

Larger Airplanes Operating Under Part 121

This final rule requires newly manufactured airplanes with a passenger capacity of 20 or greater operating under part 121 to comply with the burnthrough protection standards in final § 25.856(b). See final § 121.312(e)(3). This requirement applies to airplanes manufactured more than four years after the effective date of the final rule. Although there are materials currently available that will meet the standards, these materials are not widely used. Therefore, we expect the burnthrough portion of the rule to require both material and, in many cases, design changes. As discussed in the context of the part 25 changes, these design changes relate primarily to the means of fastening the insulation to the fuselage structure. For those airplanes that require design changes, we recognize that adequate time is necessary to perform the necessary engineering and to obtain approval for the changes. We consider four years to be a reasonable time to implement any design changes and configuration control measures required to account for the new standard and to allow for material availability.

Generally, airplanes operated under parts 91, 125, and 135 carry fewer passengers than airplanes operating under part 121 and can, as a result, be evacuated more quickly. Therefore, we consider that the additional evacuation time provided by enhanced fuselage burnthrough protection would not provide the same increase in safety for these airplanes. In light of the costs associated with requiring compliance with the burnthrough standard, imposing the requirement would have a negligible benefit. This conclusion is similar to the conclusion, discussed in the context of the proposed part 25 burnthrough standard, not to impose the new standard for airplanes with fewer than 20 passengers. However, since transport category airplanes can be operated under different regulatory requirements throughout their service life, it is likely that most, if not all, affected newly manufactured transport category airplanes will comply, to account for potential future part 121 operations.

Replacement

This final rule does not require installation of materials complying with the burnthrough test standards in all transport category airplanes because it would not provide a substantial benefit. If the fuselage is subjected to an external fire, it is unlikely that insulation

complying with this standard that has been installed in a portion of the fuselage would significantly delay burnthrough if the rest of the fuselage contains insulation that does not comply with the new standard. As discussed previously, in order to be effective against burnthrough, new insulation materials would also have to be installed in a manner that would allow them to remain in place when exposed to an external fire. Requiring that the means of fastening, and the associated engineering necessary to incorporate design changes, be accounted for on a material replacement basis would be very expensive, with negligible benefit.

Date of Manufacture

For the purposes of this final rule, we consider the date of manufacture to be the date on which inspection records show that an airplane is in a condition for safe flight. This is not necessarily the date on which the airplane is in conformity with the approved type design, or the date on which a certificate of airworthiness is issued, since some items not relevant to safe flight, such as passenger seats, may not be installed at that time. It could be earlier, but would be no later, than the date on which the first flight of the airplane occurs. This definition has been used in previous rulemaking, including the preamble to our February 2, 1995, final rule entitled Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins (60 FR 6616, 6617).

Compliance Time

Commenters were divided as to whether more or less time should be allowed for compliance by newly manufactured airplanes with the flame propagation requirement of final § 25.856(a). No commenter provided any data to support this position, although one commenter noted that it might be required to make part number changes in order to facilitate a material changeover, which will take time. Another commenter noted that a longer compliance period for retrofit of non-compliant insulation on air ducts on a particular airplane type was permitted in accordance with an airworthiness directive, and this seems inconsistent with the proposal.

With respect to comments that the compliance period for newly manufactured airplanes should be adjusted either up or down, in the absence of any data to support either position, the FAA cannot justify a change. While we agree that part number changes might be necessary, it

is not the only method to assure configuration control. Any other method in which configuration control is assured would be acceptable. Therefore, a change to the compliance time is not justified on this basis.

Finally, the comment that the proposed compliance time does not coincide with a similar airworthiness directive is not relevant to this rule. The airworthiness directive requires retrofit of airplanes that are already in service. This is a much more labor intensive and complicated process than incorporating a different material in production. Therefore no change is made to the compliance time for flame propagation.

Paperwork Reduction Act

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

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. We have determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Economic Evaluation, 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 proposing or adopting a regulation to first make 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 prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this act requires agencies to consider international standards, and use them where appropriate as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs and benefits and other effects of proposed and final rules. An assessment must be prepared only for rules that impose a Federal mandate on State, local, or tribal governments, or on