

periodical inspections, for the performance of which it is required to use the hydraulic power unit. This condition, if not corrected, could result in a fire hazard." The actions specified in this AD are intended to prevent this unsafe condition.

Actions and Compliance

(e) Within the next 10 hours time-in-service (TIS) or 3 months, whichever occurs first, modify hydraulic systems 1 and 2 between the hydraulic blocks and the hydraulic ground unit panel by disconnecting the pipes, part number (P/N) 37.59.233.00.00 and P/N 37.59.234.00.00, from the hydraulic blocks, plugging the blocks and disconnected pipes, and securing the pipes, as specified in section II, page 3, of PZL-Swidnik S. A. (PZL) Mandatory Bulletin No. BO-37-07-192, dated January 12, 2007.

(f) When the use of the hydraulic ground unit panel is necessary for maintenance, for the duration of the maintenance activity, you may temporarily remove the security tape and clips, unplug the pipes and blocks, and reconnect the pipes that were disconnected in accordance with paragraph (e) of this AD.

(g) At your discretion, modify both hydraulic systems by replacing pipes, P/N 37.59.233.00.00 and P/N 37.59.234.00.00, with pipes, P/N 37.59.333.00.00 and P/N 37.59.334.00.00, respectively, and install a check valve, P/N 37.59.336.00.00, in each hydraulic system in accordance with Section II, page 2, of PZL Technical Bulletin No. BT-37-07-196, dated April 24, 2007 (PZL TB).

Note: The PZL TB inconsistently refers to various P/Ns as either "pipes" or "hoses." For consistency in the terminology in this AD, we refer to all these P/Ned "hoses" as "pipes."

(h) Modifying both hydraulic systems by replacing the pipes and installing check valves as specified in paragraph (g) of this AD constitute terminating action for the requirements of this AD.

Differences Between This AD and the MCAI

(i) This AD differs from the MCAI in that it:

(1) Only applies to Model W-3A helicopters because the Model W-3AS helicopters do not have a U.S. type certificate; and

(2) Does not allow compliance to be completed in accordance with "later approved revisions" of the service information.

Other Information

(j) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, FAA, ATTN: Uday Garadi, Aerospace Engineer, Regulations and Policy Group, FAA, Rotorcraft Directorate, Fort Worth, Texas 76193-0110, telephone (817) 222-5123, fax (817) 222-5961, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(k) MCAI European Aviation Safety Agency (EASA) Airworthiness Directive No. 2007-0072R1, dated July 6, 2007 contains related information.

Air Transport Association of America (ATA) Tracking Code

(l) ATA Code: 2910, Hydraulic System, Main.

(m) You must use the specified portions of PZL-Swidnik S. A. Mandatory Bulletin No. BO-37-07-192, dated January 12, 2007, and PZL-Swidnik S. A. Technical Bulletin No. BT-37-07-196, dated April 24, 2007 to do the actions required.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact WSK "PZL-Swidnik" S.A., Al. Lotników Polskich 1, 21-045 Świdnik, Poland, telephone (+48 81) 468 09 01, 751 20 71, or fax (+48 81) 468 09 19, 751 21 73, e-mail: hcm@pzl.swidnik.pl.

(3) You may review copies at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Fort Worth, Texas, on August 7, 2008.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E8-18805 Filed 8-14-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 153

[Docket No.: FAA-2007-29237; Amendment No. 153-1]

RIN 2120-AJ07

Aviation Safety Inspector Airport Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Two rulemakings finalized several years ago removed regulatory language regarding the statutory authority of Aviation Safety Inspectors to access airport operations areas (AOAs), security identification display areas (SIDAs), and other secured and restricted airport areas. This final rule clarifies the authority of a properly credentialed Aviation Safety Inspector (ASI) to access AOAs, SIDAs, and other secured areas of a public-use airport allowing performance of their official duties supporting the FAA's safety mission.

DATES: This amendment becomes effective September 15, 2008.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule contact Pat Hempen, Federal Aviation Administration, Flight Standards Service, Air Transportation Division (AFS-200), 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267-8166; facsimile (202) 267-5229, e-mail

patrick.hempen@faa.gov. For legal questions concerning this final rule contact Bruce Glendening, Federal Aviation Administration, Office of the Chief Counsel, Regulations Division (AGC-220), 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267-8011; facsimile (202) 267-7971, e-mail bruce.glendening@faa.gov.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA is issuing this rulemaking under the authority set forth in 49 U.S.C. section 44701(a)(5), section 40113, and section 44713. Under section 44701(a)(5), the Administrator is charged with promoting safe flight of civil aircraft by, among other things, prescribing regulations the Administrator finds necessary for safety in air commerce. Sections 40113 and 44713 relate to the Administrator's authority to conduct safety inspections.

Background

The FAA is re-codifying in Title 14 of the Code of Federal Regulations, that public-use airports are required to give Federal Aviation Administration (FAA) aviation safety inspectors (ASIs) access to air operations areas (AOAs), security identification display areas (SIDAs) and other secured areas. Since the transfer of most aviation and transportation security functions to Transportation Security Administration (TSA), ASIs have encountered difficulty accessing airport restricted areas to perform their safety oversight duties. FAA ASIs must have access to public-use airport secured areas to do their job.

Summary of the Notice of Proposed Rulemaking (NPRM)

On September 19, 2007, the FAA published a notice of proposed rulemaking (NPRM) (72 FR 53504) restoring, clarifying, and reiterating authority of properly credentialed ASIs to access AOAs, SIDAs, and other secured areas of an airport. FAA security rules were formerly contained in 14 CFR parts 107 and 108. These security rules were transferred to Transportation Security Administration (TSA) by the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71, 115 Stat. 597, November 19, 2001) and promulgated

TSA regulations found in 49 CFR parts 1542 and 1544.

The 30-day comment period ended on October 19, 2007.

Discussion of the Final Rule

This final rule creates a new part 153 governing ASI access to public-use airports and facilities to perform official duties. The rule defines airport, and an airport's secured areas including the air operations area (AOA), security identification display area (SIDA), and "secured area." It also defines an aviation safety inspector (ASI) and FAA Form 110, (FAA-issued credential authorizing ASIs to perform inspections and investigations). Lastly, the rule details what access airports, aircraft operators, aircraft owners, airport tenants, and agencies must grant ASIs bearing FAA Form 110A (and optionally airport-issued identification media) to perform inspections, test compliance, or perform other duties as the FAA may direct.

The FAA received 10 comments. Seven comments were from individuals, two from airports, and one from a labor organization. Commenters generally supported the final rule, but suggested changes discussed below.

Six individual commenters supported the rule. One commenter thought that "creating 14 CFR 153 is a very positive thing for national security and aviation safety, and as a tool, it will streamline the aviation inspection process." Another commenter offered that "the main premise of the proposal is simply a reinforcement of the existing powers for inspection provided for Airport [sic] ASIs, as agents of the FAA and also creates legal basis for enforcement or basis for litigation." A third commenter supported the proposed rule and stated that "Inspectors must be permitted to enter air operations and other secured and controlled areas in order to perform effective safety inspections."

The Air Line Pilots Association (ALPA) strongly supported the proposed rulemaking stating in part "We find the statement and analysis of the problem addressed by this proposal to be sound, and the cost, methods of implementation of changes, and projected timeframe for completion of changes to be reasonable."

Two airport operators submitted comments on the proposed rule. The commenter from Lambert-St. Louis International Airport suggested the FAA "should make clear that any inspector that needs access to the SIDA must have identification approved by the airport operator or escorted by a person with escort privileges." The second airport commenter from the Houston Airport

System "agrees with the proposed rule concerning access" but stated that ASIs should comply with FAA and airport requirements for movement within AOA and that § 153.3 of the proposed rule should be expanded to require compliance with the Airport Certification Manual, 14 CFR 139.303 and 329, and Advisory Circular 150/5210 5b. The Houston Airport System commenter further stated that at non-139 airports, ASIs should comply with requirements established by the airport manager.

The comments from Lambert-St. Louis International Airport and the Houston Airport System raise important issues concerning an ASI's unrestricted airport access to perform their Federally mandated duties, an airport's safety and security program, and Transportation Security Administration (TSA) security procedures.

The FAA has established codes of conduct for ASIs. ASIs must perform their duty consistent with FAA rules and regulations and airport safety rules when in the AOA and secured areas. In order to familiarize an ASI to airport rules and procedures, the airport operator may elect to issue SIDA badges (with additional training that may include airport layout review and safety and security procedures). Consideration of airport rules are expected when, for example, an ASI makes an unannounced inspection, he/she will display their FAA Form 110A and airport credentials (if issued) establishing their inspection authority.

We will make all reasonable efforts for local ASIs to have local airport credentials and such identification media should be displayed with the FAA Form 110A. The FAA-issued Form 110A will continue to serve as a standalone identification (allowing FAA staffing flexibility to assign ASIs where needed). The Form 110A will also continue to be the primary credential allowing ASIs unrestricted access to those areas of an airport necessary to perform their official duties supporting our safety mission.

Additionally, when entering a sterile area through a screening checkpoint, FAA personnel will continue to comply with TSA screening procedures.

While the FAA agrees that AOA safety is of paramount importance, we do not agree that additional rule language is necessary to ensure ASIs carry out safe practices. ASI safety practices are reinforced by additional training and adherence to best practices. Safety practices are also contained in several FAA orders including Orders 8000-38G and 8900.1. (FAA orders, advisory circulars, and other regulatory guidance

can be accessed online at <http://rgl.faa.gov>.) The airport operator also has the option of conducting additional training on their specific safety procedures.

The FAA believes the new rule, with our stringent ASI requirements, and continued coordination and cooperation with individual airport operators and the local TSA will allow ASIs to perform their official duties without compromising airport safety or security.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there is no current or new requirement for information collection associated with this amendment. None of the 10 received comments addressed Paperwork Reduction Act requirements or raised concerns about additional paperwork requirements if the final rule is implemented.

An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

International Compatibility

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

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider

international standards and, where appropriate, that they be 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 with base year of 1995).

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review," dated September 30, 1993 (58 FR 51736) directs the FAA to assess both the costs and the benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Our assessment of this rulemaking indicates that its economic impact is minimal because it does not impose any costs on airport operators. Because the costs and benefits of this action do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory evaluation" which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory Policies and Procedures. We do not need to do a full evaluation where the economic impact of the rule is minimal.

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

After parts 107 and 108 were removed and these authorities transferred to TSA there has been some misunderstanding about the continuing authority of FAA safety inspectors to access various areas of the airport that are controlled for security purposes. This rule makes clear that FAA aviation safety inspectors continue to have authority to access such areas as needed to perform their duties.

This final rule will put the specific regulatory authority into a new part 153 and clearly defines the authority of properly credentialed ASIs to access AOA's, secured areas, and SIDA's of a

public-use airport so they can perform official duties in support of the FAA's safety mission. Adding this language has a positive safety impact, because properly credentialed ASIs will be able to perform necessary inspections that support the FAA's safety mission. The intended effect of this proposed rule is to make sure ASIs have access to AOA's, secured areas, and SIDA's of an airport so they can perform official duties in support of the FAA's safety mission. Its economic impact for airport operators is minimal.

Regulatory Flexibility Determination

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

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

However, if an agency determines that a 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 rule clearly defines the authority of properly credentialed ASIs to access AOA's, secured areas, and SIDA's of an airport to perform official duties in support of the FAA's safety mission. Because this final rule only reiterates and clarifies ASI authority to access an airport's secured areas, there will only be minimal costs since some airports will choose to issue SIDA badges as an airport specific credential. When airports issue SIDA badges for ASIs, these will be carried in addition to the FAA-issued Form 110A.

Therefore, as the Acting FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and has determined that it will respond to a domestic safety objective and is not considered an unnecessary obstacle to trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of \$136.1 million in lieu of \$100 million.

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

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

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 rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a “significant energy action” under the executive order because it is not a “significant regulatory action” under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by:

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA’s Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or
3. Accessing the Government Printing Office’s Web page at <http://www.gpoaccess.gov/>.

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

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://DocketsInfo.dot.gov>.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find

out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act.

List of Subjects in 14 CFR Part 153

Airports, Aviation safety.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations by adding part 153 to read as follows:

PART 153—AIRPORT OPERATIONS

Subpart A—Aviation Safety Inspector Access

Sec.

153.1 Applicability.

153.3 Definitions.

153.5 Aviation safety inspector airport access.

Subpart B—[Reserved]

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

Subpart A—Aviation Safety Inspector Access

§ 153.1 Applicability.

This subpart prescribes requirements governing Aviation Safety Inspector access to public-use airports and facilities to perform official duties.

§ 153.3 Definitions.

The following definitions apply in this subpart:

Air Operations Area (AOA) means a portion of an airport, specified in the airport security program, in which security measures specified in Title 49 of the Code of Federal Regulations are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas, for use by aircraft regulated under 49 CFR parts 1542, 1544, and 1546, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures. This area does not include the secured area.

Airport means any public-use airport, including heliports, as defined in 49 U.S.C. 47102, including:

- (1) A public airport; or
- (2) A privately-owned airport used or intended to be used for public purposes that is—
 - (i) A reliever airport; or
 - (ii) Determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.

Aviation Safety Inspector means a properly credentialed individual who

bears FAA Form 110A and is authorized under the provisions of 49 U.S.C. 40113 to perform inspections and investigations.

FAA Form 110A means the credentials issued to qualified Aviation Safety Inspectors by the FAA for use in the performance of official duties.

Secured area means a portion of an airport, specified in the airport security program, in which certain security measures specified in Title 49 of the Code of Federal Regulations are carried out. This area is where aircraft operators and foreign air carriers that have a security program under 49 CFR part 1544 or part 1546 enplane and deplane passengers and sort and load baggage and any adjacent areas that are not separated by adequate security systems, measures, or procedures.

Security Identification Display Area (SIDA) means a portion of an airport, specified in the airport security program, in which security measures specified in Title 49 of the Code of Federal Regulations are carried out. This area includes the secured area and may include other areas of the airport.

§ 153.5 Aviation safety inspector airport access.

Airports, aircraft operators, aircraft owners, airport tenants, and air agencies must grant Aviation Safety Inspectors bearing FAA Form 110A free and uninterrupted access to public-use airports and facilities, including AOAs, SIDs, and other secured and restricted areas. Aviation Safety Inspectors displaying FAA Form 110A do not require access media or identification media issued or approved by an airport operator or aircraft operator in order to inspect or test compliance, or perform other such duties as the FAA may direct.

Subpart B—[Reserved]

Issued in Washington, DC on August 4, 2008.

Robert A. Sturgell,

Acting Administrator.

[FR Doc. E8–18804 Filed 8–14–08; 8:45 am]

BILLING CODE 4910–13–P