

TABLE 2—SERVICE INFORMATION—Continued

Document	Issue	Date
EADS CASA CN-235/C-295 Technical Document, DT-0-C00-05001 .....	Issue D .....	October 2008.

**Material Incorporated by Reference**

(k) You must use the service information contained in Table 3 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact EADS-CASA, Military

Transport Aircraft Division (MTAD), Integrated Customer Services (ICS), Technical Services, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 55 05; e-mail [MTA.TechnicalService@casa.eads.net](mailto:MTA.TechnicalService@casa.eads.net); Internet <http://www.eads.net>.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the

availability of this material at the FAA, call 425-227-1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

TABLE 3—MATERIAL INCORPORATED BY REFERENCE

Document	Revision/issue	Date
EADS CASA CMM with Illustrated Parts List 28-21-12 .....	Revision 003 .....	June 15, 2007.
EADS CASA CN-235/C-295 Technical Document DT-0-C00-05001 .....	Issue C .....	October 2006.
EADS CASA CN-235/C-295 Technical Document DT-0-C00-05001 .....	Issue D .....	October 2008.
EADS CASA Service Bulletin SB-235-21-18 .....	Original .....	August 2, 2007.
EADS CASA Service Bulletin SB-235-24-20 .....	Original .....	August 2, 2007.
EADS CASA Service Bulletin SB-235-28-18 .....	Original .....	August 2, 2007.
Eaton CMM with Illustrated Parts List 28-10-63 .....	Revision 3 .....	June 20, 2006.
Eaton CMM with Illustrated Parts List 28-20-81 .....	Revision 2 .....	June 20, 2006.
Gull CMM with Illustrated Parts List 28-40-61 .....	Revision 3 .....	June 28, 2007.
Parker Hannifin CMM with Illustrated Parts List 28-22-12 .....	Revision 5 .....	January 10, 2008.
Parker Hannifin CMM with Illustrated Parts List CM 1C7-20, -21 .....	Revision B .....	November 20, 2006.
Zodiac Inter technique CMM with Illustrated Parts List 28-41-05 .....	Revision 3 .....	September 25, 2006.

(The title page of EADS CASA CMM with Illustrated Parts List 28-21-12 contains an incorrect revision level; the correct revision level is 003. The issue date of EADS CASA CN-235/C-295 Technical Document DT-0-C00-05001, Issue C; and EADS CASA CN-235/C-295 Technical Document DT-0-C00-05001, Issue D; can only be found on the title page and in the Revisions Record. Certain pages of EADS CASA Service Bulletin SB-235-28-18 have missing or incomplete document numbers and dates; the correct document number and dates for those pages can be found on the first page of that document. The date shown on the List of Effective Pages for Eaton CMM with Illustrated Parts List 28-10-63, and Eaton CMM with Illustrated Parts List 28-20-81, is incorrect; the correct date for that page of those documents is June 20, 2006. The revision level shown on page 7 of Parker Hannifin CMM with Illustrated Parts List CM 1C7-20, -21 (replaces CMM RR54170), is incorrect; the correct revision level for that page is B. The revision level of EADS CASA CN-235/C-295 Technical Document DT-0-C00-05001, Issue C; EADS CASA CN-235/C-295 Technical Document DT-0-C00-05001, Issue D; and Eaton CMM with Illustrated Parts List 28-20-81; is located only in the Record of Revisions for those documents.)

Issued in Renton, Washington, on October 20, 2010.

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 121**

**[Docket No. FAA-2009-0022; Amendment No.: 121-350]**

**RIN 2120-AJ30**

**Crewmember Requirements When Passengers are Onboard**

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

**ACTION:** Final rule.

**SUMMARY:** Currently, during passenger boarding and deplaning, all flight attendants are required to be on board the airplane. This final rule will allow one required flight attendant to deplane during passenger boarding, to conduct safety-related duties, as long as certain conditions are met. In addition, this rule will allow a pilot or flight engineer not

assigned to the flight to substitute for a flight attendant when that flight attendant does not remain within the immediate vicinity of the door through which passengers are boarding. This rule will also allow a reduction of flight attendants remaining on board the airplane during passenger deplaning, as long as certain conditions are met. The FAA has determined that these revisions to current regulations can be made as a result of recent safety enhancements to airplane equipment and procedures. These changes have mitigated the risks to passengers during ground operations that previously required all flight attendants to be on board the airplane during passenger boarding and deplaning.

**DATES:** These amendments become effective January 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this final rule contact Nancy Lauck Claussen, Air Transportation Division AFS-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8166; facsimile (202) 267-5229, e-mail [Nancy.L.Claussen@faa.gov](mailto:Nancy.L.Claussen@faa.gov). For legal questions concerning this final rule contact Paul G. Greer, Regulations

Division, AGC-200; telephone (202) 267-3073, e-mail [Paul.G.Greer@faa.gov](mailto:Paul.G.Greer@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### 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. Under that section, the FAA is charged with promoting safe flight of civil aircraft by prescribing regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority since it prescribes minimum flight attendant requirements during passenger boarding and deplaning.

##### Background

Current regulations prohibit a flight attendant from stepping off the airplane during passenger boarding and deplaning to perform any duties if the flight attendant is one of the flight attendants required by § 121.391. However, during passenger boarding and deplaning, a flight attendant may need to conduct safety-related duties outside the airplane cabin. The FAA believes that changes to regulations since 1985 have reduced the hazards to passengers during boarding and deplaning. These changes have reduced risks to passengers during these phases of operation by improving requirements for firefighting equipment, increasing the time available to evacuate an airplane, and improving accessibility to exits. Examples include:

- Requiring lavatory smoke detectors, automatic lavatory waste receptacle fire extinguishers, and Halon 1211 extinguishers;
- Improving cabin interior flammability standards to enhance survivability by increasing the time before flashover occurs;
- Improving thermal insulation standards to reduce the risk of fire in inaccessible parts of the airplane cabin and increase the time available for a passenger evacuation; and
- Improving passenger access to Type III (typically overwing) emergency exits.

In addition to these changes in aircraft certification regulatory requirements, the FAA has revised several operational regulations since 1985, which has also reduced the risks to passengers during boarding and deplaning. Prior to 1987,

air carriers were not required to screen passengers for the size and amount of carry-on baggage prior to boarding the aircraft. Current carry-on baggage regulations require air carriers to limit the size and amount of carry-on baggage that each passenger may bring onboard the aircraft. This has provided flight attendants with additional tools to manage the handling of carry-on baggage during passenger boarding. In addition, § 121.585, promulgated in 1990, requires an air carrier to assign exit seats to passengers based on a list of exit seat selection criteria and the passenger's ability to perform exit seat functions. Because the majority of passengers in exit seats have been screened to meet exit seat criteria, these considerations lead to exit seat passengers being more likely to initiate "self-help" actions in the event of an emergency during passenger boarding. The changes to FAA operational regulations have also been complemented by Transportation Security Administration (TSA) regulations, which have reduced the risk of a security-related threat during passenger boarding or deplaning even further. All of these changes have mitigated the risks to which passengers are exposed during boarding and deplaning.

##### Summary of the Notice of Proposed Rulemaking (NPRM)

In January 2009 the FAA issued an NPRM, *Crewmember Requirements When Passengers Are Onboard* (74 FR 3469; January 21, 2009), that proposed to allow one required flight attendant to deplane during passenger boarding, and conduct safety-related duties, as long as certain conditions were met. In addition, the NPRM would allow a flightcrew member to substitute for a flight attendant when that flight attendant does not remain within 30 feet of the door through which passengers are boarding. The NPRM also proposed to allow a reduction of flight attendants remaining on board the airplane during passenger deplaning, as long as certain conditions were met. The close of the comment period was April 21, 2009.

##### Passenger Boarding

The NPRM addressed two possible scenarios during boarding that involved a reduction, by one, of the number of flight attendants required for boarding by § 121.391, on an airplane that requires more than one flight attendant. The first scenario was when one required flight attendant stepped off the airplane during boarding to perform safety related duties and remained within 30 feet of the boarding door.

The second scenario was when one required flight attendant did not remain within 30 feet of the boarding door. In this case, the NPRM proposed to allow a qualified flightcrew member, such as a pilot or flight engineer, to substitute in the cabin for one required flight attendant who was not on the airplane when boarding commenced or who was not within 30 feet of the boarding door.

The NPRM proposed that the flightcrew member who substituted for the required flight attendant must be trained and qualified on that aircraft type as a pilot or a flight engineer for that certificate holder. This proposed requirement ensured that the flightcrew member had received emergency and security training that is specific to that aircraft type and that certificate holder.

The NPRM also proposed that the substitute crewmember had to be prepared to conduct his or her duties by having in his or her possession all items required for duty by the air carrier, such as a flight operations or flight attendant manual. The substitute crewmember also had to be identifiable to the passengers as a working "crewmember."

In addition, the certificate holder had to ensure that the substitute crewmember continued to meet the duty and rest requirements of part 121. Therefore, a person substituting for an assigned flight attendant would be considered "on duty" under the proposal.

The NPRM also proposed to require that the certificate holder describe in its manual system additional procedures including:

- The functions to be performed by the substitute flightcrew member and remaining flight attendants in an emergency or situation requiring emergency evacuation. Similar to the requirements found in § 121.397, the certificate holder would have to show that these functions were realistic, and could be practically accomplished, would meet any reasonably anticipated emergency;
- A method to ensure that the substitution of a flightcrew member for a flight attendant during passenger boarding would not interfere with the safe operation of the flight (e.g., interfering with the completion of the flightcrew member's pre-flight duties, etc.);
- A method to ensure that the flightcrew member was located in the passenger cabin during the time that person was substituting for the flight attendant;
- A method to ensure that other regulatory safety functions performed by a flight attendant, such as scanning passenger carry-on baggage, handling

issues such as intoxicated or disruptive passengers, verifying the suitability of exit seat passengers, and monitoring the use of child restraint systems, would be accomplished by the flightcrew member and the remaining flight attendants on the airplane; and

- A method to ensure that the substitute flightcrew member was trained in all assigned flight attendant duties.

#### *Passenger Deplaning*

In the NPRM, the FAA also proposed to permit a reduction to half the number of flight attendants required by § 121.391, rounded down to the next lower number in the case of a fraction, but never fewer than one, during passenger deplaning provided certain conditions were met. At the time of deplaning, each passenger has already received all required safety information briefings and had an opportunity to review the passenger safety information card and all posted signs and placards. In addition, a crewmember has verified the suitability of exit seat passengers, and the exit seat passengers have had an opportunity to ask questions about their exit seat responsibilities. These passengers are better prepared to assist themselves in an emergency evacuation than those passengers just boarding an airplane. During deplaning, passengers are in the process of leaving the airplane through one or more floor-level exits with pre-positioned passenger loading bridges or boarding stairs which lessens the exposure time to the risk of an emergency or a possible evacuation.

#### *Additional Limitations Applicable During Boarding and Deplaning of Passengers*

In addition to the specific limitations previously described, the FAA proposed requiring a certificate holder to duplicate ground conditions designed to reduce risks to passengers when a reduced number of flight attendants are on board an airplane as set forth in § 121.393. The proposed conditions required the airplane to be stationary in a level attitude with at least one floor-level exit open and all engines to be shut down, mitigating the risk of an engine torching or overheating. If the specific ground conditions were not met, the certificate holder would not be permitted to reduce the flight attendant crew below the requirements of § 121.391.

Finally, the FAA proposed that the flight attendants remaining on board the airplane be evenly distributed near the floor-level exits. This proposed requirement would ensure that the flight attendants were available to deal more

effectively with an emergency evacuation, should the need arise. If only one flight attendant remained on board the airplane during passenger boarding, he or she had to be located in accordance with the air carrier's FAA-approved operating procedures.

#### **Summary of the Final Rule**

In the final rule the FAA has retained most of the proposed requirements in the NPRM. The changes are described in this summary.

In the NPRM, the FAA proposed that any flightcrew member trained and qualified on the aircraft type for that certificate holder, including a flightcrew member who was assigned to that same flight, would be permitted to substitute for a flight attendant who left the airplane and did not remain within 30 feet of the boarding door. The FAA received comments that a pilot's ability to provide full time attention to the safe operation of the aircraft would be degraded by adding the additional responsibility of substituting for a flight attendant during passenger boarding. Specifically, commenters noted that this additional responsibility might divert the pilot's attention from performing preflight duties.

Upon further review, the FAA has determined that substituting a flightcrew member assigned to the flight for a required flight attendant may affect the safety of the operation. Therefore, the FAA has amended the final rule to require that the substituting flightcrew member not be assigned to operate that specific flight.

In the NPRM, the FAA proposed that a required flight attendant could step off the airplane to perform safety related duties if that flight attendant remained within 30 feet of the boarding door. The FAA received comments that the proposed limitation of 30 feet was not restrictive enough, was difficult for a flight attendant to discern, and would cause the airline to focus on compliance issues with the 30 foot rule that are not necessarily related to the identified risks of not having a full complement of required flight attendants onboard during passenger boarding or deplaning.

In the final rule, the FAA has revised the proposed requirement that a flight attendant remain within 30 feet of the boarding door. Instead, the FAA is requiring the deplaning flight attendant to remain in the immediate vicinity of the passenger boarding door.

This revision permits a flight attendant to perform safety related duties such as removing a piece of carry-on baggage or using the telephone in the cab of the passenger loading bridge to coordinate with ground

personnel regarding compliance with approved exit seat or carry-on baggage programs. It also permits the flight attendant to observe passenger boarding and hear other crewmembers and passengers in the airplane.

The NPRM did not address the emergency training requirements pertaining to evacuation management, evacuation commands, and frequency of performance drills for exit operations for pilots and flight engineers substituting for flight attendants. Current emergency training requirements for these crewmembers are identical. However, the FAA published an NPRM, Qualification, Service and Use of Crewmembers and Aircraft Dispatchers (74 FR 1280; January 12, 2009) that would, if adopted, result in different emergency training requirements for flightcrew members and flight attendants. The NPRM on which this final rule is based did not take this potential difference in emergency training requirements into account.

The FAA considers it essential that certain emergency training requirements for substituting pilots and flight engineers are identical to those of flight attendants, regardless of the content of the adopted final rule based upon the January 12, 2009 NPRM. Accordingly, the FAA has modified the requirements for substituting pilots and flight engineers in this final rule to specifically require that certificate holders ensure that substituting pilots and flight engineers meet the emergency training requirements for flight attendants in evacuation management and evacuation commands, as appropriate, and the frequency of performance drills for exit operations. A substituting pilot or flight engineer therefore would be required to receive training in evacuation management and commands for unplanned land evacuations.

Additionally, in the final rule the FAA has clarified its intent that the minimum number of required flight attendants is based on the provisions of § 121.391 (a) or (b), as appropriate. Proposed § 121.394(a) and (b), however, only referred to § 121.391(a). Accordingly, the FAA has revised § 121.394(a) and (b), to refer to § 121.391.

In § 121.394(a)(2)(vii) of the NPRM the FAA proposed that when a flightcrew member is substituted for a flight attendant the certificate holder must ensure that the time spent by the substituting flightcrew member applies towards daily duty time limits and is considered when determining crewmember rest requirements. In

§ 121.394(d) the FAA has clarified its intent that the time spent by any crewmember conducting passenger boarding or deplaning duties is considered duty time. See Legal Interpretation to Brent Harper, Southwest Airlines, Inflight Standards—Manager, Regulatory Compliance, from Rebecca B. MacPherson, Assistant Chief Counsel, Regulations Division (August 12, 2008).

#### Disposition of Comments

The FAA received 15 comments on the proposed rule. Six comments were received from airlines (American, Continental, Southwest, Delta, Horizon, and US Airways), two were received from airline trade associations (Air Transport Association (ATA) and the Regional Airline Association (RAA)), two were received from labor organizations (Association of Flight Attendants (AFA) and Air Line Pilots Association (ALPA)), and five comments were received from individuals.

The majority of the comments that the FAA received addressed: (1) The substitution of flightcrew members for flight attendants; (2) the use of a 30 foot limitation to determine minimum crewmember requirements; (3) the duties that may be performed by a flight attendant who has left the aircraft during passenger boarding; and (4) whether the proposed rule provides a level of safety equivalent to current requirements.

