

# Proposed Rules

Federal Register

Vol. 76, No. 3

Wednesday, January 5, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. FAA-2010-1193; Notice No. 10-19]

RIN 2120-AJ80

#### Harmonization of Airworthiness Standards for Transport Category Airplanes—Landing Gear Retracting Mechanisms and Pilot Compartment View

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The Federal Aviation Administration proposes to amend the airworthiness standards for transport category airplanes on landing gear retracting mechanisms and the pilot compartment view. This proposal would adopt the 1-g stall speed as a reference stall speed instead of the minimum speed obtained in a stalling maneuver, and would add an additional requirement to keep the landing gear and doors in the correct retracted position in flight. This proposal would also revise the requirements for pilot compartment view in precipitation conditions. Adopting these proposals would eliminate regulatory differences between the airworthiness standards of the U.S. and the European Aviation Safety Agency (EASA), without affecting current industry design practices.

**DATES:** Send your comments on or before April 5, 2011.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2010-1193 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey

Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket or Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this proposed rule contact Douglas Tsuji, Propulsion and Mechanical Systems Branch, ANM-112, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98057-3356; telephone (425) 227-2135; facsimile (425) 227-1320, e-mail [Douglas.Tsuji@faa.gov](mailto:Douglas.Tsuji@faa.gov).

For legal questions concerning this proposed rule contact Doug Anderson, Office of the Regional Counsel, ANM-7, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2166; facsimile (425) 227-1007; e-mail [Douglas.Anderson@faa.gov](mailto:Douglas.Anderson@faa.gov).

**SUPPLEMENTARY INFORMATION:** Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of related rulemaking documents.

#### Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart III, section 44701, "General requirements." Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It prescribes new safety standards for the design and operation of transport category airplanes.

#### Background

Part 25 of Title 14, Code of Federal Regulations (14 CFR) prescribes airworthiness standards for type certification of transport category airplanes for products certified in the United States. The European Aviation Safety Agency (EASA) Certification Specifications for Large Aeroplanes (CS-25) prescribe the corresponding airworthiness standards for products certified in Europe. While part 25 and CS-25 are similar, they differ in several respects. Therefore, the FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) through the Mechanical Systems Harmonization Working Group (MSHWG) to review existing regulations and recommend changes that would eliminate differences between the FAA and EASA airworthiness standards for landing gear retracting mechanisms and the pilot compartment view. This proposed rule is a result of this harmonization effort.

## General Discussion of the Proposal

The FAA agrees with the ARAC recommendation to harmonize airworthiness standards for landing gear retracting mechanisms and the pilot compartment view with the corresponding EASA specifications, and we propose to amend part 25 accordingly. The proposals are not expected to be controversial and should reduce certification costs to industry without adversely affecting safety. In developing these proposals, ARAC and the FAA considered the following factors:

- a. Underlying safety issues addressed by current standards;
- b. Differences between part 25 and CS-25 standards;
- c. Differences between part 25 and CS-25 means of compliance;
- e. Effect of the proposed standard on current industry practice;
- f. Whether FAA advisory material exists and/or needs amendment; and
- g. The costs and benefits of each proposal.

The complete analyses for the proposed changes made in response to ARAC recommendations can be found in the ARAC recommendation reports, located in the docket for this rulemaking.

## Discussion of the Proposed Regulatory Requirements

### *Proposed Changes to § 25.729, Retracting Mechanism*

1. Amendment 25-108 (67 FR 70811, November 26, 2002) to 14 CFR redefined the reference stall speed,  $V_{SR}$ , for transport category airplanes, as the 1-g stall speed, instead of the minimum speed obtained in a stalling maneuver. This provides a higher level of safety in cases where current methods of determining stall speed may result in lower operating speeds. This change was established to provide a consistent, repeatable reference stall speed; ensure consistent and dependable maneuvering margins; to provide for adjusted multiplying factors to maintain the current stalling speeds where they are proven adequate; and to harmonize the applicable regulations with those adopted in EASA CS-25.

