

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 121**

[Docket No. FAA-2005-22449; Notice No. 05-07]

RIN 2120-A116

Flightdeck Door Monitoring and Crew Discreet Alerting Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration proposes to require passenger-carrying transport category airplanes used in domestic, flag, and supplemental operations to have a means to allow the flightcrew to visually monitor the door area outside the flightdeck. This means would allow the flightcrew to identify persons requesting entry into the flightdeck, and to detect suspicious behavior or potential threats. Second, the FAA proposes that, for operations requiring the presence of flight attendants, the flight attendants have a means to discreetly notify the flightcrew of suspicious activity or security breaches in the cabin. The proposed changes address standards adopted by the International Civil Aviation Organization following the September 11, 2001, terrorist attacks.

DATES: Comments must be received on or before November 21, 2005.

ADDRESSES: You may send comments [identified by Docket Number FAA-2005-22449] using any of the following methods:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001. Due to the suspension of paper mail delivery to DOT headquarters facilities, we encourage commenters to send their comments electronically.

- Fax: 202-493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Comments that you may consider to be of a sensitive security nature should not be sent to the docket management system. Send those comments to the FAA, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington DC 20591.

FOR FURTHER INFORMATION CONTACT: Joe Keenan, Air Carrier Operations Branch, Flight Standards Service, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8166, facsimile (202) 267-9579, e-mail: joe.keenan@faa.gov.

SUPPLEMENTARY 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 supporting data. We ask that you send us two copies of written comments.

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. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if

submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

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 late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

- (1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);
- (2) Visiting the FAA's Regulations and Policies Web page at <http://www.faa.gov/regulations> Web page at; or
- (3) Accessing the Government Printing Office's Web page at 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 or notice number, of this rulemaking Authority for this Rulemaking.

Background*Activities Leading to This Proposal*

Besides the steps the FAA took immediately after the terrorists' acts on September 11, 2001, the Office of the Secretary of Transportation (OST), Congress, and the FAA, took several longer terms actions to prevent hijackings on passenger-carrying airplanes used in air carrier service.

- On September 16, the Secretary of Transportation announced the creation of two rapid-response teams (RRT) to develop recommendations for improving security within the national aviation system. One team was tasked to develop recommendations to improve security at the Nation's airports; the other team was tasked to develop recommendations for aircraft integrity

and security, with a specific focus on cockpit access.

Members of the aircraft integrity and security RRT included representatives from American Airlines, The Boeing Company, Association of Flight Attendants, and the Air Line Pilots Association. Members of the Department of Transportation and the Federal Aviation Administration supported the RRT. In addition to regular team meetings, the RRT met with representatives from the airline operators, pilot and flight attendant associations, and parts manufacturers. The RRT also received numerous recommendations from the public as the result of an e-mail address setup on the FAA Web site.

On October 1, the RRT for aircraft integrity and security presented its final report to the Secretary of Transportation. The report made 17 recommendations. One recommendation recognized the need for (i) reinforced flightdeck doors and (ii) severe limitations to flightdeck entry. Anticipating the new severe limitations to flightdeck entry, the RRT made four recommendations for flightdeck access. As part of one recommendation, the RRT addressed the flightcrew's need for notification of a potential threat in the cabin by stating:

With the flightdeck no longer readily accessible to flight attendants, they must have a method for immediate notification to the flight deck during a suspected threat in the cabin. On receipt of such a warning, the pilot would check to make sure that the flight deck door is secure and begin immediate landing procedures. Consideration should be given to systems that might be installed in the aircraft as well as a device that could be carried by a crew member. In those aircraft equipped with an automated evacuation alarm system, it may in the near term be an effective tool for such notification.

The RRT recommended that the "industry develop a plan of feasible alternatives for emergency warnings within 30 days."

A second flightdeck access recommendation addressed the value of monitoring the area outside the flightcrew's compartment door. The RRT stated:

There is a consensus that cameras to monitor and view the area outside the flight deck door may add value. There should be continuous lighting outside the flight deck door for visibility, as well as to provide lighting for cameras. However, placement of a monitor in the limited space on the flight deck is a challenge. While there may be value in video or audio systems which provide information about activities throughout the cabin, we have no consensus on whether or how to proceed with this technology.

The RRT recommended that the "industry evaluate the use of cameras and lighting outside the flight deck door within 6 months."

- On November 19, Congress passed the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71). Section 104(b) of the ATSA states that the FAA Administrator may develop and implement methods—

- (1) To use video monitors or other devices to alert pilots in the flight deck to activity in the cabin, except that use of such monitors or devices shall be subject to nondisclosure requirements applicable to cockpit video records under [49 U.S.C. 1114(c)], * * * and

- (3) To revise the procedures by which cabin crews of aircraft can notify flight deck crews of security breaches and other emergencies, including providing for the installation of switches or other devices or methods in an aircraft cabin to enable flight crews to discreetly notify the pilots in the case of a security breach occurring in the cabin.

- On November 25, 2002, Congress passed the Homeland Security Act (HSA) to create the Department of Homeland Security (Pub. L. 107-296). Section 1403(b) of the HSA amended the ATSA to state that the Under Secretary of Transportation for Security, may "Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots."

International Standards

At the time of the terrorists' attack, the International Civil Aviation Organization (ICAO), an international body consisting of 188 member countries, was reviewing proposed changes to Annex 6 of the Convention on International Civil Aviation. Annex 6, Part I contains requirements for the operation of airplanes involved in international commercial air transport.

In light of the attack and comments received from its members States, ICAO proposed new provisions with a particular focus on security of the flightcrew compartment (also known as the flightdeck). Those provisions contained requirements for a flightdeck door and related requirements for locking, unlocking, and monitoring the area outside the door, and discreet notification of the flightcrew in the event of security breaches in the cabin. ICAO adopted the provisions in Chapter 13, Security, on March 15, 2002.

Standard 13.2, Security of the flight crew compartment, states:

- 13.2.1 In all aeroplanes which are equipped with a flight crew compartment door, this door shall be capable of being locked, and means shall be provided by which cabin crew can discreetly notify the

flight crew in the event of suspicious activity or security breaches in the cabin.

- 13.2.2 From 1 November 2003, all passenger-carrying airplanes of a maximum certificated take-off weight mass in excess of 45500 kg or with a passenger seating capacity greater than 60 shall be equipped with an approved flight crew compartment door that is designed to resist penetration by small arms fire and grenade shrapnel, and to resist forcible intrusions by unauthorized persons. This door shall be capable of being locked and unlocked from either pilot's station.

- 13.2.3 In all aeroplanes which are equipped with a flight crew compartment door in accordance with 13.2.2:

- (a) This door shall be closed and locked from the time all external doors are closed following embarkation until any such door is opened for disembarkation, except when necessary to permit access and egress by authorized persons; and

- (b) Means shall be provided for monitoring from either pilot's station the entire door area outside the flight crew compartment to identify persons requesting entry and to detect suspicious behaviour or potential threat.

The deadline for implementation of the ICAO standards was November 1, 2003.

Discussion of the Proposal

The FAA proposes to amend part 121 by requiring a means for the flightcrew to monitor the area outside the flightdeck door and a means for the cabin crew to discreetly notify the flightcrew of a suspicious activity or security breach in the cabin. For purposes of this rule, flightcrew refers to pilots and flight engineers, and cabin crew refers to crewmembers. The purpose of monitoring is to identify anyone requesting entry to the flightdeck and to detect suspicious behavior or potential threats. The proposal would set forth a standard that would allow industry to consider various options to comply with the final rule.

The proposed rule addresses the ICAO standard. The ICAO standard applies to all passenger-carrying airplanes of a maximum certificated take-off mass in excess of 45,500 kg (approximately 100,309 lbs) or with a passenger seating capacity greater than 60 involved in international commercial air transport. This proposed rule applies only to passenger-carrying operations conducted under part 121 that require a lockable door between the cockpit and passenger compartment. Neither the ICAO standard nor this proposed rule will apply to all-cargo operations. Additionally, part 121 operations do not encompass all passenger-carrying airplanes with a maximum certificated take-off mass in excess of 45500 Kg (the ICAO standard) operated in the U.S.

Accordingly, since some airplanes may operate both domestically and internationally under other operational rules (e.g., parts 91, 125 and 135), the U.S. will not fully comply with the ICAO standard.

The FAA's proposed rule will require passenger-carrying part 121 operators to retrofit their aircraft with a means to monitor the area on the cabin side of the flightdeck door and adopt measures to comply with the flightcrew notification requirement. Since there is a retrofit requirement, the FAA proposes to give industry 2 years to comply from the time a final rule is adopted. This time should be sufficient for industry to consider various options, rather than requiring the industry to focus solely on one possible option in order to meet a more immediate implementation date.

In proposed § 121.313(k), the use of the phrase "a means to monitor from the flightdeck side of the door" permits at least two methods to comply with the proposed rule, covering monitoring from the flightdeck. The first method is a video system. The video system would transmit video images to a monitor or monitors appropriately situated on the flightdeck to allow viewing of the area outside the flightdeck (herein referred to the "door area") from the flightdeck side of the door. A crewmember would provide audio confirmation to the flightcrew that the door area is clear, including confirmation that the lavatory is clear. A second method would involve visual identification of the door area, coupled with an audio confirmation procedure. Through a viewing device installed in the flightdeck door, one person on the flightdeck would view the door area and identify the person seeking access. Then a crewmember would provide audio confirmation that the door area is clear while viewing the outside door area. For example, before providing audio confirmation to the flightdeck, the crewmember would (1) assure that no passengers are standing near the door area, and (2) that no passenger is in any forward lavatory.

The FAA believes both methods comply with the intent of ICAO's requirement that the door area outside the flightdeck must be monitored. The purpose of monitoring is to identify people requesting access to the flightdeck. Prior to opening the flightdeck door, identifying people by a properly designed video camera system and audio confirmation or through operational procedures using audio and other visual identification means are both appropriate. Since the FAA's proposed rule is a performance standard, other methods may be

developed to comply with this rule and the FAA seeks input from industry for other means of compliance.

Proposed § 121.582 would heighten security requirements by giving the cabin crew a means to discreetly notify the flightcrew of suspicious activity or security breaches in the cabin. The FAA agrees with the ICAO position that discreet notification of the flightcrew should be provided. The FAA believes that current, on board communication crew alert systems could, along with FAA-approved operator-developed procedures, meet this requirement. For example, subtly keying the interphone in a specific manner could be used. The rule would also allow the use of more sophisticated technology, such as hands-free, wireless method as considered by Congress in the Homeland Security Act. However, any installed system must protect against false alarms or nuisance alerts that would make the system unreliable.

While an airplane is moving for purposes of a flight segment, proposed § 121.584 requires part 121 operators to keep the flightdeck door locked and closed unless an authorized person uses a device and procedure required by § 121.313(k) to view the area outside the flightdeck compartment door. In proposed § 121.584(a), the phrase "airplane moves in order to initiate a flight segment" includes movement under its own power or if the airplane is being moved by another device for example, a tug. In proposed § 121.584(a)(1), the phrase "a person authorized to be on the flightdeck" is anyone who obtained access to the flightdeck pursuant to § 121.547. Proposed § 121.584(a)(2) requires that the procedures in § 121.584(a)(1)(i) and (ii) be satisfactorily accomplished before the crewmember in charge of the flightdeck authorizes the door to be unlocked and opened. In proposed § 121.584(a)(2), the phrase "the crewmember in charge" means the flightcrew member in charge of the flightdeck at the time the door is opened, which may be the first officer if the pilot-in-command is not on the flightdeck. It is the FAA's intent to meet the ICAO standard that requires monitoring the area outside the flightdeck door by permitting the use of a peep hole to view a large area outside the flightdeck door in conjunction with the audio confirmation, for example, from a crewmember who is outside the flightdeck and who can observe that the flightdeck door area is secure.

Proposed § 121.584(a) requires every certificate holder operating under part 121 to implement this rule at the time the final rule is published if the operator

already has the means to monitor the area outside the flightdeck door as required by proposed § 121.313(k) (such as a peephole). The FAA has determined there is no reason to delay the security benefits of this operating rule for operators that can meet the rule at the time of final rule publication. Operators of airplanes that currently do not have a means to monitor the area outside the flightdeck door, have 2 years from the date the final rule is published to install such devices (such as a video system). But during that 2-year period, once an airplane is equipped with a means to monitor the area outside the flightdeck, then the certificate holder and the crewmembers must comply with proposed section 121.584(a) when operating that airplane.

The U.S. filed a difference with ICAO for Annex 6, Part 1, Chapter 13, provision 13.2.3 on November 6, 2002. The FAA will significantly alter its filing concerning the difference associated with this provision to reflect the rule that is finally adopted. This proposed rule does not meet ICAO standards in the following areas.

- The proposal in this action will not be implemented before the November 1, 2003, ICAO deadline.
- Any passenger-carrying airplanes operated under parts 91, 125, and 135 including international commercial air transport operations with a maximum certificated takeoff mass in excess of 45500 kg or with a seating capacity of greater than 60 (as ICAO requires), are not covered by this proposed rule.
- The proposed rule will permit an alternative means to monitor the area outside the flightdeck door from the flightdeck side of the door, instead of from either pilot station, as ICAO requires.

Harmonization Effort

The FAA considers adopting and maintaining coordinated standards between the United States and its counterparts to be a high priority. The FAA is working informally with the Joint Aviation Authorities (JAA) and Transport Canada Civil Aviation to ensure the proposed rulemakings on flightdeck door monitoring and crew alerting systems are similarly worded and have the same requirements. On August 1, 2003, the JAA published Amendment 6 to JAR-OPS 1, Commercial Air Transportation (Aeroplanes). This amendment requires a means or procedure by which the cabin crew can notify the flightcrew in the event of suspicious activity or security breaches in the cabin. Additionally, the JAA is finalizing a separate amendment to JAR-OPS 1 that,

like this proposed rule, requires monitoring of the door area outside the flight crew compartment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has determined that there are no requirements for information collection associated with this proposed rule.

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

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. sections 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 requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually adjusted for inflation, which makes the 2004 value about \$120,700,000.

In conducting these analyses, FAA has determined this proposed rule (1) would have benefits that justify its costs; (2) would be a “significant regulatory action” as defined in section 3(f) of Executive Order 12866 and would be “significant” as defined in DOT’s Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would move toward existing and potential international standards as the basis of U.S. standards; and (5) would not impose an unfunded mandate on State, local, or tribal governments, or on the private sector. The FAA has placed these analyses in the docket and they are summarized in the following sections.

Regulatory Evaluation Summary

Costs—The FAA requests comments on the methodology, assumptions, and results of the economic analysis and asks commenters to provide supporting data, documentation, and rationale for their comments.

If the operators decide to develop appropriate procedures to comply with the proposed rule, the FAA estimates that there could be minimal compliance costs. Although not required to do so, operators may decide to comply by installing a video camera surveillance system. Thus, the following FAA’s estimated costs of installing a video camera surveillance system represent the high-end cost of complying with the proposed rule.

Based on numbers developed at the end of 2003, the proposed rule would affect 6,190 airplanes (4,487 turbojets, 1,203 regional jets, and 500 large (>20 seats) turboprops). If a final rule were issued on January 1, 2004, the 2-year compliance period would allow 550 of these airplanes to be retired in 2004 and 2005 and not be retrofitted, resulting in 5,640 retrofitted airplanes. Further, 4,360 airplanes that are projected to be manufactured between 2004 and 2013 would have these systems installed as original operating equipment.

Certificate holders that choose to install a video camera system to comply with this rule, would incur the following costs. Some turbojets would need a two- or three-camera system while regional jets, including turbojets and turboprops, would need a one-camera system. AirWorks, AEI/AD Aerospace, and Goodrich are the only vendors currently supplying these systems for airplanes. Many of their systems have Supplemental Type Certificates (STCs) issued by the FAA. These vendors are selling their systems to several European and Asian airlines as a result of United Kingdom (UK) Department for Transport Directive 21(a), issued on January 27, 2003, which strictly follows the ICAO requirements including the November 1, 2003 deadline. Thus, the FAA bases its estimated average costs on the vendors’ reported costs.

Using the systems we examined produced the following costs. For a future production airplane, this system would cost \$16,000 for a turbojet and \$9,000 for a regional jet or turboprop. It would take 16 labor hours (\$1,280) to install on a turbojet and 12 labor hours (\$960) on a regional jet. The total cost would be \$17,280 for a turbojet and \$9,960 for a regional jet or turboprop. Production schedules would not be disrupted.

For an existing airplane, the retrofitting kit would cost \$17,000 for a turbojet and \$10,000 for a regional jet or turboprop. If the retrofit were completed during a regularly scheduled maintenance check, it would take 48 labor hours (\$3,840) for a turbojet and 36 hours (\$2,880) for a regional jet or turboprop. The per airplane retrofit cost would be \$20,840 for a turbojet and \$12,880 for a regional jet or turboprop. If the retrofit must be completed during a dedicated maintenance session, labor time would increase to 96 hours (\$7,680) for a turbojet and 72 hours (\$5,760) for a regional jet or turboprop. In addition, the airplane would be out of service for 1 day resulting in lost net revenue ranging from \$7,850 to \$21,550 for a turbojet depending upon its type and size and from \$1,600 to \$4,850 for a regional jet or turboprop.

However, the FAA believes the airlines have sufficient compliance time to complete the retrofit during a scheduled maintenance check. For the most popular airplane models, several video camera surveillance system STCs already exist. In addition, the FAA anticipates all remaining airplane models will have STCs issued by mid-2004. Thus, airlines will have from 18 to 24 months to comply with the rule. During that time the FAA believes each airplane will have an overnight maintenance check during which the retrofit could be accomplished without loss of revenue time. To the extent these retrofits could not be completed during regularly scheduled maintenance, the FAA underestimated the potential compliance costs. The FAA specifically requests comments on this particular assumption.

The total cost to install this system on future production airplanes between 2004 and 2014 would be \$64 million, or a present value of \$44 million. The total cost to retrofit this system on existing airplanes during 2004 and 2005 would be \$102 million (\$34 million in 2004 and \$68 million in 2005), which has a present value of \$91 million.

The FAA estimates an average of 1 hour per year to inspect and maintain the system, resulting in a total maintenance expenditure of \$5.5 million between 2004 and 2014, which has a present value of \$3.5 million. As the mean times between failures for the components would be longer than 10 years, the FAA calculates no replacement costs during the time frame of this analysis.

The system would add between 12 and 17 pounds to an airplane’s weight, which would increase average annual per airplane fuel consumption between 68 and 328 gallons. Using a price of

\$0.80 per gallon, the FAA calculates the total additional fuel cost to be \$14

million between 2004 and 2014, which has a present value of \$9 million.

As shown in Table 1, the total costs between 2004 and 2014 of installing

video camera surveillance systems would be \$185 million, which has a present value of \$148.5 million.

TABLE 1.—TOTAL AND PRESENT VALUES OF COSTS TO INSTALL VIDEO CAMERA SURVEILLANCE SYSTEMS IN PART 121 AIRPLANES (2004–2014)
[In 2003 \$millions]

Source of cost	Total cost	Present value total cost
Install on Future Production Airplanes	\$64.0	\$44.0
Retrofit on Existing Airplanes	102.0	92.0
System Maintenance	5.5	3.5
Fuel Consumption	14.0	9.0
Total	185.5	148.5

As shown in Table 2, the largest annual expenditures would be in 2004, \$40 million, and, in 2005, \$76 million.

The present value of the costs in 2004 and 2005 would be about 70 percent of the total present value costs. The annual

costs thereafter would be about \$6.5 million to \$9 million for the new airplanes and for fuel and maintenance.

TABLE 2.—TOTAL COSTS BY YEAR FOR PART 121 OPERATORS OF HAVING VIDEO CAMERA SURVEILLANCE SYSTEMS
[In 2003 \$millions]

Year	Future production airplanes cost	Retrofitting airplanes cost	Fuel and maintenance cost	Total cost	Present value total cost
2004	\$5.675	\$33.750	\$0.481	\$39.906	\$37.295
2005	6.290	68.523	1.089	75.902	66.309
2006	6.126	0.000	1.616	7.742	6.343
2007	6.863	0.000	1.824	8.687	6.656
2008	6.379	0.000	1.889	8.268	5.922
2009	6.192	0.000	1.949	9.141	5.452
2010	5.766	0.000	2.007	7.773	4.867
2011	6.089	0.000	2.066	8.155	4.772
2012	5.462	0.000	2.130	7.592	4.153
2013	4.542	0.000	2.196	6.738	3.449
2014	4.399	0.000	2.261	6.660	2.812
Total	63.783	102.273	19.508	186.564	148.030

The cost of instituting a flightdeck alerting system for crewmember could be met by a variety of measures such as special signals through the interphone system or modifying existing crew notification devices or procedures. As such, the FAA determines that this proposed requirement would impose minimal costs.

Benefits—The proposed rule is one of a series of rulemaking actions aimed at preventing or deterring an occurrence similar to the September 11 terrorist attacks. It is designed to ensure that pilots do not open the flightdeck door and admit a potential hijacker because the pilots will be able to recognize who is trying to gain entry. It is also designed to alert the pilots to problems in the cabin through the crew discreet monitoring system and allow them to take the appropriate actions.

As witnessed on September 11, 2001, terrorist acts can result in the complete

destruction of an airplane with the loss of all on board and with huge collateral damage far exceeding that of the airplane and passengers. The economic and social costs of the September 11 attacks have been measured in the billions of dollars. While the FAA cannot predict the frequency and severity of future terrorist acts against aviation, it does expect that there will be such attempts. The value of preventing a single loss of an average flight is estimated to be about \$375 million, without consideration of collateral damage. However, the potential benefits from preventing the destruction of an operating airplane cannot be precisely quantified nor specifically allocated to each of the multiple parallel regulatory actions being taken by the FAA and other Federal agencies. The FAA concludes that there is a high probability that the benefits of this proposed rule would

exceed its costs. In addition to preventing the extraordinary costs of another attack, this proposed rule responds to the interest of the U.S. Congress as specified in the ATSA. Further, the need for this proposed rule is illustrated by the fact that ICAO has made flightdeck surveillance a requirement for airplanes with more than 60 seats that travel internationally.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.” To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals

and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. If the agency determines that it would, 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.

As a proxy for the operator's ability to afford the cost of compliance, the FAA calculated the ratio of the total cost of the rule as a percentage of annual revenue. The FAA determined that the maximum percentage would be 1.7 percent for one small airline while only two other airlines would have percentages greater than 1 percent. It should be emphasized that these estimated costs are for the high cost method of compliance, which would not be required by the proposed rule. The FAA does not believe that such costs represent a significant economic impact.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator of the Federal Aviation Administration certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

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. The FAA assessed the potential effect of this proposed rulemaking and determined that the proposed amendment is largely consistent with JAA and ICAO standards. However, the international standards are being reviewed and they may be moving closer to the FAA position. Therefore, the FAA

determined that this proposed rule would be in compliance with the Trade Agreement Act.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure adjusted annually for inflation, which is about \$120,700,000 in 2004, 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."

This proposed rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Regulations Affecting Interstate 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 Code of Federal Regulations (CFR) in a manner affecting interstate 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 interstate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently in interstate 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 312f and involves no extraordinary circumstances.

Energy Impact

The energy impact of this proposal has been assessed in accordance with

the Energy Policy and Conservation Act (EPCA) Public Law 94-163, as amended (42 U.S.C. Section 6362) and FAA Order 1053.1. It has been determined that this proposal is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 121

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

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 121 of Title 14 of the Code of Federal Regulations, as follows:

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

1. The authority citation for part 121 is revised to read:

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

2. Section 121.313 is amended by adding new paragraph (k) to read as follows:

§ 121.313 Miscellaneous equipment.

* * * * *

(k) Except for all-cargo operations as defined in section 119.3 of this subchapter, after (insert date 2 years after final rule publication date) for all passenger-carrying airplanes that require a lockable flightdeck door in accordance with paragraph (f) of this section, a means to monitor from the flightdeck side of the door the area outside the flightdeck door to identify persons requesting entry and to detect suspicious behavior and potential threats.

3. Add new § 121.582 as follows:

§ 121.582 Means to discreetly notify a flightcrew.

Except for all-cargo operations as defined in section 119.3 of this subchapter, after (insert date 180 days after final rule publication date), for all passenger carrying airplanes that require a lockable flightdeck door in accordance with 121.313(f), the certificate holder must have an approved means by which the cabin crew can discreetly notify the flightcrew in the event of suspicious activity or security breaches in the cabin.

4. Add new § 121.584 as follows:

§ 121.584 Requirement to view the area outside the flightdeck door.

(a) From the time the airplane moves in order to initiate a flight segment through the end of that flight segment,

no person may unlock or open the flightdeck door unless:

(1) A person authorized to be on the flightdeck uses an approved audio procedure and an approved visual device to verify that:

(i) The area outside the flightdeck door is secure, and;

(ii) If someone outside the flightdeck is seeking to have the flightdeck door

opened, that person is not under duress, and;

(2) After the requirements of paragraph (a)(1) have been satisfactorily accomplished, the crewmember in charge on the flightdeck authorizes the door to be unlocked and open.

(b) Before (insert date 2 years after final rule publication date) paragraph (a) applies only to the operation of an

airplane that is equipped with a means to monitor the flightdeck door area as required by § 121.313(k).

Issued in Washington, DC on September 14, 2005.

John M. Allen,

Acting Director, Flight Standards Service.

[FR Doc. 05-18806 Filed 9-20-05; 8:45 am]

BILLING CODE 4910-13-P