

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 25**

[Docket No. FAA-2002-11346; Notice No. 02-06]

RIN 2120-AH38

**Lower Deck Service Compartments on Transport Category Airplanes**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes concerning lower deck service compartments. The proposed amendment would require that two-way voice communication systems between lower deck service compartments and the flightdeck remain available following loss of the normal electrical power generating system. It also would clarify the requirements for seats installed in the lower deck service compartment. Adopting this proposal would eliminate regulatory differences between the airworthiness standards of the U.S. and the Joint Aviation Requirements of Europe, without affecting current industry design practices.

**DATES:** Send your comments on or before March 25, 2002.

**ADDRESSES:** Address your comments to Dockets Management System, U.S. Department of Transportation Dockets, Room Plaza 401, 400 Seventh Street SW., Washington, DC 20590-0001. You must identify the Docket No. FAA-2002-11346 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA has received your comments, please include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2002-XXXX." We will date-stamp the postcard and mail it back to you.

You also may submit comments electronically to the following Internet address: <http://dms.dot.gov>.

You may review the public docket containing comments to this proposed regulation at the Department of Transportation (DOT) Dockets Office, located on the plaza level of the Nassif Building at the above address. You may review the public docket in person at this address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Also, you may review the

public dockets on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055-4056; telephone 425-227-2194; facsimile 425-227-1320, e-mail [jayson.claar@faa.gov](mailto:jayson.claar@faa.gov).

**SUPPLEMENTARY INFORMATION:**

*How Do I Submit Comments to This NPRM?*

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

We will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

*How Can I Obtain a Copy of This NPRM?*

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at <http://www.faa.gov/avr/armhome.htm> or the Government Printing Office's Web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

<http://www.faa.gov/avr/armhome.htm> or the Government Printing Office's Web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

*What Are the Relevant Airworthiness Standards in the United States?*

In the United States, the airworthiness standards for type certification of transport category airplanes are contained in Title 14, Code of Federal Regulations (CFR) part 25.

Manufacturers of transport category airplanes must show that each airplane they produce of a different type design complies with the appropriate part 25 standards. These standards apply to:

- Airplanes manufactured within the U.S. for use by U.S.-registered operators, and
- Airplanes manufactured in other countries and imported to the U.S. under a bilateral airworthiness agreement.

*What Are the Relevant Airworthiness Standards in Europe?*

In Europe, the airworthiness standards for type certification of transport category airplanes are contained in Joint Aviation Requirements (JAR)-25, which are based on part 25. These were developed by the Joint Aviation Authorities (JAA) of Europe to provide a common set of airworthiness standards within the European aviation community. Twenty-three European countries accept airplanes type certificated to the JAR-25 standards, including airplanes manufactured in the U.S. that are type certificated to JAR-25 standards for export to Europe.

*What Is "Harmonization" and How Did It Start?*

Although part 25 and JAR-25 are very similar, they are not identical in every respect. When airplanes are type certificated to both sets of standards, the differences between part 25 and JAR-25 can result in substantial additional costs to manufacturers and operators. These additional costs, however, frequently do not bring about an increase in safety. In many cases, part 25 and JAR-25 may contain different requirements to accomplish the same safety intent. Consequently, manufacturers are usually burdened with meeting the

requirements of both sets of standards, although the level of safety is not increased correspondingly.

Recognizing that a common set of standards would not only benefit the aviation industry economically, but also maintain the necessary high level of safety, the FAA and the JAA began an effort in 1988 to "harmonize" their respective aviation standards. The goal of the harmonization effort is to ensure that:

- Where possible, standards do not require domestic and foreign parties to manufacture or operate to different standards for each country involved; and
- The standards adopted are mutually acceptable to the FAA and the foreign aviation authorities.

The FAA and JAA have identified a number of significant regulatory differences (SRD) between the wording of part 25 and JAR-25. Both the FAA and the JAA consider "harmonization" of the two sets of standards a high priority.

#### *What Is ARAC and What Role Does It Play in Harmonization?*

After initiating the first steps towards harmonization, the FAA and JAA soon realized that traditional methods of rulemaking and accommodating different administrative procedures was neither sufficient nor adequate to make appreciable progress towards fulfilling the goal of harmonization. The FAA then identified the Aviation Rulemaking Advisory Committee (ARAC) as an ideal vehicle for assisting in resolving harmonization issues, and, in 1992, the FAA tasked ARAC to undertake the entire harmonization effort.

The FAA had formally established ARAC in 1991 (56 FR 2190, January 22, 1991), to provide advice and recommendations concerning the full range of the FAA's safety-related rulemaking activity. The FAA sought this advice to develop better rules in less overall time and using fewer FAA resources than previously needed. The committee provides the FAA firsthand information and insight from interested parties regarding potential new rules or revisions of existing rules.

There are 64 member organizations on the committee, representing a wide range of interests within the aviation community. Meetings of the committee are open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act.

The ARAC establishes working groups to develop recommendations for resolving specific airworthiness issues. Tasks assigned to working groups are published in the **Federal Register**.

Although working group meetings are not generally open to the public, the FAA solicits participation in working groups from interested members of the public who possess knowledge or experience in the task areas. Working groups report directly to the ARAC, and the ARAC must accept a working group proposal before ARAC presents the proposal to the FAA as an advisory committee recommendation.

The activities of the ARAC will not, however, circumvent the public rulemaking procedures; nor is the FAA limited to the rule language "recommended" by ARAC. If the FAA accepts an ARAC recommendation, the agency proceeds with the normal public rulemaking procedures. Any ARAC participation in a rulemaking package is fully disclosed in the public docket.

#### *What Is the Status of the Harmonization Effort Today?*

Despite the work that ARAC has undertaken to address harmonization, there remain a large number of regulatory differences between part 25 and JAR-25. The current harmonization process is extremely costly and time-consuming for industry, the FAA, and the JAA. Industry has expressed a strong desire to conclude the harmonization program as quickly as possible to alleviate the drain on their resources and to finally establish one acceptable set of standards.

Recently, representatives of the aviation industry (including Aerospace Industries Association of America, Inc. (AIA), General Aviation Manufacturers Association (GAMA), and European Association of Aerospace Industries (AECMA)) proposed an accelerated process to reach harmonization.

#### *What Is the "Fast Track Harmonization Program"?*

In light of a general agreement among the affected industries and authorities to expedite the harmonization program, the FAA and JAA in March 1999 agreed upon a method to achieve these goals. This method, which the FAA has titled "The Fast Track Harmonization Program," is aimed at expediting the rulemaking process for harmonizing not only the 42 standards that are currently tasked to ARAC for harmonization, but approximately 80 additional standards for part 25 airplanes.

The FAA initiated the Fast Track program on November 26, 1999 (64 FR 66522). This program involves grouping all of the standards needing harmonization into three categories:

*Category 1: Envelope*—For these standards, parallel part 25 and JAR-25 standards would be compared, and

harmonization would be reached by accepting the more stringent of the two standards. Thus, the more stringent requirement of one standard would be "enveloped" into the other standard. In some cases, it may be necessary to incorporate parts of both the part 25 and JAR standard to achieve the final, more stringent standard. (This may necessitate that each authority revises its current standard to incorporate more stringent provisions of the other.)

*Category 2: Completed or near complete*—For these standards, ARAC has reached, or has nearly reached, technical agreement or consensus on the new wording of the proposed harmonized standards.

*Category 3: Harmonize*—For these standards, ARAC is not near technical agreement on harmonization, and the parallel part 25 and JAR-25 standards cannot be "enveloped" (as described under Category 1) for reasons of safety or unacceptability. A standard developed under Category 3 would be mutually acceptable to the FAA and JAA, with a consistent means of compliance.

Further details on the Fast Track Program can be found in the tasking statement (64 FR 66522, November 26, 1999) and the first NPRM published under this program, Fire Protection Requirements for Powerplant Installations on Transport Category Airplanes (65 FR 36978, June 12, 2000).

Under this program, the FAA provides ARAC with an opportunity to review, discuss, and comment on the FAA's draft NPRM. In the case of this rulemaking, ARAC suggested one minor editorial change, which has been incorporated into this NPRM.

#### **Discussion of the Proposal**

##### *How Does This Proposed Regulation Relate to "Fast Track"?*

This proposed regulation results from the recommendations of ARAC submitted under the FAA's Fast Track Harmonization Program. In this NPRM, the FAA proposes to amend § 25.819, concerning lower deck service compartments on transport category airplanes. A lower deck service compartment as used in § 25.819 is defined as follows: "A lower deck service compartment is a galley or other service compartment located below the main passenger deck that is accessible during flight by crewmembers. A lavatory is not considered a lower deck service compartment and therefore is not covered by this regulation. Occupancy is not permitted during taxi, takeoff and landing. Also, it is limited to crewmembers only." This action has

been identified as a Category 1 (Envelope) project under the Fast Track program.

*What Is the Underlying Safety Issue Addressed by the Current Standards?*

The standards ensure the safety of occupants of lower deck service compartments that are not certified to be occupied during takeoff and landing. The standards apply design criteria relative to evacuation routes and various items of safety equipment. Many of the regulations that provide evacuation requirements and safety equipment address passenger and flightcrew compartments, but do not include lower deck service compartments.

*What Are the Current 14 CFR and JAR Standards?*

The current text of 14 CFR 25.819 (Amendment 25-53 (45 FR 41593, June 19, 1980)) is:

*Section 25.819 Lower deck service compartments (including galleys).*

For airplanes with a service compartment located below the main deck, which may be occupied during taxi or flight but not during takeoff or landing, the following apply:

(a) There must be at least two emergency evacuation routes, one at each end of each lower deck service compartment or two having sufficient separation within each compartment, which could be used by each occupant or the lower deck service compartment to rapidly evacuate to the main deck under normal and emergency lighting conditions. The routes must provide for the evacuation of incapacitated persons, with assistance. The use of the evacuation routes may not be dependent on any powered device. The routes must be designed to minimize the possibility of blockage which might result from fire, mechanical or structural failure, or persons standing on top of or against the escape routes. In the event the airplane's main power system or compartment main lighting system should fail, emergency illumination for each lower deck service compartment must be automatically provided.

(b) There must be a means for two-way voice communication between the flight deck and each lower deck service compartment.

(c) There must be an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each required floor level emergency exit to alert occupants of each lower deck service compartment of an emergency situation.

(d) There must be a means, readily detectable by occupants of each lower deck service compartment, that indicates when seat belts should be fastened.

(e) If a public address system is installed in the airplane, speakers must be provided in each lower deck service compartment.

(f) For each occupant permitted in a lower deck service compartment, there must be a forward or aft facing seat which meets the

requirements of § 25.785(c) and must be able to withstand maximum flight loads when occupied.

(g) For each powered lift system installed between a lower deck service compartment and the main deck for the carriage of persons or equipment, or both, the system must meet the following requirements:

(1) Each lift control switch outside the lift, except emergency stop buttons, must be designed to prevent the activation of the lift if the lift door, or the hatch required by paragraph (g)(3) of this section, or both are open.

(2) An emergency stop button, that when activated will immediately stop the lift, must be installed within the lift and at each entrance to the lift.

(3) There must be a hatch capable of being used for evacuating persons from the lift that is openable from inside and outside the lift without tools, with the lift in any position.

The current text of JAR paragraph 25.819 (Change 15, Amendment 25/96/1, October 2000) is:

JAR 25.819 Lower deck service compartments (including galleys).

For aeroplanes with a service compartment located below the main deck, which may be occupied during taxi or flight but not during takeoff or landing, the following apply:

(a) There must be at least two emergency evacuation routes, one at each end of each lower deck service compartment or two having sufficient separation within each compartment, which could be used by each occupant or the lower deck service compartment to rapidly evacuate to the main deck under normal and emergency lighting conditions. The routes must provide for the evacuation of incapacitated persons, with assistance. The use of the evacuation routes may not be dependent on any powered device. The routes must be designed to minimize the possibility of blockage which might result from fire, mechanical or structural failure, or persons standing on top of or against the escape routes. In the event the airplane's main power system or compartment main lighting system should fail, emergency illumination for each lower deck service compartment must be automatically provided.

(b) There must be a means for two-way voice communication between the flight deck and each lower deck service compartment, which remains available following loss of normal electrical power generating system.

(c) There must be an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each required floor level emergency exit to alert occupants of each lower deck service compartment of an emergency situation.

(d) There must be a means, readily detectable by occupants of each lower deck service compartment, that indicates when seat belts should be fastened.

(e) If a public address system is installed in the airplane, speakers must be provided in each lower deck service compartment.

(f) For each occupant permitted in a lower deck service compartment, there must be a forward or aft facing seat which meets the

requirements of JAR 25.785 (d) and must be able to withstand maximum flight loads when occupied.