#### *Substitution of Flightcrew Members for Flight Attendants*

##### (1) Diverting Flightcrew Members From Pre-Flight Duties

ALPA commented that it was not appropriate for a qualified flightcrew member of the certificate holder to substitute for a flight attendant and that it must take strong exception to the proposal. ALPA noted that with the proposal, as with its comment to *Docket No. FAA 2006–25466, Southwest Airlines Co. Petition for Clarification or Amendment of Exemption 9382*, dated July 28, 2008, during any stop, flightcrew members have defined duties intended to ensure the safety and security of the current flight or the next flight. ALPA stated that frequently, at stops of short duration, the time to accomplish flight crew duties can already be significantly compressed, adding to the need to avoid additional tasks that would be imposed by the proposed rule. ALPA also commented that the proposed rule does not directly address the potential impact of the suggested procedures on the normal

activities and duties of the flightcrew member who might be tasked with additional emergency evacuation duties. ALPA further noted that significant operational demands on flightcrew members' attention during preparation for flight provide them far less opportunity to observe unusual events that would be more quickly recognized by a dedicated flight attendant, consequently increasing the response time critical to the successful performance of evacuation duties. ALPA further commented that the additional responsibility of substituting for a flight attendant would also detract from a pilot's ability to provide full time and attention to the safe operation of the aircraft.

Many individual commenters also questioned whether this additional responsibility for pilots might detract from a pilot's ability to attend to the safe operation of the airplane or similarly how a pilot's pre-flight duties might interfere with his or her ability to adequately monitor the boarding of passengers.

One individual commented that a flightcrew member is fully capable under the requirements in the proposed rule to take on the role of substituting for a temporarily absent flight attendant. However, another individual commented that he was unable to comprehend how passenger safety is enhanced when a pilot ceases his or her pre-flight duties by allowing a pilot or flight engineer to substitute for a flight attendant and suggested that a flight attendant should contact the airline to request additional personnel for assistance rather than asking the pilot to stop performing his or her pre- or post-flight duties. This individual further asked for additional justification by the FAA for allowing this change in requirements.

Upon further review, the FAA has determined that this change, as proposed, may affect the safety of the flight. Therefore, the FAA is amending proposed § 121.394(a)(2) to require that the substituting flightcrew member not be assigned to operate that specific flight. This provides a certificate holder with the operational flexibility to substitute a "deadheading" or otherwise available flightcrew member for one flight attendant, provided the other conditions of § 121.394(a)(2) are met, without the potential of interfering with the duties of the flightcrew members who are responsible for the safe operation of that flight.

In addition, in the final rule the FAA is clarifying that a substitute pilot or flight engineer is "substituting" for a required flight attendant under strictly

limited conditions and is not "serving" as a required flight attendant. The substitute pilot or flight engineer must meet the requirements of § 121.394, but does not need to meet other flight attendant training and qualification requirements that are inapplicable to passenger boarding.

##### (2) Emergency Training and Performance Drills for Flightcrew Members and Flight Attendants

The Association of Flight Attendants (AFA) commented that it is imperative that the FAA require that the air carrier ensure that the flightcrew member is trained according to the requirements of § 121.417, Crewmember emergency training. The AFA also noted that the FAA has issued another NPRM, Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers (74 FR 1280; January 12, 2009) that proposes to change the current training regulations. The AFA stated that under the proposed emergency training requirements in that NPRM, flight attendants would need to complete "hands on" performance drills using emergency equipment and procedures every 12 months. AFA noted in contrast, that the proposed frequency of performance drills for flightcrew members in the NPRM will be extended from 24 months to 36 months. AFA commented that, if the requirements in the proposed rule become effective as a final rule, the difference in the frequency of performance drills for flight attendants and flightcrew members will not provide an equivalent level of safety.

The FAA notes that under the current requirements, all crewmembers, including flightcrew members, are required to meet the training requirements of § 121.417, Crewmember emergency training. This training must include specific training in emergency assignments, individual instruction in the location, function, and operation of emergency exits in the emergency modes with the evacuation slide/raft pack attached, instruction in the handling of emergency situations, including evacuation, and emergency drill training in each type of emergency exit in the emergency mode, including the actions and forces required in the deployment of the emergency evacuation slides. In addition, § 121.417 requires each crewmember to have training in emergency assignments and procedures, as appropriate for that crewmember. To substitute for a flight attendant it is necessary for pilots and flight engineers to receive emergency training regarding evacuation management and evacuation commands.

This training will adequately allow them to perform the duties of the flight attendants for whom they are substituting.

Current requirements regarding the frequency of emergency exit operation performance drills for flightcrew members and flight attendants are identical. The FAA recognizes that the frequency of performance drills for flightcrew members and flight attendants as proposed in the NPRM Qualification, Service and Use of Crewmembers and Aircraft Dispatchers, (74 FR 1280; January 12, 2009) are not identical. To ensure that the necessary training in evacuation management, evacuation commands and frequency of performance drills for exit operations for pilots and flight engineers substituting for required flight attendants are identical to those of flight attendants, the FAA is amending the language in the final rule. This language will require that the substitute flightcrew member meet the emergency training requirements for flight attendants in evacuation management and evacuation commands, as appropriate, as well as the frequency of performance drills regarding operation of exits in the normal and emergency modes on that type aircraft.

