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BEFORE THE
FEDERAL AVIATION ADMINISTRATION
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Office of Chief Counsel
Rules Docket

3:35pm

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REVISIONS TO DIGITAL FLIGHT
)
DATA RECORDER REGULATIONS
)
FOR BOEING 737 AIRPLANES
)
AND FOR PART 125 OPERATIONS
)

)
Notice of Proposed Rulemaking 99-19,
)
14 CFR Parts 91, 121 & 125
)

Docket No. FAA-1999-6482-10

PRELIMINARY COMMENTS OF
SOUTHWEST AIRLINES CO.

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December 22, 1999

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OFFICE OF THE
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The NPRM proposes that the new FDR requirements become effective as early as August 2000 for some of the affected aircraft and August 2001 for the others. Despite the technical complexity of the subject matter and its far-reaching implications for the enormous number of aircraft that would be affected, the NPRM established a comment period of only 30 days.

On December 16, 1999, the Air Transport Association (ATA) petitioned the FAA on behalf of its member airlines to extend the time allowed for comments on the NPRM to January 31, 2000. ATA pointed out that, based on discussions with its members and The Boeing Company, the NPRM's proposed compliance periods are not achievable due to the fact that the parts, engineering and service bulletins necessary to accomplish the NPRM's proposed enhancements do not exist, nor can they be created and submitted for FAA approval in time to meet the proposed compliance deadlines.

On December 21, 1999, ATA further petitioned the FAA to rescind or hold the NPRM in abeyance, and to convene a public meeting or other means of engaging in a constructive dialogue with affected air carriers and manufacturers in order to establish reasonable compliance periods for the proposed FDR enhancements. ATA's December 21 petition states that "an absolute minimum of two to three years" will be required for retrofit of FDRs after service instructions are available (a process requiring approximately 12 months in itself). ATA's petition further projects that, if

the NPRM's proposed compliance deadlines are not modified, over one-half of the affected aircraft (652 planes) would face compulsory grounding on August 19, 2000, representing a reduction of over 18% of the total scheduled departures by U.S. carriers. ATA also estimates that the NPRM would cause groundings of some 200 to 300 additional aircraft in August 2001.

Southwest strongly supports the two ATA petitions. In addition to the reasons given by ATA for abating the present NPRM and engaging in a dialogue with industry, Southwest has a particular concern that it not be penalized for its early and aggressive compliance with the FAA's previously-required upgrade of B-737 FDR's in 1997 (Revisions to Digital Flight Data Recorder Rules, 62 Fed. Reg. 38362, July 17, 1997). As the FAA is aware, Southwest undertook an extraordinarily proactive response to the 1997 Rule by equipping its aircraft with the upgraded FDRs far in advance of that rule's compliance deadline of August 20, 2001. By early December 1999, Southwest had completed modifications to more than 90% of the aircraft in its fleet that were affected by the 1997 Rule (134 of 148 affected aircraft). This rapid rate of compliance is unique among major B-737 operators, has been publicly commended by both the FAA and the NTSB.

In order to avoid penalizing Southwest for its early compliance with the 1997 rule, as well as to encourage proactive compliance in the future by other operators, it is imperative that the FAA establish realistically-achievable compliance periods for

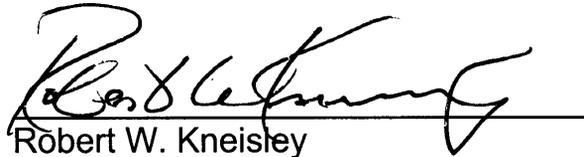
the newly-proposed FDR upgrades. Unfortunately, the NPRM does not meet this objective. Its proposed deadline dates would, if strictly enforced, result in the forced grounding of massive numbers of B-737 aircraft, including most of Southwest's? (In fact, over two-thirds of Southwest's fleet would fail the first compliance date of August 19, 2000 under the criteria of the NPRM as written.) Such a result is unthinkable, and cannot have been intended by FAA. Moreover, it can easily be avoided through a constructive dialogue with industry, as ATA has requested. Accordingly, Southwest strongly urges the FAA to grant the ATA petitions and to establish such a dialogue. Via that process, FAA should develop new compliance timeframes which are achievable by industry without undue economic hardship, which do not disrupt the public's access to air travel, and which do not penalize Southwest for its proactive compliance with FAA's 1997 FDR upgrade requirements.

Southwest is committed to maintaining the highest level of safety in its operations, and is prepared to meet the newly-proposed FDR enhancements in a

^{1/} The NPRM (p. 63143) states that the FAA "is considering" a one-year extension of the proposed compliance date for certain airplanes that were previously upgraded to meet the 1997 FDR Rules. However, even this additional year would not avoid penalizing Southwest for its early compliance with the 1997 Rule, due to the unavailability of approved parts and service bulletins within that timeframe, and the overlapping nature of the NPRM's requirements with the 1997 requirements. On the other hand, the 3- to 5-year timeframe suggested by ATA would allow Southwest to meet the NPRM's requirements without penalty for its proactive compliance with the 1997 Rule.

realistic and non-punitive timeframe. We believe FAA shares these goals," and we look forward to working with FAA to achieve them. To that end, we are prepared to supplement these preliminary comments with additional information in the near future that will be helpful in reaching a reasonable outcome of this issue.

Respectfully submitted,



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^{2/} In fact, the NPRM (p. 63143) states FAA's intent is to "not penalize those operators that chose to complete the 1997 upgrades before they were required to do so."