

approximately \$1145 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$564,520, assuming the pitch control assembly is replaced in the entire fleet.

The regulations proposed herein 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, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that 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); and (3) if promulgated, 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Robinson Helicopter Company: Docket No. 2001-SW-45-AD.

Applicability: Model R44 helicopters, up to and including serial number 1208, except serial numbers 1143, 1165, 1183, 1189, 1192, 1196, 1197, 1198, 1200, 1203, and 1204, with pitch control assembly, part number (P/N) C031-1, Revision G or prior, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been

otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect corrosion of the bearings and prevent bearing failure, breakup of the tail rotor assembly, tail rotor contact with the tailboom, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 20 hours time-in-service (TIS) and thereafter at intervals not to exceed 300 hours TIS or 12 months, whichever occurs first, inspect the pitch control assembly for roughness or binding of the pitch control bearings by hand rotating the pitch control bearing housing (housing) in accordance with Robinson Helicopter Company Service Bulletin SB-43A, Revision A, dated June 10, 2002. If the housing does not rotate freely, before further flight, replace the unworthy pitch control assembly with an airworthy unit.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (LAACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, LAACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the LAACO.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on August 28, 2002.

Eric Bries,

*Acting Manager, Rotorcraft Directorate,
Aircraft Certification Service.*

[FR Doc. 02-22898 Filed 9-9-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No. 28937; Notice No. 97-10]

RIN 2120-AG42

Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal and disposition of comments.

SUMMARY: The FAA is withdrawing a portion of Notice of Proposed Rulemaking No. 97-10 which proposed to upgrade fire safety standards for cargo or baggage compartments in certain transport category aircraft and remove Class D compartments as an alternative for future type certification. The FAA published a final rule that adopted the NPRM's proposed amendments to parts 25 and 121, but requested further comments on the issues relating to part 135. We are withdrawing the part 135 proposal based on the existing safety record and the cost/benefit analysis revised in the light of comments received.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202-497-4857.

SUPPLEMENTARY INFORMATION:

Background

Between 1946 and 1958, the FAA created five categories of baggage or cargo compartments, assigned letters A through E. In recent years there have been a number of fires in the baggage or cargo compartments of transport category airplanes, especially in Class D compartments. Both Class C and Class D compartments are airtight compartments with protective liners. Unlike Class C compartments, Class D compartments do not have fire detection or suppression capabilities. On some occasions, fires in these compartments have caused accidents and loss of life. In May 1996, a fire that originated in a Class D compartment of a McDonnell Douglas DC-9 operated by ValuJet Airlines caused the aircraft to crash. As a result, 110 passengers and crewmembers lost their lives.

Class D compartments have a higher risk of an unknown fire developing and burning out of control because they

have no detection or suppression capability and are inaccessible in flight. Class D compartments are larger than the other categories of baggage or cargo compartment. The quantity of oxygen available within the compartment due to its size allows a fire to spread to the point of breaking the protective liner and allowing outside air to enter the compartment.

To address Class D compartment issues, the FAA established successively more restrictive standards for Class C and D compartments (51 FR 18236, May 16, 1986 and 54 FR 7384, February 17, 1989). The increase in fires in Class D compartments caused the FAA to further amend portions of 14 CFR parts 25 and 121 by requiring Class D compartments to meet the fire detection and suppression standards for Class C compartments (63 FR 8032, February 17, 1998).

Notice of Proposed Rulemaking No. 97-10 (63 FR 32412, June 13, 1997) proposed amendments to parts 25, 121, and 135 of title 14 of the Code of Federal Regulations that would have eliminated Class D compartments or converted them to Class C compartments by requiring detection and suppression capability. The final rule adopted only those amendments affecting parts 25 and 121. In response to Notice No. 97-10, several commenters recommended that the FAA exclude airplanes operated under part 135 from the proposed rulemaking because of the anticipated high cost of implementation. Based on comments received to the notice, the FAA deferred the proposed amendment to part 135 pending receipt of additional information. The 1998 final rule requested responses to 13 questions related to the impact of the rulemaking on part 135 operators. The comment period closed on June 17, 1998.

Discussion of Comments

The FAA received eight comments on the final rule. Generally, most of these comments are critical of the FAA's action. Some commenters suggest changes to the final rule. Others mention safety issues, such as the size of the compartments and the amount of ventilation in cargo or baggage compartments. Additional issues addressed include inadequacy of the regulatory flexibility analysis and the length of the compliance period.

Compartment Size

The primary aim of the final rule was to prevent future fires in the baggage or cargo compartments of airplanes. The FAA noted that the size of compartments, particularly Class D

compartments, was a vital factor in the spreading of fires throughout airplanes. Although the FAA originally placed limits on the size of Class D compartments, the subsequent widespread transportation of flammable aerosols in cargo compartments led to this final rule eliminating Class D compartments and converting current Class D compartments to Class C compartments by requiring detection and suppression capability.

Two commenters, including the National Air Transportation Association (NATA), discuss various aspects of compartment size. One commenter suggests that Class D compartments should be kept, but only with certain modifications. One suggests placing a more stringent limit on the size of Class D compartments compared to the limits formerly imposed by the FAA. Specifically, a maximum size of 200 cubic feet is suggested, while the former limit placed by the FAA was 1,000 cubic feet. NATA asserts that previous actions made by the FAA demonstrate that fires in cargo or baggage compartments correlate with the compartment's size. They state that transport airplane manufacturers generally limit the size of Class D compartments to only 200 cubic feet, and executive airplanes normally have a size of twenty to forty cubic feet. They assert that on-demand passenger carriers maintain closer control of the contents of baggage in Class D compartments.

FAA Response: The FAA does not fully concur with NATA's assertion that on-demand passenger carriers maintain closer control of the contents of baggage placed in their Class D compartments, since that would entail inspecting each passenger's baggage before flight. It does, however, acknowledge that on-demand operators tend to have better control of the contents of their baggage compartments than scheduled operators due to their closer working relationship with their customers. The FAA concurs that it would be unlikely that on-demand operators would transport other types of cargo other than baggage, and that it is less likely that Class D compartments in on-demand operators' airplanes would contain other types of cargo that could cause a fire to start. As stated by NATA, the FAA has no record of an uncontrolled fire occurring in a Class D compartment in an airplane designed for business use.

Necessity for Rule

NATA states that a precedent exists to exclude part 135 airplanes. They cite a 1991 amendment, Amendment 135-31, which allowed Class D compartments only if they were less than 200 cubic

feet. They note that most airplanes with compartments of over 200 cubic feet would be complying under part 121. Thus, the final rule becomes repetitive and unnecessary, according to NATA.

FAA Response: The FAA agrees that many airplanes would already be complying under part 121. Some larger airplanes with 30 or fewer passenger seats may still be used for on-demand service under part 135. The primary effect would be on "business jets" or "commuter category" airplanes used in on-demand passenger carrying and all-cargo operations. As stated previously, the FAA recognizes that the Class D compartments in these airplanes are much smaller and the risk of additional flammable material being carried in these compartments is not as great.

Regulatory Flexibility Analysis

NATA states that the FAA's regulatory flexibility analysis indicates the final rule is expected to impact only a few operators in a negligible manner. NATA contends that FAA's analysis is incomplete and insufficient. The FAA estimates that there will be only 35 unscheduled operators that will be adversely affected by this measure; however, NATA believes that there will be more than 1,500 operators adversely affected by the final rule.

FAA Response: The adoption of the Commuter Rule (Commuter Operations and General Certification and Operations Requirements, 60 FR 65832, December 20, 1995) greatly reduced the scope of operations that may be conducted under the provisions of part 135. The proposed amendments to part 135 would affect few, if any, airplanes used in scheduled service. As stated above, the primary effect would be on "business jets" and commuter category airplanes being used in on-demand passenger carrying and all-cargo operations. NATA's figure is large because they include as examples Learjets, Cessna Citations, and Beechcraft (with a nose or tail baggage area outside the pressure vessel) in their comment.

Our original analysis considered factors related to all three regulatory parts of the proposal—parts 25, 121, and 135. In subsequent analysis on only part 135 factors, we determined that the cost of installation of detection and suppression equipment is not insignificant. There is no record of incident to support the need for the part 135 proposal. Based on the existing safety record and the cost/benefit analysis revised in the light of these comments, the FAA has concluded the cost of requiring part 135 operators to comply with new cargo compartment

standards would not result in an increase in safety that would justify the cost. Therefore, the proposed amendment to part 135 would be of substantial cost, and based on the history, would be of marginal benefit.

Compartment Location

One commenter proposes that Class D compartments should be allowed in specific areas of the airplane. He believes that they should be permitted to be located outside of the cabin pressure vessel. Such a measure, along with the installation of a fire detection system, would help avoid the spreading of fires, according to the commenter. Such compartments would be relatively small, have carefully controlled ventilation, and be located outside the cabin pressure vessel.

FAA Response: In regards to future certification of transport category airplanes with Class D compartments, the FAA does not agree that such compartments would provide an acceptable level of safety. Such compartments would still be inaccessible in flight, and lacking in fire suppression capability; and therefore, with only detection capability, Class D compartments would not be as safe as other compartments.

Conclusion

Based on the existing safety record and the cost/benefit analysis revised in the light of these comments, the FAA has concluded the cost of requiring part 135 operators to comply with new cargo compartment standards would not result in an increase in safety that would justify the cost. The FAA has determined that no further rulemaking action is appropriate, and is not adopting the amendment to part 135 proposed in Notice No. 97-10. Therefore, the FAA withdraws the amendment to part 135 proposed in Notice No. 97-10 published June 13, 1997 at 62 FR 32412. The amendments to 14 CFR parts 25 and 121 remain in effect as adopted in the final rule.

Issued in Washington, DC on August 30, 2002.

Luis C. Cusimano,

Acting Director, Flight Standards Service.

[FR Doc. 02-22943 Filed 9-9-02; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-134026-02]

RIN 1545-BA89

Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that modify the existing regulations promulgated under section 7602(a) of the Internal Revenue Code relating to administrative summonses. The temporary regulations confirm that officers and employees of the Office of Chief Counsel may be included as persons designated to receive summoned books, papers, records, or other data and to take summoned testimony under oath. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments and requests for a public hearing must be received by December 9, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG-134026-02), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-134026-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Comments may also be submitted electronically to the IRS Internet site at www.irs.gov/regs.

FOR FURTHER INFORMATION CONTACT: Elizabeth Rawlins at 202-622-3630 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Explanation of Provisions

The temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Procedure and Administration Regulations (26 CFR part 301) under section 7602 of the Internal Revenue Code of 1986 (Code). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because this notice of proposed rulemaking does not impose a collection of information obligation on small entities, it is not subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Code, the temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS or electronically generated comments that are submitted timely to the IRS. The IRS generally requests any comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Elizabeth Rawlins of the Office of the Associate Chief Counsel (Procedure and Administration), Collection, Bankruptcy and Summonses Division.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *