

## Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

\* \* \* \* \*

74. The DHS/CBP–023 Border Patrol Enforcement Records (BPER) System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/CBP–023 Border Patrol Enforcement Records System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/CBP–023 Border Patrol Enforcement Records System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a (c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8); and (g). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), and (e)(4)(H). When records received from another system have been exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated, and claims any additional exemptions set forth here. Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access and Amendment to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to

tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise establishing procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would

preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant, timely, and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: October 5, 2016.

**Jonathan R. Cantor,**

*Acting Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2016–25209 Filed 10–19–16; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2016–9226; Directorate Identifier 2016–SW–065–AD]

RIN 2120–AA64

### **Airworthiness Directives; NavWorx, Inc. Automatic Dependent Surveillance Broadcast Universal Access Transceiver Units**

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for NavWorx, Inc. (NavWorx) Automatic Dependent Surveillance Broadcast (ADS–B) Universal Access Transceiver Units (unit). This proposed AD would require removing the ADS–B unit and would prohibit installing the affected unit on any aircraft. This proposed AD is prompted by a design change for the unit to broadcast a Source Integrity Level (SIL) of 3 when the uncertified internal global positioning system (GPS) source necessitates a SIL of 0. The proposed actions are intended to prevent an ADS–B unit from

communicating unreliable position information to Air Traffic Control (ATC) and nearby aircraft, resulting in a potential aircraft collision.

**DATES:** We must receive comments on this proposed AD by December 19, 2016.

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

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

- *Fax:* 202-493-2251.

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

- *Hand Delivery:* Deliver to the "Mail" address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9226; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations 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:** Kyle Cobble, Aviation Safety Engineer, Fort Worth Aircraft Certification Office, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222-5172, email [kyle.cobble@faa.gov](mailto:kyle.cobble@faa.gov); or Michael Heusser, Program Manager, Continued Operational Safety Branch, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222-5038, email [michael.a.heusser@faa.gov](mailto:michael.a.heusser@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any

recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that 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.

#### Discussion

NavWorx produces ADS-B units under Technical Standard Order (TSO) C-154c. NavWorx has implemented a design change by revising its software for ADS-B units, Model ADS600-B part number (P/N) 200-0012 and 200-0013 and Model ADS600-EXP P/N 200-8013. The design of the units includes an internal uncertified GPS source. ADS-B units with an uncertified GPS source are required to broadcast a SIL of 0. The software revision (version 4.0.6) resulted in the units broadcasting a SIL of 3. This design change was not approved by the FAA and rendered the units noncompliant with TSO-C154c. Because the ADS-B unit incorrectly broadcasts a SIL of 3 instead of 0, the unit could communicate unreliable position information to ATC and nearby aircraft, resulting in an aircraft collision.

NavWorx ADS-B units with P/N 200-0112 and 200-0113 are TSO-C154c compliant and are not the subject of this proposed AD.

#### FAA's Determination

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of this same type design.

#### Proposed AD Requirements

This proposed AD would require removing the ADS-B unit before further flight and would also prohibit installing the affected ADS-B unit on any aircraft.

#### Costs of Compliance

We estimate that this proposed AD would affect approximately 800 ADS-B units installed on various aircraft of U.S. registry. Operators may incur the following costs in order to comply with

this proposed AD. The average labor rate is \$85 per work-hour and removing the ADS-B unit, if required, would take about 1 work-hour, for a total of \$85 per aircraft.

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

#### Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

For the reasons discussed, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

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

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

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**NavWorx, Inc.:** Docket No. FAA–2016–9226; Directorate Identifier 2016–SW–065–AD.

#### (a) Applicability

This AD applies to the following NavWorx, Inc., Automatic Dependent Surveillance–Broadcast (ADS–B) Universal Access Transceiver units (unit) installed on aircraft certified in any category:

- (1) Model ADS600–B part number (P/N) 200–0012;
- (2) Model ADS600–B P/N 200–0013; and
- (3) Model ADS600–EXP P/N 200–8013.

#### (b) Unsafe Condition

This AD defines the unsafe condition as an ADS–B unit incorrectly broadcasting a Source Integrity Level of 3 instead of 0. This condition could result in the unit communicating unreliable position information to Air Traffic Control and nearby aircraft and a subsequent aircraft collision.

#### (c) Comments Due Date

We must receive comments by December 19, 2016.

#### (d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

#### (e) Required Actions

- (1) Before further flight, remove the ADS–B unit.
- (2) After the effective date of this AD, do not install any ADS–B unit that is listed in the applicability of this AD on any aircraft.

#### (f) Alternative Methods of Compliance (AMOC)

(1) The Manager, Fort Worth Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Kyle Cobble, Aviation Safety Engineer, Fort Worth Aircraft Certification Office, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222–5172, email [kyle.cobble@faa.gov](mailto:kyle.cobble@faa.gov); or Michael Heusser, Program Manager, Continued Operational Safety Branch, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177, telephone (817) 222–5038, email [michael.a.heusser@faa.gov](mailto:michael.a.heusser@faa.gov).

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or

certificate holding district office before operating any aircraft complying with this AD through an AMOC.

#### (g) Subject

Joint Aircraft Service Component (JASC) Code: 3452, ATC Transponder System.

Issued in Fort Worth, Texas, on October 11, 2016.

**Lance T. Gant,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2016–25255 Filed 10–19–16; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA–2016–9188; Directorate Identifier 2016–NM–102–AD]**

**RIN 2120–AA64**

### Airworthiness Directives; The Boeing Company Airplanes

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

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

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2007–26–04, which applies to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2007–26–04 currently requires repetitive inspections for cracking around the heads of the fasteners on the forward fastener row of certain areas of a certain circumferential butt splice, and repair if necessary; and also requires a preventive modification, which eliminates the need for the repetitive inspections. Since we issued AD 2007–26–04, an evaluation by the design approval holder (DAH) indicating that the forward skin panel at a circumferential butt splice between certain stringers is subject to widespread fatigue damage (WFD). This proposed AD would remove the mandatory modification. It would add repetitive inspections of the skin for cracking at the aft fastener column and a one-time inspection for defects of the production countersunk rivets, and require corrective actions if necessary. It would also add an optional skin trim-out repair, which would terminate certain inspections. We are proposing this AD to prevent cracking of the station (STA) 259.5 circumferential butt splice, which could result in loss of structural integrity of the fuselage skin and possible loss of cabin pressure.

**DATES:** We must receive comments on this proposed AD by December 5, 2016.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2016–9188.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2016–9188; 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 (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Wade Sullivan, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6430; fax: 425–917–6590; email: [wade.sullivan@faa.gov](mailto:wade.sullivan@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments about