Will publish in Part 4 of the Federal Register on June 29, 2004

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration.

14 CFR Parts 121 and 135

Docket No. FAA-2004-18477

RIN 2120-AI24

Aircraft Assembly Placard Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This action amends the passenger information rules for scheduled air carriers. It requires a notice or placard informing passengers of the name of the country in which the aircraft was finally assembled. These changes are necessary to respond to an Act of Congress requiring the notice or placard be available to passengers no later than June 12, 2005.

JMA 6/24/04

DATE: This final rule is effective upon OMB approval of the information collection. When OMB approves, we will publish a document in the Federal Register announcing the effective date.

ADDRESSES:

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, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Flight Standards Service, Air Transportation Division, AFS-201A, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8166; facsimile (202) 267-5229, e-mail gary.davis@faa.gov.

SUPPLEMENTARY INFORMATION

Availability of Final Rule

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 Office of Rulemaking's web page at http://www.faa.gov/avr/arm/index.cfm; or

(3) Accessing the Government Printing Office's web page at http://www.gpoaccess.gov/fr/index.html.

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

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official, or the person listed under FOR FURTHER INFORMATION CONTACT. You can find out more about SBREFA on the Internet at http://www.faa.gov/avr/arm/sbrefa.htm, or by e-mailing us at 9-AWA-SBREFA@faa.gov.

Background

In Section 810 of the FAA Reauthorization Act (December 11, 2003), the Congress directed the Secretary of Transportation to require that each air carrier providing scheduled passenger air transportation display, by June 12, 2005, a notice that informs passengers of the country in which the aircraft they are aboard was finally assembled. This information is to be provided on a notice or placard available to each passenger on the aircraft.

The conference committee report accompanying the legislation interprets the statutory requirement, explaining that it calls for the information on country of final assembly to be available "on the placard in the seat back pocket" on the aircraft. Therefore, this new statement will be included on the seat-pocket cards that are already required to provide information on emergency procedures for the type and model of the aircraft.

Sections 121.571 and 135.117 require that each certificate holder provide cards that supplement the oral briefing given to passengers before takeoff. These cards contain diagrams and operating methods for emergency exit of the aircraft. This rule requires that these cards also inform each passenger of the country in which the aircraft was finally assembled. Congressional guidance made clear that this is the proper place to include the new information.

We understand that the statutorily required June 12, 2005, deadline may not provide enough time for each airline to replace every card. We will interpret our rule such that each airline can meet the new requirement by temporarily providing the requested information in the form of a sticker attached to each seat-pocket card. However, the required information must be added to the printed cards the next time the cards are printed for any reason.

This document is a final rule because there is limited time to comply with this Congressional direction, and the intent of Congress is clear. Congress has determined that providing the required

information is beneficial to the public. The economic summary will provide the anticipated compliance costs.

Paperwork Reduction Act

This rule contains new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)), the FAA has submitted the information requirements associated with this final rule to the Office of Management and Budget for its review. Employees of the affected entities will likely be required to apply the required information to each seat back pocket card. Affected entities will also likely have to purchase stickers for each card. The hours worked and cost of stickers contribute to the burden. The total paperwork burden is 13,313.4 hours, costing $521,957.

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 this regulation.

Economic Evaluation

Proposed 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 that 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. section 2531-2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires 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 (Public Law 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).

The FAA has determined this rule (1) as mandated by Congress, is deemed to be in the public interest; (2) is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866 and is not "significant" as defined in DOT's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will have no effect on international trade; and (5) does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

Costs

Each of the part 121 and 135 air carriers may put a sticker on the seat-pocket card; an aircraft cleaner may do this during routine cleaning. Application of each sticker takes one minute and each sticker costs $0.50; there are a total of 750,000 passenger seats used for part 121 scheduled passenger air transportation and 3,800 seats used for part 135 scheduled passenger air transportation. A manager from each air carrier would spend 5 hours to ensure that the program is carried out successfully. The total one-time cost for part 121 air carriers is $494,100 and for part 135 air carriers is $27,800; total costs for this program sum to $522,000. All costs are one-time costs in 2004; the FAA anticipates that the information on these stickers will be incorporated directly onto the seat-pocket cards when the old cards are replaced.

Comparison of Costs and Benefits

The final rule will cost $522,000. Congress, which reflects the will of the American people, has determined that this final rule is in the best interest of the nation and therefore provides a benefit.

Regulatory Flexibility Determination

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 business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. 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 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 Act.

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 1980 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.

For this rule, the small entity groups are considered to be part 121 and part 135 air carriers. As shown above, the cost to all part 121 air carriers is $494,100. Given 69 air carriers, the average cost per carrier is $7,160. This cost is less than 1% of the annual median revenue for an average part 121 air carrier. Not all part 121 air carriers are small businesses, but for those that are small businesses, their

annual revenue far exceeds $716,100. The cost to all part 135 air carriers is $27,800. Given 81 air carriers, the average cost per carrier is $344. This cost is less than 1% of the annual median revenue for an average part 135 air carrier. Not all part 135 air carriers are small businesses, but for those that are small businesses, their annual revenue far exceeds $34,400. Thus, the FAA certifies that this action will 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 establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. 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 rulemaking and has determined that it will impose the same costs on part 121 and 135 operators whether they use aircraft assembled in the United States or aircraft assembled in some other country. Therefore, it will impose no unnecessary obstacles in foreign commerce.

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) 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 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.

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

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 (66 FR 28355, 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

List of Subjects in 14 CFR Parts 121 and 135

Air carriers, Air Taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 121 and 135 of Chapter I of Title 14, Code of Federal Regulations as follows:

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

1. The authority citation for part 121 continues to read as follows:

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

2. Section 121.571(b) is revised to read as follows:

§ 121.571 Briefing passengers before takeoff.

* * * * *

(b) Each certificate holder must carry on each passenger-carrying airplane, in convenient locations for use of each passenger, printed cards supplementing the oral briefing. Each card must contain information pertinent only to the type and model of airplane used for that flight, including -

(1) Diagrams of, and methods of operating, the emergency exits;

(2) Other instructions necessary for use of emergency equipment; and

(3) No later than June 12, 2005, for Domestic and Flag scheduled passenger-carrying flights, the sentence, "Final assembly of this airplane was completed in [INSERT NAME OF COUNTRY]."

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PART 135 – OPERATIONG REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

3. The authority citation for part 135 continues to read as follows:

Authority: 49 USC 106(g), 41706, 44113, 44101, 44701-44702, 44705, 44709, 44711-44713, 44715-44717, 44722.

4. Section 135.117(e) is revised to read as follows:

§135.117 Briefing Of Passengers Before Flight

* * * * *

(e) The oral briefing required by paragraph (a) of this section must be supplemented by printed cards which must be carried in the aircraft in locations convenient for the use of each passenger. The cards must -

(1) Be appropriate for the aircraft on which they are to be used;

(2) Contain a diagram of, and method of operating, the emergency exits;

(3) Contain other instructions necessary for the use of emergency equipment on board the aircraft; and

(4) No later than June 12, 2005, for scheduled Commuter passenger-carrying flights, include the sentence, "Final assembly of this aircraft was completed in [INSERT NAME OF COUNTRY]."

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Issued in Washington, DC, on JUN 2 1 2004

Marion C. Blakey
Administrator

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