the property of the FDIC. Nor shall this section be construed as waiving, limiting or otherwise affecting the rights or powers of the FDIC to take any action or to exercise any power not specifically mentioned, including but not limited to any rights, powers or remedies of the FDIC regarding transfers taken in contemplation of the institution's insolvency or with the intent to hinder, delay or defraud the institution or the creditors of such institution, or that is a fraudulent transfer under applicable law.

(j) *No assignment.* The right to consent under 12 U.S.C. 1821(e)(13)(C) may not be assigned or transferred to any purchaser of property from the FDIC, other than to a conservator or bridge bank.

(k) *Repeal.* This section may be repealed by the FDIC upon 30 days notice provided in the **Federal Register**, but any repeal shall not apply to any issuance made in accordance with this section before such repeal.

Dated at Washington, DC, this 17th day of December 2009.

By Order of the Board of Directors.

**Robert E. Feldman,**

*Executive Secretary, Federal Deposit Insurance Corporation.*

[FR Doc. E9-30540 Filed 1-6-10; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

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

[Docket No. FAA-2005-20245; Notice No. 10-01]

RIN 2120-AJ65

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** On March 7, 2008, the FAA published a final rule titled "Revisions to Cockpit Voice Recorder and Digital Flight Data Recorder Regulations." The rule required certain upgrades of digital flight data recorder and cockpit voice recorder equipment on certain aircraft beginning April 7, 2010. The FAA is proposing to change that compliance date for some aircraft as outlined in this notice. This action follows petitions from several aircraft manufacturers and

industry organizations indicating an inability to comply with the April 2010 requirement.

**DATES:** Send your comments on or before February 8, 2010.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2005–20245 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

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

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

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 the 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, 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 contact: Timothy W. Shaver, Avionics Maintenance Branch, Flight Standards Service, AFS–360, Federal Aviation Administration, 950 L'Enfant Plaza, SW., Washington, DC 20024; telephone (202) 385–4292; facsimile (202) 385–4651; e-mail [tim.shaver@faa.gov](mailto:tim.shaver@faa.gov). For legal questions contact: Karen L. Petronis, Regulations

Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3073; facsimile (202) 267–3073; e-mail [karen.petronis@faa.gov](mailto:karen.petronis@faa.gov).

**SUPPLEMENTARY INFORMATION:** Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of related rulemaking documents.

#### Authority for This Rulemaking

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

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

#### Background

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

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

In March 2008, the FAA issued a final rule adopting many of those proposals (73 FR 12541; March 7, 2008). The requirements were adopted as aircraft

certification or operating rules, some of which take effect on April 7, 2010, and include:

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

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

The preamble to the 2008 final rule also contains a discussion of the comments received in response to the NPRM. A total of 53 commenters responded, but only three of them included any comment about compliance time. Most comments focused on technical considerations or the cost of compliance rather than the time proposed.

Of the few comments regarding compliance time, one came from Airbus concerning the installation of the CVR independent power source for aircraft to be manufactured beginning in April 2010, requesting an increase from two to four years. We replied that Airbus was the only manufacturer that indicated that the proposed compliance time was a problem, and that Airbus did not provide us with any data to support its position that integration of the power source into newly manufactured aircraft could not be accomplished in two years. Airbus also commented that the proposed two-year time frame for integration of increased recording rates of 16 Hertz (Hz) for certain parameters was unrealistic. The FAA received numerous comments regarding technical considerations of the increased recording rates (not the compliance time). In the final rule, we adopted a lower (8 Hz) sampling rate in response to these comments. The FAA believed that incorporating the 8 Hz rate into newly manufactured aircraft was achievable in the two-year compliance time.

With regard to DLC recording capability, the NTSB commented that two years was too much delay for incorporation of the recording system. Northwest Airlines, Inc. requested that the time for integration be two to four years to ensure time for approval of the message sets and creation of ground infrastructure. Several commenters discussed the compliance time as it related to technical considerations, but no comments regarding DLC recording equipment availability were received.

#### B. Recent Industry Petitions

Beginning in May 2009, the FAA began to receive requests for relief from various requirements adopted in the 2008 final rule. Those requests are summarized below:

1. In a letter dated May 1, 2009, Boeing petitioned the FAA on behalf of operators that would be taking delivery of new Boeing Model 777 airplanes between April 7, 2010, and December 21, 2013 (docket number FAA-2009-0438). Boeing sought exemption relief for these operators from compliance with the requirements for DLC recordation and for increased sampling rates for certain DFDR parameters. The requirements would be effective on airplanes manufactured after April 7, 2010. Its petition stated that “[D]ue to the complexity and high level of integration of the underlying avionics systems, Boeing has determined that type certificate design changes, certification, and implementation in production are not feasible” for the 777 by the date in the regulation. As a result, Boeing would not be able to offer the DLC capability it does now, and its customers would be unable to achieve the increased quality of controller-pilot communications that leads to more efficient routing, less fuel burn and reduced emissions. Boeing also noted that an increased time for compliance would allow Boeing to harmonize its offered DLC equipment packages with the requirements of the European Aviation Safety Agency (EASA). Boeing indicated that there is no negative effect on safety with a delay, since it would allow the current DLC equipment to be used.

Boeing’s petition also included a request for relief from the increased sampling rates for certain DFDR parameters. Boeing stated that the DLC recording and sampling upgrades both require changes to its large-scale integrated avionics platform, the Aircraft Information Management System (AIMS). Granting the exemption would allow several AIMS changes to be bundled into a single upgrade, reducing

the economic and operational impact on the operators.

2. In a letter dated May 1, 2009, Bombardier, Inc. (Bombardier) petitioned the FAA to change the part 135 requirements adopted in the 2008 final rule that require increased sampling rates for two DFDR parameters (docket number FAA-2009-0441). Bombardier noted that, although as a manufacturer it is not subject to part 135 since it is an operating rule, it considers itself responsible to deliver part 135 compliant aircraft to its U.S. customers. Because the FAA does not grant operational relief to manufacturers, Bombardier presented its request as a petition for rulemaking to change the regulatory requirement for its aircraft. Bombardier found that the increased rates required by the regulation for two parameters could not be integrated into its BD-700 Model aircraft by the compliance date without significant system modifications. Bombardier requested relief for the BD-700 until it is able to introduce a new avionics suite that is scheduled for installation beginning in 2011. The relief requested is a footnote change to part 135 Appendix F for the BD-700. Bombardier noted that its current installation records at 5 Hz rather than the 8 Hz required after April 7, 2010, making the required modification change significant in cost, but not the quality of information since it will affect only a few aircraft before the new avionics suite is installed.

3. By letter dated July 16, 2009, Boeing again petitioned the FAA for an exemption, this time on behalf of the operators of all Boeing airplanes (Models 737, 747, 767 and 777) manufactured between April 7, 2010 and April 7, 2011, to operate without DLC recording capability, without the increased sampling rates, and without the independent power source for the CVR as required by the 2008 final rule (docket number FAA-2009-0672).

Boeing cited essentially the same reasons as in its first petition, “that type certificate design changes, certification, and implementation in production are not feasible” for all its models by the 2010 date. Boeing noted that the rule requires the development of new equipment or modifications to existing equipment from multiple suppliers, including significant lead time necessary to certify and implement design changes. Boeing concluded that the “development schedules for the new and modified equipment either do not support the compliance date or have an

unacceptable amount of risk.”<sup>1</sup> Boeing’s discussion goes on to note that the interrelationship and dependence between various system components “prevents compliance with the rules until all of the components of the system are available.”

Boeing stated that if relief is not granted, it will be unable to offer even the current level of DLC capability.

4. By letter dated June 11, 2009, Airbus petitioned the FAA on behalf of the operators of 15 Airbus airplanes to be manufactured between April 7, 2010 and December 31, 2011, to operate without the DLC recording capability required by the 2008 final rule (docket number FAA-2009-0665). Airbus cited the same reasons for its request as appear in the Boeing petitions, that certification and implementation of the design changes necessary are not feasible by April 7, 2010. Airbus cited the same justifications for its position as Boeing, some in identical language, including the fact that the use of DLC results in environmentally cleaner aircraft operations. Airbus’s petition does not include any relief from the increased data rates requested by Boeing and Bombardier.

5. On September 30, 2009, Gulfstream Aerospace Corporation (Gulfstream) petitioned the FAA on behalf of the U.S. operators of its GIV-X and GV-SP Model airplanes that would be manufactured between April 7, 2010 and April 7, 2012, including Gulfstream itself (docket number FAA-2009-0933). The 160 airplanes Gulfstream expects to produce during that period would require relief to operate without DLC recording capability, increased DFDR sampling rates, or the independent power source for the CVR required by the 2008 final rule. Gulfstream’s petition also stated that the development and integration of the necessary changes “are not feasible” by April 7, 2010, using much of the same language common to the Boeing and Airbus petitions. Gulfstream indicated that the equipment for its PlaneView software is based on Honeywell architecture, and will not be available until 2011.

6. On October 8, 2009, the General Aviation Manufacturers Association (GAMA) petitioned the FAA to amend parts 91 and 135 to the extent necessary to extend the implementation date for some of the requirements in the 2008 final rule (docket number FAA-2009-0963). The GAMA stated that “[F]or a number of reasons, a large segment of

<sup>1</sup> We note that the petition does not define the type of risk cited, whether safety or commercial or the criteria under which the petitioner determined it to be unacceptable.

the general aviation business aircraft industry will not be in a position to comply with all aspects of the new requirements” by April 7, 2010. It cited equipment availability, resource constraints and greater technical impact than initially considered. The GAMA sought regulatory relief from the requirements for DLC recording and for increased DFDR sampling rates.

The GAMA petition stated that “supplier and company resources necessary to make these changes have been significantly diminished by the faltering economy,” noting a 15 percent reduction in the general aviation manufacturing industry workforce. It estimated that “the majority of business jet manufacturers will be in a position to deliver aircraft which capture the appropriate parameters at 8 Hz by April 2012.” The GAMA also noted that the use of DLC is so limited in domestic airspace that there would be no impact on safety to extend the recording requirement.

7. By letter dated October 23, 2009, the Aerospace Industries Association (AIA) and the Air Transport Association of America (ATA) petitioned jointly to extend the compliance dates for several of the CVR and DFDR regulations adopted in 2008 (docket number FAA–2009–1017). The AIA and ATA sought to extend by two years the requirement for DLC recording, the increased rate for certain DFDR parameters, and the CVR independent power supply. The joint petition also requested that the compliance date for all of these items be extended three and one-half years (to 2013) for the Boeing 777 model aircraft. This relief is the same as that requested in the petitions already discussed. In addition, the AIA/ATA petition sought to extend the DLC recording requirement by four years for in-service airplanes that have DLC equipment installed on or after April 7, 2010. The AIA and ATA characterized their petition as “consolidat[ing] those previous submissions in to a single proposal that meets the collective intent” of the previous petitioners.

The joint petition stated that the changes required by the regulation are “not feasible” by April 7, 2010, citing back to the petitions discussed above. It also said that the risk is unacceptable, and described it as a risk of “certainty of meeting a compliance date.” The petition noted that even more time is needed for the incorporation of DLC recording on in-service airplanes because the primary efforts by equipment and airframe manufacturers are toward newly manufactured airplanes. Approval of supplemental type certificates for in-service airplanes

would not begin until after efforts for the newly manufactured airplanes are completed.

The joint petition stated that failure to change the regulations would result in a “one to two-year halt in the deliveries of numerous new aircraft due to production issues” and a “one- to four-year suspension of datalink installations on new and in-service aircraft.” The joint petition also predicted that a “break” in the manufacturing and delivery cycle for new airplanes “could result in a smaller usable fleet or require the use of older, stored airplanes.”

8. By letter dated November 23, 2009, Dassault Aviation (Dassault) petitioned for exemption relief on behalf of its operators for all Falcon series airplanes (estimated at 50) produced between April 7, 2010 and April 7, 2012 (docket number FAA–2009–1173). Dassault requested that these airplanes be allowed to operate without the increased sampling rates, the 10-minute independent power supply for CVRs, or the datalink communications recording requirements adopted in the 2008 final rule. Dassault noted that its U.S. subsidiary, Dassault Falcon Jet, is an operator of these airplanes in the United States as an “interim step” in its sale of airplanes in the United States.

Dassault stated that compliance requires “the development of new equipment or modifications to existing equipment from multiple suppliers.” It also stated that “significant lead time [is] necessary to develop design requirements and to implement and certify the design changes on multiple airframes. The development schedules for the new and modified equipment do not support the compliance date.” Dassault noted the interrelationship and dependence between the various parts of the CVR and DFDR systems required by the 2008 final rule.

Dassault stated that exemption would be in the public interest because the inability to operate newly manufactured airplanes in the United States “would have a significant economic burden on both the owner/operators and Dassault Aviation.” Denial of its petition would “relegate these business aircraft to a state of reduced capability” and would force “operators not to upgrade their avionics load” with other avionics equipment that is bundled into its manufacturing upgrades.

Similar to other petitioners, Dassault requests a “time-limited exemption that allows aircraft to be delivered and operated” without meeting the regulatory requirements. There is no indication that Dassault intends to upgrade these aircraft after the exemption would expire, leaving the

FAA to presume that it is petitioning for permanent exemption for its airplanes, not something time-limited.

9. By petition dated December 14, 2009, Embraer Empresa Brasileira de Aeronautica, S.A. (Embraer) requested an exemption that would be applicable to 5 EMB–145 series and 40 ERJ 170/190 series airplanes that would be produced between April 7, 2010 and April 6, 2011 (docket number FAA–2009–1204). Embraer requested exemptions for these newly manufactured airplanes from the increased DFDR sampling rates, the datalink recordation requirements, and the 10-minute independent power supply requirement for CVRs adopted in 2008.

Embraer stated that neither it nor its recorder system suppliers will be able to complete the development, testing, and certification programs for new recorder systems before the April 2010 regulatory deadline. Embraer supports its petition by stating that the current DFDR and CVR systems on its airplanes provide an acceptable level of safety. It also said that a grant of exemption would be in the public interest because the interrupted delivery of airplanes would cause business disruptions that would outweigh “the small benefit that would accrue from the increase in design and performance level of the DFDR and CVR systems.” The petition did not include any information as to what it has accomplished toward regulatory compliance thus far. The FAA presumes that Embraer is asking for permanent exemption for its aircraft since it did not submit a schedule when the 45 affected airplanes would be upgraded once a one-year exemption expired, nor did it request a permanent change to the regulation.

### *C. FAA Response to Petitions*

The FAA is seriously disappointed with the manufacturers and other facets of the industry. The identity and scope of the various petitions appears as a decision by industry not to comply with the April 2010 date, a decision that was made some time ago.

Through contact with the petitioners, the FAA was made aware that one of the current circumstances appears to be the lack of equipment design and integration that begins with avionics equipment manufacturers. Most glaringly, in none of the petitions do the airframe manufacturers indicate that they had properly planned for regulatory compliance and are petitioning now because they are unable to obtain timely delivery of the necessary equipment. Nor is there any evidence that the airframe manufacturers have pressed the

suppliers for timely delivery of either design modifications or equipment. None of the petitions addresses the clear failure to plan for and implement a regulatory requirement that was first proposed in 2005. Only the GAMA petition states that economic circumstances have changed enough to warrant a change to the compliance time.

Despite a dearth of specific comment to the proposed rule on compliance time, the FAA is now faced with the discovery by six major airframe manufacturers that compliance “is not feasible” less than a year before it is due. There is nothing to indicate what, if any, efforts the petitioners made in the 13 months between the publication of the final rule and the FAA’s receipt of the first petition. Nor is there any indication by the petitioners that they have accelerated any effort to comply in the time since they petitioned. It appears they have chosen to use that time to seek a change to the rule and to rely on the consequences of their inaction falling on the FAA. In at least one instance, it is clear that the manufacturer simply decided to stay with its original timing for a planned upgrade even though it is well after the compliance time mandated in the 2008 final rule.

The FAA has been put in an untenable position with these petitions. The option of granting exemptions to every new aircraft produced and delivered to U.S. operators between April 7, 2010, and as late as 2013 would present a huge burden on the agency and the affected operators. Such exemptions would have to be granted to operators on an individual aircraft basis when each aircraft is delivered. According to the manufacturers’ petitions received thus far, this effort would involve over 400 airplanes. Further, these airplanes would be granted exemption only until they could be modified with the upgraded equipment. As we noted in the regulatory evaluation in the NPRM, such retrofits are expensive and time consuming, resulting in additional aircraft downtime and maintenance expenses for the operator.

The FAA is unable to conclude from the information presented in the petitions that another two to three years is necessary to incorporate the changes in newly manufactured aircraft. The petitions contain little indication that any concerted effort was undertaken to comply, nor was the agency presented evidence as to dates or time of equipment delivery that supports the requested extensions. At best, the petitions contain reasoning why it is

important to get the equipment coordinated between aircraft systems, not acceptable reasons why efforts have been lacking thus far.

The FAA is quite aware that the parties that will suffer the effect of these failures are the purchasers of new airplanes. Accordingly, the FAA is proposing to extend certain compliance dates for the regulations adopted in the 2008 final rule.

This notice proposes extension of the following sections of the regulations:

1. For increased DFDR sampling rates, the compliance date for newly manufactured airplanes operated under part 121, 125, or 135 would be extended until December 6, 2010.

2. For airplanes operating under parts 121, 125 or 135, datalink communications would have to be recorded when datalink communication equipment is installed after December 6, 2010.

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

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

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

These proposed changes to the compliance date are the only ones the FAA found to be potentially justified by the petitions submitted. If adopted, which is by no means certain, they would provide an additional eight months to two years to accomplish what should have been in the planning and implementation phases for the 19 months preceding this action.

All other compliance dates established in the 2008 final rule remain as originally promulgated. These include the wiring requirements for CVRs and DFDRs; 25-hour solid state memory DFDRs; 2-hour solid state memory CVRs; the CVR and DFDR housing requirements; and the ten-minute backup power source for CVRs on aircraft operated under part 121, 125, or 135.

We invite comment from the manufacturers and affected operators that may not consider this sufficient even with a renewed devotion of time and resources. Comments that include specific, realistic examples of equipment availability will be considered. These comments should include detailed information describing the reason for the lack of equipment

availability, other options that have been considered and the efforts that have been taken to achieve compliance. Generalized statements, such as the ones presented in the petitions, are not valid evidence that the industry is unable to comply, only that it has chosen not to.

The request regarding additional time for in-service airplanes made in AIA/ATA petition, is unsupported by any data on the impact of a failure to extend the rule an additional four years. The AIA/ATA petition presumes that the regulation will have an impact on all in-service airplanes, but presented no evidence that the in-service fleet will be significantly affected by anything other than the failure of manufacturers to comply with the regulations for new aircraft, pushing the in-service fleet to the end of the line. We do not accept this reasoning, especially for a voluntary equipment installation.

Accordingly, all of the petitions referenced in this rule are denied.<sup>2</sup>

Included in this proposed rule are corrections to certain DFDR and CVR regulations in which errors were inadvertently introduced by other amendments. Those sections include §§ 27.1457(d)(1)(ii), 27.1459(a)(3)(ii), 29.1457(d)(1)(ii), and 29.1459(a)(3)(ii). These are rotorcraft certification rules in which reference is made to airplanes rather than rotorcraft.

#### **Paperwork Reduction Act**

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

#### **International Compatibility**

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

<sup>2</sup> Docket numbers: FAA-2009-0438, FAA-2009-0441, FAA-2009-0665, FAA-2009-0672, FAA-2009-0933, FAA-2009-0963, FAA-2009-1017, FAA-2009-1173, FAA-2009-1204.

### **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 for 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 proposed rule.

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

This proposed rule acknowledges that recent economic conditions have made it technically and economically difficult for manufacturers to certificate and install certain equipment to meet the current regulatory compliance dates. If the compliance dates are not extended, manufacturers will be unable to deliver aircraft produced after April 7, 2010 that can be flown under parts 91, 121, 125 or 135. While the FAA could issue temporary operating exemptions for these aircraft until the equipment becomes available for operators to retrofit, that action would involve a

significant increase in workload for both the FAA and the industry and additional retrofit costs. As the FAA determined in the Regulatory Evaluation of the 2008 final rule, the costs of retrofitting this equipment (except for the two-hour CVR), including the increased downtime, could be greater than the potential benefits resulting from the retrofit. Thus, this proposed rule would generate positive net benefits in comparison to the options of maintaining the existing compliance dates or of granting temporary exemptions and retrofitting airplanes with the equipment as it becomes available.

The FAA has determined that this proposed 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. The FAA requests comments with supporting justification about the determination of minimal impact.

### **Regulatory Flexibility Determination**

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

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

The proposed compliance date extension will allow newer and safer aircraft to enter the fleet to replace older aircraft more rapidly than if the existing compliance date is enforced. The expected outcome would be a benefit to small operators that would purchase new aircraft.

Therefore, the FAA certifies that this proposed rule would not have a significant economic 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 reduce costs on both domestic and international entities and thus has a neutral trade impact.

### **Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$136.1 million in lieu of \$100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

### **Executive Order 13132, Federalism**

The FAA has analyzed this proposed 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 national 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. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if

adopted, affect intrastate aviation in Alaska. The FAA, therefore, specifically requests comments on whether there is justification for applying the proposed rule differently in intrastate operations 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 proposed rulemaking action qualifies for the categorical exclusion identified in paragraph Chapter 3, 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 regulatory action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866 and DOT's Regulatory Policies and Procedures, 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 detailed 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](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 notice 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

#### 14 CFR Part 27

Aircraft, Aviation safety.

#### 14 CFR Part 29

Aircraft, Aviation safety.

#### 14 CFR Part 91

Aircraft, Aviation safety.

#### 14 CFR Part 121

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

#### 14 CFR Part 125

Aircraft, Aviation safety.

#### 14 CFR Part 135

Air taxis, Aircraft, Aviation safety.

### The Proposed Amendment

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

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

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

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

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

#### § 27.1457 Cockpit voice recorders.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

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

\* \* \* \* \*

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

#### § 27.1459 Flight data recorders.

(a) \* \* \*

(3) \* \* \*

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

\* \* \* \* \*

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

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

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

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

#### § 29.1457 Cockpit voice recorders.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

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

\* \* \* \* \*

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

**§ 29.1459 Flight data recorders.**

(a) \* \* \*

(3) \* \* \*

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

\* \* \* \* \*

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

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

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

8. Amend § 91.609 by revising paragraphs (i) and (j) to read as follows:

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

\* \* \* \* \*

(i) All airplanes or rotorcraft required by this section to have a cockpit voice recorder and flight data recorder, that are manufactured on or after April 7, 2010, must have a cockpit voice recorder installed that also—

(1) Meets the requirements of § 23.1457(a), (b), (c), (d)(1), (2), (3), (4) and (6), (e), (f) and (g); § 25.1457(a), (b), (c), (d)(1), (2), (3), (4) and (6), (e), (f) and (g); § 27.1457(a), (b), (c), (d)(1), (2), (3), (4) and (6), (e), (f), (g) and (h); or § 29.1457(a), (b), (c), (d)(1), (2), (3), (4) and (6), (e), (f), (g) and (h) of this chapter, as applicable; and

(2) Retains at least the last 2 hours of recorded information using a recorder that meets the standards of TSO–C123a, or later revision.

(3) For all airplanes or rotorcraft manufactured on or after April 6, 2012, meets the requirements of § 23.1457(d)(5), § 25.1457(d)(5), § 27.1457(d)(5) or § 29.457(d)(5) of this chapter, as applicable.

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

\* \* \* \* \*

9. Amend appendix E to part 91 by revising footnote 5 to read as set forth below.

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

\* \* \* \* \*

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

10. Amend appendix F to part 91 by revising footnote 4 to read as set forth below.

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

\* \* \* \* \*

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

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

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

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

12. Amend § 121.359 by revising paragraph (k) to read as follows:

**§ 121.359 Cockpit voice recorders.**

\* \* \* \* \*

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

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

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

\* \* \* \* \*

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

\* \* \* \* \*

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

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

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

15. Amend § 125.227 by revising paragraph (i) to read as follows:

**§ 125.227 Cockpit voice recorders.**

\* \* \* \* \*

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

16. Amend appendix E to part 125 by revising footnote 18, to read as set forth below.

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

\* \* \* \* \*

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

\* \* \* \* \*

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

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

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

18. Amend § 135.151 by revising paragraph (h) to read as follows:

**§ 135.151 Cockpit voice recorders.**

\* \* \* \* \*

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

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

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

\* \* \* \* \*

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

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

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

\* \* \* \* \*



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

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

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

\* \* \* \* \*

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

Issued in Washington, DC, on January 4, 2010.

John M. Allen,

Director, Flight Standards Service.

[FR Doc. 2010-31 Filed 1-6-10; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-1249; Directorate Identifier 2009-NM-100-AD]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Model 777 Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Model 777 airplanes. This proposed AD would require inspecting the bolt, nut, and downstop of the slat track assembly to determine if the bolt, nut, or stops are missing and to determine if the thread protrusion of the bolt from the nut is within specified limits and parts are correctly installed, and related investigative and corrective actions if necessary. For certain airplanes, this proposed AD would also require inspecting the slat cans at the outboard slat number 3 and 12 outboard main track locations for holes and wear damage, and corrective actions if necessary; and replacing the downstop hardware for the outboard slats number 3 and 12 outboard and inboard main track locations. This proposed AD results from a report of a hole in the inboard main track slat can for outboard slat number 12 on a Model 777 airplane. The hole was caused when the bolt securing the downstop migrated out of the fitting and contacted the slat can. We are proposing this AD to detect and

correct damage to the outboard slat main track slat cans, which can allow fuel leakage into the fixed wing leading edge in excess of the capacity of the draining system. Excess fuel leakage could result in an uncontained fire.

**DATES:** We must receive comments on this proposed AD by February 22, 2010.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; e-mail [me.boecom@boeing.com](mailto:me.boecom@boeing.com); Internet <https://www.myboeingfleet.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

#### Examining the AD Docket

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

**FOR FURTHER INFORMATION CONTACT:** Duong Tran, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6452; fax (425) 917-6590.

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-1249; Directorate Identifier 2009-NM-100-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

#### Discussion

We have received a report of a hole in the inboard main track slat can for outboard slat number 12 on a Model 777 airplane. The hole was caused when the bolt securing the downstop migrated out of the fitting and contacted the slat can. Each outboard slat main track has a downstop attached to the aft end of the slat track assembly. The downstop consists of two fittings that are secured to the track with a bolt and nut. The main tracks travel through holes in the front spar web when the slat is retracted. In areas of the wing where fuel is stored, a slat can is installed on the fuel side of the spar to surround the main track and contain the fuel. It is believed that the locking element of the nut was not fully engaged, and the nut securing the bolt backed off and allowed the bolt to migrate out of the fitting and contact the slat can. In addition, in production it was discovered that a downstop was contacting the weld on a slat can at the outboard main track location on slat numbers 3 and 12. This contact could cause wear damage and eventually a hole in the slat can. This condition, if not corrected, could result in fuel leakage into the fixed wing leading edge in excess of the capacity of the draining system. Fuel leakage could result in an uncontained fire.

#### Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 777-57A0064, dated March 26, 2009. The service bulletin describes procedures for doing a detailed inspection of the slat main track stop hardware to determine if the bolt, nut, or stops are missing and to determine if the thread protrusion of the