Under Amendment 25-108, several sections of part 25 were revised to adopt  $V_{SR}$ . However, that change was inadvertently omitted from 14 CFR 25.729(a)(1)(ii). This proposed rule would update § 25.729(a)(1)(ii) with the new reference stall speed,  $V_{SR}$ , and harmonize it with the more stringent EASA standard. CS 25.729(a)(1)(ii) refers to wheel rotation at a peripheral speed equal to 1.23  $V_{SR}$  (with the flaps in takeoff position at design takeoff

weight), occurring during retraction and extension at any airspeed up to 1.5  $V_{SR1}$  with the wing-flaps in the approach position at design landing weight. Whereas, § 25.729(a)(1)(ii) currently uses a peripheral speed equal to 1.3  $V_S$  during retraction and extension at any airspeed up to 1.6  $V_{S1}$ , respectively. The difference in these factors (1.23 versus 1.3, and 1.5 versus 1.6) adjusts for the difference between the speeds used ( $V_{SR}$  versus  $V_S$ , and  $V_{SR1}$  versus  $V_{S1}$ ). In some cases, these factors make this proposed rule slightly more conservative than the existing rule.

2. For clarification and harmonization with the EASA terminology used in CS 25.729(a)(1)(iii), this proposed rule would add the word “wing” to “flaps” in § 25.729(a)(1)(iii).

3. For clarification and harmonization with the EASA terminology used in CS 25.729(a)(3), this proposed rule would replace the word “prescribed” with “presented.”

4. Section 25.729(b) does not currently require a positive means to keep the landing gear and doors in the correct retracted position in flight for any condition. The EASA standard requires each retractable landing gear and separately actuated door to have a positive uplock, or be able to extend or open into the air stream at any flight speed without causing a hazard. Compliance would be demonstrated by system description or stress analysis. This proposed rule would add that requirement to § 25.729(b) to harmonize with the more stringent EASA standard.

5. Section 25.729(e) requires a landing gear position indicator for retractable gear and provides design requirements for the indicator and warning system. CS 25.729(e) has additional design requirements that § 25.729(e) does not have. The EASA standard requires that each indicator be easily visible to the pilot or appropriate crewmembers and not be ambiguous regarding landing gear position. The EASA standard also requires the indicator to show the associated landing gear door position. This proposed rule would add these requirements to § 25.729(e) to harmonize with the more stringent EASA standard.

6. Section 25.729(e)(5) currently requires that the aural warning system be designed to “eliminate” false or inappropriate alerts, while CS 25.729(e)(5) requires that they be “minimized.” If taken literally, § 25.729(e)(5) is too stringent. While elimination of nuisance warnings is a worthy goal, it is impossible to eliminate all nuisance warnings. A requirement to “minimize” false or inappropriate alerts is a more subjective

but attainable standard, and moreover embraces any improvements in warning system technology. The preamble to the final rule amending § 25.729, states “\* \* \* the regulations on landing gear aural warning are being revised to state the performance objectives without stating how the requirements should be implemented (56 FR 63762, December 5, 1991). This allows the manufacturers to use their ingenuity in designing systems to minimize nuisance warnings.” Therefore, the intent of the requirement has always been to minimize false or inappropriate alerts. Compliance with § 25.729(e)(5) is currently demonstrated by failure mode and effects analysis with an understanding that “eliminate” means “very low probability.” This proposed rule would update § 25.729(e)(5) to reflect our original intent and to harmonize with the less stringent EASA standard.

7. Section 25.729(e) does not currently require an indication whenever the landing gear position does not agree with the selector lever position. However, such an indication is consistent with prudent design of landing gear indication. CS 25.729(e)(7) requires an indicator for this situation. Compliance is demonstrated by the landing gear system description and the failure modes and effects analysis (FMEA). This proposed rule would add a new paragraph (e)(7) containing this requirement, which would harmonize § 25.729(e) with the more stringent EASA standard.

8. Although § 25.729(f) requires protection of equipment in wheel wells from the damaging effects of a bursting tire or loose tire tread, it does not currently require the protection of equipment on the landing gear. Since equipment on the lower part of the landing gear is always near the tire, such equipment should be protected. CS 25.729(f) requires protection of equipment “\* \* \* located on the landing gear and in the wheel wells \* \* \*.” This proposed rule would harmonize § 25.729(f) with the more stringent EASA standard by requiring protection of equipment “\* \* \* located on the landing gear or in the wheel wells \* \* \*.” Note that we have used the word “or” instead of “and” to clarify that the proposed rule would apply to equipment located in either location.

Essential equipment on the landing gear could include any sensors such as “weight on wheels” sensors that, if damaged or destroyed by a tire burst, could have an effect on the safe operation of the airplane. An example is the Global Express Learjet that overran the runway during a rejected takeoff. The tire burst damaged the weight on

wheel sensors, so when the pilot rejected the takeoff and retarded the thrust, the thrust reversers remained stowed.

9. Section 25.729(f)(1) contains a condition that excludes consideration of bursting tires if it can be shown that the tires cannot burst from overheating. CS 25.729(f)(1) does not contain this exception, and EASA's interpretative material in Acceptable Means of Compliance (AMC) 25.729 does not allow the use of wheel fuse plugs as a complete safeguard against tire burst damage. Instead, it requires additional means of compliance, such as separation analysis, robust design, or test. This proposed rule would harmonize § 25.729(f)(1) with the more stringent EASA standard.

10. Section 25.729 does not currently require protection of equipment in wheel wells from possible wheel brake temperatures. However, CS 25.729(f)(3) contains this requirement, and the interpretative material in AMC 25.729 suggests that the pilot should be provided an indication of brake temperature. This requirement results in an analysis of equipment that could be exposed to heat from the brake or installation of a brake heat indication system. Additional safety and cost factors to consider are the location of essential equipment away from possible brake heat, and the installation of an additional heat indication system that has its own failure mode and maintenance issues. Compliance is demonstrated by separation analysis, thermal analysis, or, as suggested in AMC 25.729, a brake temperature indication system. This proposed rule would add a new paragraph (f)(3) containing the requirement to protect equipment from the damaging effects of possible wheel brake temperatures, which would harmonize § 25.729(f) with the more stringent EASA standard.

#### *Advisory Material for § 25.729*

Current FAA advisory material addresses only flight testing for compliance with the existing rule. To address the proposed requirements for § 25.729, the FAA proposes to incorporate the interpretative material found in EASA AMC 25.729 into new advisory circular (AC) 25.729-1A. The draft AC accompanies this proposed rule and is posted on the FAA's draft document Web site at [http://www.faa.gov/aircraft/draft\\_docs/](http://www.faa.gov/aircraft/draft_docs/) for public comment.

#### *Proposed Changes to § 25.773, Pilot Compartment View*

1. Section 25.773(b) contains requirements for clear pilot view along

the flight path during precipitation conditions, but does not address single failures of rain removal systems that can cause the loss of the pilot view through both windshields, which paragraph (b)(1) requires. Currently, compliance with part 25 can be demonstrated with only one wiper switch to control both the left and right wipers, but the EASA standard specifically requires provisions to preclude a single fault from causing the potential failure of both systems. As a result, system design is driven to have separate left and right wiper switches in addition to separate motors. In this case, the more stringent EASA standard provides for increased system reliability and an increased level of safety. This proposed rule would add this requirement to § 25.773(b)(2). This proposed rule would also move the existing requirements of § 25.773(b)(2) and (b)(2)(i) to new § 25.773(b)(3) and (b)(3)(i) through (b)(3)(iii), respectively. These proposed changes would harmonize § 25.773(b)(2) and (b)(3) with the EASA standard.

2. Section 25.773(b)(2)(ii) refers only to severe hail, while the corresponding CS 25.773(b)(4)(ii) refers to severe hail, birds, and insects. This proposed rule would remove § 25.773(b)(2)(ii) and add new § 25.773(b)(4)(ii), which would harmonize it with the EASA standard.

3. Section 25.773(b) does not currently allow for an alternative to the openable side window required by § 25.773(b)(2)(i). (Section 25.773(b)(2)(i) currently corresponds to CS 25.773(b)(3)(i).) However, CS 25.773(b)(4) does allow for an alternative to the openable side window. CS 25.773(b)(4) could be interpreted to be redundant with existing § 25.773(b)(2)(ii), but the EASA standard provides more detail. CS 25.773(b)(4) contains two subparagraphs:

- Paragraph (b)(4)(i) allows relief for the openable side window if it can be demonstrated that sufficient pilot view is still provided in the event of failure—or combination of failures—of the rain removal system, where the failure(s) is not extremely improbable. This provision implies that, for a dual windshield wiper system failure (which is typically not extremely improbable), the openable side window is not required if adequate vision can still be maintained through the windshield or side window.

- Paragraph (b)(4)(ii) also allows relief for the openable side window if it can be demonstrated that sufficient pilot view is still provided in the event of an encounter with severe hail, birds, or insects.

The reference in CS 25.773(b)(4)(ii) to severe hail, birds, and insects has not been specifically demonstrated in any manner differently from that of compliance with § 25.773(b)(2)(ii), which only specifies severe hail. Compliance with § 25.773(b)(2)(ii), and with CS (b)(4)(i) and (ii), has typically been demonstrated by compliance statement, system description, or analysis only. This proposed rule would add new § 25.773(b)(4), (b)(4)(i), and (b)(4)(ii) to harmonize with the EASA standard.

#### *Existing Advisory Material for § 25.773*

AC 25.773-1, Pilot Compartment View Design Considerations, dated January 8, 1983, provides extensive definition of what constitutes sufficient pilot visibility through the windshield, including suggested means of compliance for windshield wiper speed. The obsolete AMC 25.773(b)(1)(ii) was redundant to AC 25.773-1, and the MSHWG recommended eliminating the AMC. As a result, EASA eliminated this AMC material at Amendment 4 to CS-25. AC 25.773-1 would be retained without change in regard to this proposed rule.

#### *Other Proposed Rulemaking*

On June 23, 2010, the FAA issued an NPRM, Notice No. 10-10, Airplane and Engine Certification Requirements in Supercooled Large Drop, Mixed Phase, and Ice Crystal Icing Conditions (75 FR 37311, June 29, 2010) (Docket No. FAA-2010-0636). That NPRM proposes that § 25.773 be modified to expand the icing conditions from those specified in § 25.1419 (i.e., appendix C icing conditions) to include certain supercooled large drop conditions defined in a proposed Appendix O. If that NPRM becomes a final rule prior to this proposed rule, we request comment on maintaining those changes when this proposed rule becomes final.

#### **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. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

#### **International Compatibility**

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the

maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed 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). This portion of the preamble summarizes the FAA's analysis of the economic impact of the proposed rule.

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 costs and benefits is not prepared. Such a determination has been made for this proposed rule.

The reasoning for this determination follows: The proposed rule would amend the airworthiness standards for transport category airplanes for landing gear retracting mechanisms and pilot compartment view to harmonize with existing more stringent European Aviation Safety Agency (EASA) requirements. For landing gear retracting mechanisms, adoption of the EASA requirements would ensure the landing gear is in the appropriate

configuration when necessary; that the landing gear and its supporting structure, doors, and mechanisms operate properly; that the flight crew would be aware of the landing gear position status; and that critical equipment would be protected from tire failure or brake temperatures. For the pilot compartment view, reliable and safe operation during precipitation would be ensured by adoption of the EASA design requirements for flight deck rain removal systems. The most significant of the pilot compartment view requirements is that no single failure of the rain removal system could lead to a loss of pilot view through both windshields. The effect of this proposed requirement is that, for newly certificated airplanes, manufacturers must provide a separate, mechanically and electrically independent method for clearing the windshield during precipitation. This method may include separate flight deck control switches for left and right windshield wipers. The FAA has determined that installation of the second wiper switch would require minimal additional costs when the system is initially designed to comply with the EASA requirement.

Currently, U.S. manufacturers of transport category airplanes meet both FAA and EASA requirements. The FAA expects these manufacturers would want to continue selling future transport category airplanes in Europe and thus would meet EASA requirements. Thus, for these manufacturers and for the majority of manufacturers already in compliance with the EASA requirements, there would be no additional costs. However, the proposed rule would provide benefits from reduced joint certification costs—in the requirements for data collection and analysis, paperwork, and time spent applying for and obtaining approval from the regulatory authorities. The FAA therefore has determined that this proposed rule is cost beneficial due to the overall reduction in compliance costs while maintaining the same level of safety. The FAA requests comments regarding this determination.

The FAA has also determined that this proposed rule 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.

#### **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 would have a significant economic impact on a substantial number of small entities. If the agency determines that it would, 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.

As noted above, this proposed rule would impose no or little additional costs on part 25 manufacturers. Moreover, all U.S. manufacturers of transport category airplanes exceed the Small Business Administration small-entity criteria of 1,500 employees. Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA requests comments regarding this determination.

#### **International Trade Impact Assessment**

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. 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 proposed rule and determined that it would

incorporate an international standard as the basis for a U.S. standard. Thus the proposed rule complies with the Trade Agreement Act of 1979 and does not create unnecessary obstacles to international 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 \$141.3 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

#### Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on 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 would not have federalism implications.

#### Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in title 14 of the CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect intrastate aviation in Alaska. The FAA therefore specifically requests comments on whether there is justification for applying the proposed rule differently to intrastate operations in Alaska.

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

#### Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM 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 and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?

Please send your comments to the address specified in the Addresses section of this preamble.

#### Additional Information

##### Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel

concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

#### Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD-ROM, mark the outside of the disk or CD-ROM and also identify electronically within the disk or CD-ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and we place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

#### 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](http://www.faa.gov/regulations_policies) 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 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 docket or notice number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the internet through the Federal eRulemaking Portal referenced in paragraph (1).

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

**PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES**

1. The authority citation for part 25 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, and 44704.

2. Amend § 25.729 by revising paragraphs (a)(1)(ii), (a)(1)(iii), (a)(3), (b), (e) introductory text, (e)(5), (f) introductory text, and (f)(1), and by adding paragraphs (e)(7) and (f)(3) to read as follows:

**§ 25.729 Operating limitations.**

(a) \* \* \*

(1) \* \* \*

(ii) The combination of friction loads, inertia loads, brake torque loads, air loads, and gyroscopic loads resulting from the wheels rotating at a peripheral speed equal to 1.23  $V_{SR}$  (with the wing-flaps in takeoff position at design takeoff weight), occurring during retraction and extension at any airspeed up to 1.5  $V_{SR1}$  (with the wing-flaps in the approach position at design landing weight), and

(iii) Any load factor up to those specified in § 25.345(a) for the wing-flaps extended condition.

\* \* \* \* \*

(3) Landing gear doors, their operating mechanism, and their supporting structures must be designed for the yawing maneuvers prescribed for the airplane in addition to the conditions of airspeed and load factor presented in paragraphs (a)(1) and (2) of this section.

(b) *Landing gear lock.* There must be positive means to keep the landing gear extended in flight and on the ground. There must be positive means to keep the landing gear and doors in the correct retracted position in flight, unless it can be shown that lowering of the landing gear or doors, or flight with the landing gear or doors extended, at any speed, is not hazardous.

\* \* \* \* \*

(e) *Position indicator and warning device.* If a retractable landing gear is used, there must be a landing gear position indicator easily visible to the pilot or to the appropriate crew members (as well as necessary devices to actuate the indicator) to indicate without ambiguity that the retractable

units and their associated doors are secured in the extended (or retracted) position. The means must be designed as follows:

\* \* \* \* \*

(5) The system used to generate the aural warning must be designed to minimize false or inappropriate alerts.

\* \* \* \* \*

(7) A clear indication or warning must be provided whenever the landing gear position is not consistent with the landing gear selector lever position.

(f) *Protection of equipment on landing gear and in wheel wells.* Equipment that is essential to the safe operation of the airplane and that is located on the landing gear or in wheel wells must be protected from the damaging effects of—

(1) A bursting tire;

\* \* \* \* \*

(3) Possible wheel brake temperatures.

3. Amend § 25.773 by revising paragraph (b)(2) and adding paragraphs (b)(3) and (b)(4) to read as follows:

**§ 25.773 Pilot compartment view.**

\* \* \* \* \*

(b) \* \* \*

(2) No single failure of the systems used to provide the view required by paragraph (b)(1) of this section may cause the loss of that view by both pilots in the specified precipitation conditions.

(3) The first pilot must have a window that—

(i) Is openable under the conditions prescribed in paragraph (b)(1) of this section when the cabin is not pressurized;

(ii) Provides the view specified in paragraph (b)(1) of this section; and

(iii) Provides sufficient protection from the elements against impairment of the pilot's vision.

(4) The openable window specified in paragraph (b)(3) of this section need not be provided if it is shown that an area of the transparent surface will remain clear sufficient for at least one pilot to land the airplane safely in the event of—

(i) Any system failure or combination of failures which is not extremely improbable, in accordance with § 25.1309, under the precipitation conditions specified in paragraph (b)(1) of this section.

(ii) An encounter with severe hail, birds, or insects.

\* \* \* \* \*

Issued in Washington, DC, on December 29, 2010.

**K.C. Yanamura,**

*Acting Director, Aircraft Certification Service.*

[FR Doc. 2010–33347 Filed 1–4–11; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2010–1307; Directorate Identifier 2010–NM–049–AD]

RIN 2120–AA64

**Airworthiness Directives; Bombardier, Inc. Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as

During flight-testing of a wing anti-ice piccolo tube containing a deliberate small breach, it was determined that the wing leading edge thermal switches were not detecting the consequent bleed leak at the design threshold. As a result, new Airworthiness Limitation tasks, consisting of a functional test of the wing leading edge thermal switches and an inspection of the wing anti-ice duct piccolo tubes, have been introduced in order to limit exposure to dormant failure of the switches in the event of piccolo tube failure, which could potentially compromise the structural integrity of the wing leading edge and the effectiveness of the wing anti-ice system.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by February 22, 2011.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier,