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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA-2001-10770; SFAR 92-5]

RIN 2120-AH97

Flightcrew Compartment Access and Door Designs

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action supersedes Special Federal Aviation Regulation (SFAR) 92-4, which was published on March 19, 2002, to allow operators to quickly modify the flightcrew compartment door to delay or deter unauthorized entry to the flightcrew compartment. This action temporarily authorizes variances from existing design standards for the doors and certain operational rules associated with the modifications. It allows for approval for return to service of modified airplanes without prior approved data if the modification constitutes a major alteration. This action prohibits the possession of flightdeck compartment door keys by other than the flightcrew during flight, unless the flightdeck door has an internal flightdeck locking device installed, operative, and in use. This action extends regulatory relief for all-cargo transport category airplanes and a limited number of passenger airplanes beyond April 9, 2003.

DATES: This action is effective [Insert ~~date~~ April 9 2003 published in Federal Register] and shall remain in effect until rescinded.

JMW 4/7/03

FOR FURTHER INFORMATION CONTACT: Dave Rich, Certification Procedures Branch, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 267-7141; e-mail address: 9-awa-avr-design@faa.gov.

SUPPLEMENTARY INFORMATION:

Availability of This Action

You can get an electronic copy of this document from the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (http://dms.dot.gov/search).

(2) On the search page, type in the last five digits of the docket number shown at the beginning of this document. Click on "search."

(3) On the next page, which contains the docket summary information, click on the item you want to see.

You can also get an electronic copy using the Internet through the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or 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 Ave., SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number or SFAR 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 advice about compliance with statutes and regulations within the FAAs jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAAs web page at http:www.faa.gov/avr/arm/sbrefa.htm and send electronic inquiries to the following Internet address: 9-AWA-SBREFA@faa.gov.

Background

The September 11, 2001, hijacking events demonstrated that some persons are willing to hijack airplanes and use them as weapons against the citizens of the United States. This safety and security threat was not anticipated and, therefore, not considered in the design of transport airplanes. The hijackings made clear the critical need to improve the security of the flightcrew compartment.

On November 16, 2001, Congress enacted the Aviation and Transportation Security Act, Public Law 107-71. Section 104(a)(1)(B) of the Act requires the FAA to issue an order requiring the strengthening of the flightdeck door and locks on certain passenger carrying airplanes.

Flightcrew Compartment Door Designs

Flightcrew compartment doors on transport category airplanes have been designed principally to ensure privacy, so pilots could focus their entire attention on their normal and emergency flight duties. The doors have not been designed to provide an impenetrable barrier between the cabin and the flightcrew compartment. Doors have not been required

to meet any significant security threat, such as small arms fire or shrapnel, or the exercise of brute force to enter the flightcrew compartment.

Besides affording an uninterrupted work environment for the flightcrew, flightcrew compartment doors often must meet other important safety standards. Should there be a sudden decompression of the airplane, separate compartments within the airplane, like the cabin and the crew compartments, must be designed so that the pressure differential that is created does not compromise the basic airplane structure. Certification standards require that airplane designs provide a method to compensate for decompression in a manner that avoids significant damage to the airplane. In many cases, flightcrew compartment doors provide the pressure compensation by being vented or swinging open to equalize the pressure between the cabin and the flightcrew compartment.

In addition, design standards require that the flightcrew have a path to exit the flightcrew compartment in an emergency, if the cockpit window exits are not usable. Flightcrew compartment doors have been designed to provide this escape path. But this escape feature may also enable easier unauthorized entry into the flightcrew compartment from the cabin.

Operating regulations, in particular § 121.379(b) in the case of a major alteration, require the work to be done in accordance with technical data approved by the Administrator. Operating regulations for airlines also require that each crewmember have a key readily available to open doors between passengers and an emergency exit. Some airlines issue flightcrew compartment door keys to all their crewmembers. This allows flight attendants to enter the flightcrew compartment and assist the flightcrew in an emergency, such as incapacitation of a flight crewmember. But it also offers an

opportunity for an individual to overpower or coerce a flight attendant, take away the key, and enter the flightcrew compartment.

This SFAR authorized a temporary period during which non-compliance with design requirements were allowed when improvements to flightcrew compartment security were made. In addition, the FAA waived procedural requirements applicable to major alterations (§ 121.379(b)), the approval of service information and requirements for production of parts for door modifications

Prior Versions of SFAR 92

Original SFAR 92 was published on October 9, 2001, and allowed all part 121 passenger carrying operators to install flightcrew compartment door improvements. It allowed airframe manufacturers and modifiers to produce service information without separate FAA approval to assist operators in developing modifications to improve intrusion resistance to the flightcrew compartment. The SFAR included a provision that overrode the requirement for parts production approval in support of door reinforcement activities. Should any of the changes to the door constitute a major alteration, the SFAR relieved the operator of having to obtain prior approval of the data. In addition to the above changes, the FAA also believed it was prudent to eliminate the ability of intruders to gain access by obtaining a flight attendant's key. For that reason, the SFAR temporarily changed the requirement in § 121.313(g) by stating that only flight crewmembers, and not cabin crewmembers, would have flightcrew compartment keys during flight.

SFAR 92-1, published on October 17, 2001, extended the SFAR to cargo airplane operators.

As mentioned above, SFAR 92 temporarily changed section 121.313(g) to prohibit the possession of flightdeck keys by non-flightdeck crewmembers. SFAR 92-2, published on November 21, 2001, modified the prohibition to allow possession of the key under certain limited circumstances.

When SFAR 92 was originally issued, and subsequently revised, the FAA expected that flightdeck modifications would be made as soon as possible. While this was the case for the substantial majority of operators, not all had accomplished the short-term modifications. Therefore, on January 15, 2002, SFAR 92-3 was published to mandate installation of the internal locking devices. This revision also expanded the modification authority to U.S. registered, transport category airplanes that are operated under part 129, foreign operations.

SFAR 92-4 was published on March 19, 2002, to extend the authority to return airplanes to service without previously approved data past the previously established April 22, 2002 date. This revision to the SFAR explicitly stated that operational requirements in sections 121.313(h) and 121.583(b)(1) and (2) are waived if a conflict exists when internal locks are installed and used. The introductory language of paragraph 2 was also revised to address airplanes that are registered in another country, but operated by a part 121 certificate holder.

Other Rulemaking

In parallel with SFAR 92, the FAA issued an immediately adopted rule (IAR) setting new design standards for flightdeck doors in 14 CFR part 25 (Amendment Nos. 25-106 and 121-288, 67 FR 2118, January 10, 2002). These new standards enhance resistance to blunt force and ballistic intrusion. In addition, the IAR requires all airplanes required to

have a door under section 121.313(f), as well as all-cargo transport category airplanes that have flightdeck doors installed on or after January 15, 2002, to have a door meeting the new design standards. The stronger doors must be installed not later than April 9, 2003. Doors meeting the new design standards will replace the doors reinforced under this SFAR.

SFAR 92-5

This SFAR is being extended to address two circumstances. One is a response to recent legislation limiting the application and enforcement of requirements for reinforced doors on cargo airplanes. The other is the need for continued relief for a limited number of passenger operators.

Section 355 of the recently adopted Consolidated Appropriations Resolution (Public Law 108-7) limited the FAA's ability to apply and enforce the new reinforced door standards for cargo airplanes. As a result, cargo operators will not be subject to the April 9, 2003 deadline for installation of reinforced doors. However, cargo operators have installed internal locking devices under the requirements and authority of this SFAR. We expect that cargo operators who have such devices will want to continue to use them after April 9, 2003, even if they choose not to install a reinforced door. As described above, expiration of the SFAR on April 9, 2003, will limit or eliminate the authority for cargo operators to continue to use these devices. To avoid this decrease in security, the SFAR is extended to continue the authority for these devices on cargo airplanes. The new expiration date of September 30, 2003, was selected to correspond with the expiration date of the Resolution.

Passenger operators have made great strides in meeting the April 9, 2003, deadline for installation of reinforced doors. As a part of the installation process, and to adopt improved security expeditiously, some operators installed doors that meet the strength requirements prior to formal certification approval. These installations are possible because SFAR 92 waived otherwise applicable certification processes.

We expect that all passenger operators will have reinforced doors on their airplanes by April 9, 2003. But some doors may not have formal certification approval by that date. As presently written, SFAR 92-4 will expire on April 9, 2003. If it expires, operators will lose the ability to operate with reinforced doors that lack certification approval. If this were to happen, the operators would be penalized even though doors capable of deterring terrorists are in place.

To avoid this result, the SFAR is being extended to July 31, 2003, provided certain criteria are met. July 31, 2003, is selected because we believe that all projects that will qualify for approval will have approval by that date. To take advantage of this extension,

(1) Passenger operators must have installed reinforced doors before midnight April 9, 2003. JMR 4/7/03

(2) The FAA must have determined before midnight April 9, 2003, that those doors meet the updated intrusion resistance standards of 14 CFR 25.795(a)(1) and (2). JMR 4/7/03

(3) A formal application for certification approval of the door must have been submitted to the FAA before March 10, 2003.

These criteria should assure that operators and door producers have made a good faith effort to meet the reinforced door requirement. Once these criteria have been satisfied, operators can continue to operate until the final certification approval is issued.

Applicants and operators must recognize that compliance with all airworthiness standards is essential. For example, some applicants have been unable to demonstrate compliance with the decompression standards of § 25.365. Based on their progress to date, it is not clear that they will ultimately be able to do so. Unless these designs can be shown to comply with all airworthiness standards by the extended deadline provided by this SFAR, operators will be required to replace these doors with doors that have been shown to comply with all applicable standards. Operators who are aware that their doors are unlikely to be approved must procure doors from other approved sources in sufficient time to comply with § 121.313(j) by July 31, 2003, the extended deadline for this SFAR.

Justification for Immediate Adoption

The SFAR is scheduled to expire on April 9, 2003. There is insufficient time to solicit comment on this proposal. Because the circumstances described herein warrant immediate action by the FAA, the Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, the Administrator finds that good cause exists under 5 U.S.C 553(d) for making this final rule effective immediately upon publication. This action is necessary to prevent a possible imminent hazard to airplanes and to protect persons and property within the United States.

Additionally, with respect to the provisions requiring modifications to strengthen the flightdeck doors and locks, Pub. L. 107-71 authorized the Administrator to issue an order without regard to the provisions of chapter 5 of Title 5 of the United States Code. The modification to section 121.313 contained in this SFAR is within the scope of this authority and is adopted without public notice and a prior opportunity to comment.

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 determined that there are no ICAO Standards and Recommended Practices that correspond to this SFAR.

Paperwork Reduction Act

This emergency final SFAR contains information collection activities subject to the Paperwork Reduction Act of 1995 (44 USC § 3507(d)). In accordance with section 3507(j)(1)(B) of that statute, the FAA requested the Office of Management and Budget to grant an immediate emergency clearance on the paperwork package. OMB granted an emergency clearance and assigned OMB control number 2120-0674. As protection provided by the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Following is a description of the information collection burden associated.

Title: Flightcrew Compartment Access and Door Designs

Summary/Need: The SFAR required operators to submit a report to the FAA by February 15, 2002, that details the specific modifications. This will allow the FAA to monitor what has been installed and take action if the installation creates an unwarranted safety risk. Further, to monitor progress toward the goal of full compliance, the SFAR requires a report by April 22, 2002, that describes how the operator will come into full regulatory compliance.

Respondents: The respondents are an estimated 135 airplane operators covered under 14 CFR parts 121 and 129.

Burden: The burden associated with this SFAR is 6480 hours.

Regulatory Evaluation

This rulemaking action is taken under an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11(g) of the Department of Transportation (DOT) Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies the final rule; however, both DOT and OMB have reviewed this rulemaking. At this time, the FAA is not able to assess whether this final rule will have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980, as amended. However, we will be conducting a regulatory evaluation of the cost and benefits of this rulemaking, including any impact on small entities, at a later date.

Executive Order 13132, Federalism

The FAA has analyzed this SFAR under the principles and criteria of Executive Order 13132, Federalism. We have 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. Therefore, we have determined that this final rule does not have federalism implications.

Also, the Regulatory Flexibility Act does not require the preparation of a regulatory flexibility assessment on a rule not require to be issued as a Notice of Proposed Rulemaking (NPRM) under the Administrative Procedure Act.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, 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 SFAR does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Also, the Regulatory Flexibility Act does not require the preparation of a regulatory flexibility assessment on a rule not require to be issued as a Notice of Proposed Rulemaking (NPRM) under the Administrative Procedure Act.

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.

Energy Impact

The energy impact of this SFAR has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94-163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this SFAR is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Reporting and recordkeeping requirements, Safety, Transportation

The Amendment

For the reasons set forth above, the Federal Aviation Administration amends 14 CFR part 121 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), 1153, 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

SFAR No. 92-4 [Removed]

2. Remove Special Federal Aviation Regulation No. 92-4.

3. Add Special Federal Aviation Regulation (SFAR) 92-5 to read as follows:

SPECIAL FEDERAL AVIATION REGULATIONS NO. 92-5 FLIGHTCREW COMPARTMENT ACCESS AND DOOR DESIGNS

1. Applicability. This Special Federal Aviation Regulation (SFAR) applies to all operators that hold an air carrier certificate or operating certificate issued under 14CFR part 119 and that conduct operations under this part 121 and to operators of U.S. registered transport

category airplanes operated under 14CFR part 129, except paragraph 5 of this SFAR does not apply to cargo operations and part 129 operations. It applies to the operators specified in this SFAR that modify airplanes to improve the flightcrew compartment door installations to restrict the unwanted entry of persons into the flightcrew compartment. This SFAR also applies to production certificate holders and applicants for airworthiness certificates for airplanes to be operated by operators specified in this SFAR, and producers of parts to be used in modifications of such airplanes.

2. Regulatory Relief. Contrary provisions of this part 21, and §§ 121.313(h), 121.153(a)(2), 121.153(c), 121.379(b), 121.583(b)(1) and (2) and 14CFR 129.13 notwithstanding:

(a) An operator may operate airplanes modified to improve the flightcrew compartment door installations to restrict the unauthorized entry of persons into the flightcrew compartment without regard to the applicable airworthiness requirements and may modify those airplanes for that purpose, using technical data not previously approved by the Administrator, subject to the following conditions:

(i) Not later than February 15, 2002, submit to the Director, Aircraft Certification Service, a detailed description of the changes to the airplane that have been accomplished before that date to enhance the intrusion resistance of the flightcrew compartment including identification of what major alterations have been done without previously approved data.

(ii) If, upon reviewing the data submitted in paragraph 2 (a)(i) of this SFAR, the Administrator determines that a door modification presents an unacceptable safety risk, the FAA may issue an order requiring changes to such modifications.

(b) An applicant for an airworthiness certificate may obtain such a certificate for modified airplanes to be operated by operators described in this SFAR.

(c) A holder of a production certificate may submit for airworthiness certification or approval, modified airplanes to be operated by operators described in this SFAR.

(d) A person may produce parts for installation on airplanes in connection with modifications described in this SFAR, without FAA parts manufacturer approval (PMA).

3. Report of Modifications. Not later than April 22, 2002, all operators who are required to install flightdeck door modifications in accordance with 14 CFR 121.313(j) must submit a report to the Director, Aircraft Certification Service. The report must describe the modifications to be made and provide a schedule for the changes necessary to restore compliance with all applicable airworthiness requirements and to meet the requirements of 14 CFR 121.313(j). The schedule may not extend beyond the termination date of this SFAR.

4. Return to Service Documentation. Where operators have modified airplanes as authorized in this SFAR, the affected airplane must be returned to service with a note that it was done under the provisions of this SFAR.

5. Provision for Flightdeck Door Compartment Key. Contrary to provisions of § 121.313(g), the following provision applies: A key for each door that separates a passenger compartment from an emergency exit must be identified to passengers in the briefing required by § 121.571(a)(1)(ii). The key required for access to the emergency exit must be readily available for each crewmember. No key to the flightcrew

compartment shall be available to any crewmember during flight, except for flight crewmembers, unless an internal flightdeck locking device such as a deadbolt or bar is installed, operative, and in use.

6. Door Modification Requirement. After March 1, 2002, for each airplane required under ~~paragraph~~ §121.313(f) to have a door between the passenger and pilot compartments, and for transport category all-cargo airplanes that have a door installed between the pilot compartment and any other occupied compartment on or after January 15, 2002, such door must be equipped with an internal locking device installed, operative, and in use. Such internal locking device has to be designed so that it can only be unlocked from inside the flightdeck.

JMA 4/7/03

7. Termination. For all-cargo transport category airplanes, this SFAR terminates on October 1, 2003. For passenger airplanes, this SFAR expires on April 9, 2003, except for airplanes meeting the criteria specified in paragraphs 7.a, b, and c, below. For airplanes meeting these criteria, this SFAR expires on July 31, 2003.

a. Before midnight April 9, 2003, the operator must have installed a strengthened flightdeck door meeting the requirement of paragraph 7.b;

JMA 4/7/03

b. Before midnight April 9, 2003, the FAA must have found that the door complies with 14 CFR 25.795(a)(1) and (2) in effect on January 15, 2002; and

JMA 4/7/03

c. Before March 10, 2003, a formal application for certification approval of the door must have been submitted to the FAA.

Issued in Washington, DC, on April 4, 2003

Marion C. Blakey

Marion C. Blakey
Administrator

Certified to be a True Copy
John M. Allen