(g) For each powered lift system installed between a lower deck service compartment and the main deck for the carriage of persons or equipment, or both, the system must meet the following requirements:

(1) Each lift control switch outside the lift, except emergency stop buttons, must be designed to prevent the activation of the lift if the lift door, or the hatch required by paragraph (g)(3) of this section, or both are open.

(2) An emergency stop button, that when activated will immediately stop the lift, must be installed within the lift and at each entrance to the lift.

(3) There must be a hatch capable of being used for evacuating persons from the lift that is openable from inside and outside the lift without tools, with the lift in any position.

*What Are the Differences in the Standards and What Do Those Differences Result in?*

There are two substantive differences between the standards:

First, the JAR requires that two-way voice communication between the flight deck and each lower deck service compartment remain available following loss of the normal electrical power generating system. Part 25 does not contain such a requirement. This results in system power on those airplanes certificated under the JAR being supplied from the essential bus; whereas, system power on airplanes certificated under part 25 may be supplied from a nonessential bus.

Second, the requirements for the seats located in the lower deck compartment are different between the part 25 and the JAR. Section 25.819(f) of part 25 requires that installed seats must meet the requirements of § 25.785(c), while JAR paragraph 25.819(f) requires that installed seats must comply with the requirements of JAR paragraph 25.785(d). At the current amendment levels, § 25.785(c) and JAR paragraph 25.785(d) present different requirements, although at one time (prior to Amendment 25-72) they were the same. This apparently is due to a renumbering error that occurred at Amendment 25-72, in which paragraph (c) of § 25.785 became paragraph (d), and there was no associated change to the reference in § 25.819(f). Thus, by referring to § 25.785(c), § 25.819(f) currently requires only that seats be "approved," which is not what was intended. The intent is that seat designs must comply with the specific design safety criteria that is described in § 25.785(d) (including a safety belt and either a shoulder harness, an energy absorbing rest, or no injurious objects present in the head strike path, as

appropriate). The correct reference in § 25.819 should be to § 25.785(d).

*What, If Any, Are the Differences in the Means of Compliance?*

Currently, U.S. manufacturers must comply with the more stringent JAR requirements if they intend to sell their airplanes in Europe. Future certificated airplanes also are expected to meet the existing JAR requirements.

*What Is the Proposed Action?*

The FAA proposes to amend § 25.819 by incorporating the "more stringent" requirements of the current JAR standard. The proposed amendment would require that:

- Two-way voice communication systems between lower deck service compartments and the flight deck remain available following loss of the normal electrical power generating system.
- Seats installed in the lower deck compartment meet the requirements of § 25.785(d).

*How Does This Proposed Standard Address the Underlying Safety Issue?*

The proposed standard would continue to address the original underlying safety issue. It would ensure the safety of occupants of lower deck service compartments that are not certified to be occupied during takeoff and landing.

*What Is the Effect of the Proposed Standard Relative to the Current Regulations?*

By requiring the more stringent standards of the JAR, the proposed amendment would mandate a higher level of safety than that provided by the currently applicable requirements.

*What Is the Effect of the Proposed Standard Relative to Current Industry Practice?*

In current practice, U.S. manufacturers already are complying with the more stringent JAR requirements in order to sell their airplanes in Europe. Future certificated airplanes also are expected to meet the existing JAR requirements, and this proposed rule would simply adopt those same requirements.

*What Other Options Have Been Considered and Why Were They Not Selected?*

The FAA considered two alternatives to this proposal:

1. *No change to the existing standards.* The FAA did not select this option because it would mean that the standards would continue to be

"unharmonized" and manufacturers would continue to meet two different sets of standards when certificating their airplanes.

2. *The JAA could unilaterally adopt the standards of part 25.* The FAA did not seriously consider this option, however, because where the part 25 standards are "less stringent," this could potentially mean adopting a lower level of safety.

The FAA considers the proposal, as contained in this NPRM, to be the most appropriate method of ensuring that the highest level of safety is achieved and fulfilling the objectives of harmonizing the U.S. and European standards.

*Who Would Be Affected by the Proposed Change?*

Manufacturers of transport category airplanes, as well as airplane modifiers potentially would be affected by the proposed amendment.

*Is Existing FAA Advisory Material Adequate?*

The FAA does consider that current guidance on this subject is adequate and that additional advisory material is not necessary as a result of the proposed rule.

*What Regulatory Analyses and Assessments Has the FAA Conducted?*

**Regulatory Evaluation Summary**

Proposed 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 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 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 the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 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).

The FAA has determined that this proposal has no substantial costs, and that it is not "a significant regulatory action" as defined in Executive Order 12866, nor "significant" as defined in DOT's Regulatory Policies and Procedures. Further, this proposed rule would not have a significant economic impact on a substantial number of small entities, would reduce barriers to international trade, and would not impose an Unfunded Mandate on state, local, or tribal governments, or on the private sector.

The DOT Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposed rule does not warrant a full evaluation, a statement to that effect and the basis for it is included in the proposed regulation. Accordingly, the FAA has determined that the expected impact of this proposed rule is so minimal that the proposed rule does not warrant a full evaluation. We provide the basis for this determination as follows:

Currently, airplane manufacturers must satisfy both part 25 and the European JAR-25 standards to certificate transport category aircraft in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new transport category airplane often with no increase in safety. In the interest of fostering international trade, lowering the cost of aircraft development, and making the certification process more efficient, the FAA, JAA, and aircraft manufacturers have been working to create, to the maximum possible extent, a single set of certification requirements accepted in both the United States and Europe. As explained in detail previously, these efforts are referred to as "harmonization."

This proposal would revise the FAA requirements for lower deck service compartments on transport category airplanes that are not certified to be occupied during takeoff and landing. As explained previously in this preamble, this proposal would revise part 25 to include the following "more stringent" requirements of the JAR standards:

- § 25.819(b): two-way voice communication systems between lower deck service compartments and the flight deck remain available following loss of the normal electrical power generating system; and
- § 25.819(f): seats installed in the lower deck compartment meet the requirements of § 25.785(d), which include safety belt and either a shoulder

harness, and/or energy absorbing rest, and/or elimination of injurious objects in the head strike path.

This proposed rule results from the FAA's acceptance of recommendations made by ARAC. We have concluded that, for the reasons previously discussed in the preamble, the adoption of the proposed requirements in 14 CFR part 25 is the most efficient way to harmonize these sections and, in so doing, the existing level of safety will be preserved.

There was consensus within the ARAC members, comprised of representatives of the affected industry, that the requirements of the proposed rule will not impose additional costs on U.S. manufacturers of part 25 airplanes. Concerning the cost impact of complying with the proposed standard, ARAC states there are apparent administrative savings for the relevant airworthiness authorities and indirect savings for the general public. In fact, ARAC believes that the industry would estimate the cost burden being at a neutral level. We have reviewed the cost analysis provided by industry through the ARAC process. A copy is available through the public docket. Based on this analysis, we consider that a full regulatory evaluation is not necessary.

We invite comments with supporting documentation regarding the regulatory evaluation statements based on ARAC's proposal.

#### **Initial Regulatory Flexibility Determination**

The Regulatory Flexibility Act (RFA) of 1980, 50 U.S.C. 601–612, as amended, 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.

Agencies must perform a review to determine whether a proposed or final rule will have a significant impact on a substantial number of small entities. If the determination is that the rule will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

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 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.

The FAA considers that this proposed rule would not have a significant impact on a substantial number of small entities for two reasons:

First, the net effect of the proposed rule is minimum regulatory cost relief. The proposed rule would require that new transport category airplane manufacturers meet just one certification requirement, rather than different standards for the United States and Europe. Airplane manufacturers already meet or expect to meet this standard as well as the existing 14 CFR part 25 requirement.

Second, all U.S. transport category airplane manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for airplane manufacturers. The current U.S. part 25 airplane manufacturers include: Boeing, Cessna Aircraft, Gulfstream Aerospace, Learjet (owned by Bombardier), Lockheed Martin, McDonnell Douglas (a wholly-owned subsidiary of The Boeing Company), Raytheon Aircraft, and Sabreliner Corporation.

Given that this proposed rule is minimally cost-relieving and that there are no small entity manufacturers of part 25 airplanes, the FAA certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

#### **International Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or 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.

In accordance with the above statute, the FAA has assessed the potential effect of the proposed rule and has determined that it complies with the Act because this rule would use European international standards as the basis for U.S. standards.

#### **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1532–1538, enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the

extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

This proposed rule does not contain a Federal intergovernmental or private sector mandate that exceeds \$100 million in any year; therefore, the requirements of the Act do not apply.

#### ***What Other Assessments Has the FAA Conducted?***

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

The FAA has analyzed this proposed rule and the principles and criteria of Executive Order 13132, Federalism. The FAA has 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. Therefore, the FAA has determined that this notice of proposed rulemaking would not have federalism implications.

#### **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 are no new information collection requirements 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 determined that there are no ICAO Standards and Recommended Practices that correspond to this proposed regulation.

#### **Environmental Analysis**

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this proposed rulemaking action qualifies for a categorical exclusion.

#### **Energy Impact**

The energy impact of the proposed rule has been assessed in accordance

with the Energy Policy and Conservation Act (EPCA) and Public Law 94-163, as amended (43 U.S.C. 6362), and FAA Order 1053.1. It has been determined that it is not a major regulatory action under the provisions of the EPCA.

### 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 such regulatory distinctions as he or she considers appropriate. 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 to intrastate operations in Alaska.

### Plain Language

In response to the June 1, 1998, Presidential memorandum regarding the issue of plain language, the FAA re-examined the writing style currently used in the development of regulations. The memorandum requires Federal agencies to communicate clearly with the public. We are interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at <http://www.plainlanguage.gov>.

### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

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

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

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

2. Amend § 25.819 by revising paragraphs (b) and (f) to read as follows:

#### § 25.819 Lower deck surface compartments (including galleys).

\* \* \* \* \*

(b) There must be a means for two-way voice communication between the flight deck and each lower deck service compartment, which remains available following loss of normal electrical power generating system.

\* \* \* \* \*

(f) For each occupant permitted in a lower deck service compartment, there must be a forward or aft facing seat which meets the requirements of § 25.785(d), and must be able to withstand maximum flight loads when occupied.

\* \* \* \* \*

Issued in Renton, Washington, on January 8, 2002.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02-1766 Filed 1-23-02; 8:45 am]

**BILLING CODE 4910-13-P**

### NATIONAL INDIAN GAMING COMMISSION

#### 25 CFR Part 542

**RIN 3141-AA24**

#### Minimum Internal Control Standards; Correction

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Proposed rule; correction.

**SUMMARY:** This document corrects part 542 of a proposed rule published in the **Federal Register** on December 26, 2001, regarding the Minimum Internal Control Standards. This correction remedies formatting changes made to the proposed rule and clarifies with which sections Tribal gaming operations are to comply.

**FOR FURTHER INFORMATION CONTACT:** Michele F. Mitchell, 202-632-7003.

#### Correction

In the proposed rule FR Doc. 01-30788, beginning on page 66500 in the issue of December 26, 2001, make the following correction:

1. On page 66506, in the second column, correct § 542.3(a)(1) to read as follows:

#### § 542.3 How do I comply with this part?

(a) *Compliance based upon tier.*

(1) Tier A gaming operations must comply with §§ 542.1 through 542.18,

and §§ 542.20 through 542.23 of this part.

(2) Tier B gaming operations must comply with §§ 542.1 through 542.18, and §§ 542.30 through 542.33 of this part.

(3) Tier C gaming operations must comply with §§ 542.1 through 542.18, and §§ 542.40 through 542.43 of this part.

\* \* \* \* \*

Dated: January 9, 2002.

**Montie R. Deer,**

*Chairman.*

**Elizabeth L. Homer,**

*Vice-Chair.*

**Teresa E. Poust,**

*Commissioner.*

[FR Doc. 02-882 Filed 1-23-02; 8:45 am]

**BILLING CODE 7565-01-P**

### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### 26 CFR Part 1

**[REG-125638-01]**

**RIN 1545-BA00**

#### Guidance Regarding Deduction and Capitalization of Expenditures

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** This document describes and explains rules and standards that the IRS and Treasury Department expect to propose in 2002 in a notice of proposed rulemaking that will clarify the application of section 263(a) of the Internal Revenue Code to expenditures incurred in acquiring, creating, or enhancing certain intangible assets or benefits. This document also invites comments from the public regarding these standards. All materials submitted will be available for public inspection and copying.

**DATES:** Written and electronic comments must be submitted by March 25, 2002.

**ADDRESSES:** Send submissions to: CC:ITA:RU (REG-125638-01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-125638-01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may send submissions