#### Use of a 30-Foot Limitation To Determine Minimum Crewmember Requirements

Continental, Delta, US Airways, and ATA requested that the restriction that limits a flight attendant to remain within 30 feet of the aircraft door be changed to permit the flight attendant to remain within the length of the passenger loading bridge. They commented that this change would eliminate the potential for confusion regarding estimation of a 30-foot radius from the aircraft door and also prevent unintentional violations of the regulation caused by an incorrect calculation of this distance. They further commented that because passenger loading bridge phones are not always available and ground staff may not be on board the aircraft during boarding, this change would also facilitate communication with ground staff regarding safety related issues. The commenters stated that this change to the proposed requirements would still ensure that a flight attendant on the passenger loading bridge would be able to assist in an evacuation by directing passengers into the terminal and could, in fact, assist in expeditious egress. American and ATA further suggested that the permitted distance could be increased to 50 feet to account for the use of stairs on wide-body aircraft.

Individuals commented that the 30-foot limitation would keep flight attendants close to the aircraft but ensure that they would be available if they became needed. Another individual commented that the NPRM failed to provide any basis as to why 30 feet is an appropriate distance. Two individuals requested that the final regulation provide justification for the distance the FAA chooses. These individuals further stated that they are unaware of any safety related duties that would require moving more than just a few feet outside the aircraft and that a much smaller distance than 30 feet would be appropriate. These commenters suggested that the FAA change the limitation in the final rule to “the area just outside the boarding door.”

The FAA specifically requested comments on the proposed 30-foot limitation. Upon review of the comments, the FAA has determined that the proposed 30-foot limitation is unduly prescriptive. However, the FAA does not believe that a flight attendant should be permitted “to travel the length of the passenger loading bridge.” The flight attendant must still be able to maintain situational awareness of the cabin and the passenger boarding process and this may not be possible in the event the passenger loading bridge is long or contains multiple corridors.

Horizon Air commented that the requirement for the flight attendant to remain within 30 feet of the passenger boarding door will be difficult to meet without having boundaries drawn around the aircraft and requested that the FAA consider changing the text of the final rule to state that “the flight attendant shall remain in the surrounding area of the aircraft.”

The Regional Airline Association (RAA) supported the intent of this proposal but considered the language of the proposal to be unduly prescriptive and therefore burdensome. The RAA also stated that “the difficulty with the proposed text is that it causes the airline to focus on compliance issues that are not necessarily related to the identified hazard of not having a full complement of required flight attendants onboard during passenger boarding or deplaning.”

In the final rule, the FAA is requiring the deplaning flight attendant to remain “within the immediate vicinity of the door through which passengers are boarding.” This permits a flight attendant to step into the cab of the loading bridge to remove a piece of carry-on baggage and place it adjacent to the stair to the ramp area or use the telephone, while still permitting the

flight attendant to observe passenger boarding and hear other crewmembers and passengers in the airplane. It also establishes appropriate and clear parameters for the flight attendant who steps off the airplane.

The FAA considers the “immediate vicinity” of the boarding door to be the area directly adjacent to the boarding door, the cab of the passenger loading bridge or the bottom of the airstairs (for airplanes equipped with an integrated airstairs). The FAA does not consider the “immediate vicinity” of the boarding door to include that portion of the loading bridge beyond the cab, inside the terminal, at the bottom of loading stairs that are not integrated aircraft equipment, or anywhere on the ramp other than at the bottom of integrated airstairs.

#### *Safety Related Duties That May Be Performed by a Flight Attendant Who Has Left the Aircraft During Passenger Boarding*

AFA, Horizon Air, and ATA stated their concern that “safety related duties” may have different interpretations for different air carriers which may be applied and enforced inconsistently. Delta and US Airways commented that safety related duties should pertain to communication to ensure required aircraft staffing, food and hydration, and the maintenance of equipment and facilities essential for the health, safety, and sanitation of all persons onboard the aircraft (e.g., lavatory maintenance).

American specifically commented that a flight attendant who has left the aircraft to address safety related issues should be allowed to make calls concerning operational matters such as resolving catering issues. American also noted that resolving operational concerns can enhance a flight attendant’s ability to devote his or her time to safety related duties. American further commented that operational issues can be resolved in a minimum amount of time if addressed when initially discovered and therefore have no impact on the level of safety.

Continental and US Airways requested that the FAA explicitly include the resolution of seat duplications under safety related duties. US Airways additionally commented that safety related duties should include the resolution of carry-on baggage compliance issues.

ATA recommended that the proposal be revised to permit a flight attendant to perform work related duties in addition to safety related duties. ATA also stated that “if operational issues or concerns (e.g., duplicate seat assignments, catering matters, staffing questions) can

be addressed by the deplaning flight attendant, then the flight attendant's ability to devote their complete attention to safety related duties will be enhanced. This change will enhance passenger convenience and safety."

An individual commented that the requirement in the NPRM that stipulates the flight attendant may only perform safety related tasks while not onboard the aircraft would mean that the flight attendant would spend a minimal amount of time off the aircraft. Another individual commented that the proposed requirement that flight attendants may only conduct safety related duties helps to ensure that a flight attendant who has vacated the aircraft will be readily available if an emergency should occur.

The FAA considers the scope of "safety related duties" to generally consist of those duties that are normally performed by flight attendants that are related to the safety of the airplane and its occupants under § 121.391(d). Those duties, however may now be performed while in the immediate vicinity of the door through which passengers are boarding. Safety related duties are those that ensure compliance with the regulations or respond to emergency situations. For example, safety related duties include removing a piece of carry-on baggage, handling a medical event, using the telephone in the cab of the passenger loading bridge to coordinate with ground personnel regarding compliance with approved exit seat and carry-on baggage programs, and handling safety and security issues such as a disruptive passenger or a passenger who appears to be intoxicated.

These duties specifically do not include non-safety related duties, such as ordering galley supplies, resolving catering issues, handling passenger itineraries or seat duplications, completing company paperwork not required for the safe operation of the airplane, obtaining food and beverages for crewmembers, or conducting communications related to aircraft staffing, crew scheduling, or the maintenance of sanitation equipment and facilities.

As noted by commenters, restricting the type of duties that a flight attendant may perform will limit the time the flight attendant will be off the aircraft and ensure that a flight attendant who has left the aircraft will be readily available if an emergency should occur. Accordingly, in the final rule the FAA has retained the requirement that the flight attendant who has left the aircraft may only conduct safety duties related to the flight being boarded.

#### *Equivalent Level of Safety of Final Rule to Existing Requirements*

##### (1) Aviation Safety Improvements

AFA commented that it does not believe the proposed regulation creates an equivalent level of safety to that of the current requirements, that it was undertaken without full consideration of the potential consequences of the amendment, and therefore recommended that the NPRM be withdrawn in the public interest. AFA further commented that by permitting a reduction in the number of required flight attendants during boarding, the FAA was not assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce as directed by 49 U.S.C. 40101(d) because the proposed rule did not maintain the currently required ability to conduct an emergency evacuation of the aircraft. AFA noted that changes to the regulations since 1985, specifically provisions for improved firefighting equipment, improved interior flammability standards and thermal insulation, and improved access to Type III emergency exits have reduced the hazards to passengers. However, while AFA agrees that these changes have resulted in improvements in cabin survivability, AFA does not agree that they justify a reduction in flight attendant staffing requirements.

An individual commenter stated that the NPRM cites 49 U.S.C. 44701(a)(5) as the authority for this rulemaking. That section authorizes the head of the FAA to promulgate regulations "necessary for safety" on commercial aircraft. The commenter further noted that the NPRM argues that this authorized reduction of flight attendants "may be in the interest of the traveling public." This individual also noted that the NPRM does not contain any explanation of why this measure would be in the interest of the public or how it is required for safety. The commenter also stated that the NPRM focuses solely on why this measure would not impair safety. This individual expressed concern that the proposed rule does not seek to serve the safety interests of the passengers, but is rather a deregulatory measure designed to ease personnel burdens on air carriers and requested that the FAA explain how allowing a flight attendant to leave the cabin is "necessary for safety," and elaborate on why an airline cannot simply request additional assistance if such a safety issue exists. This individual also stated that the public deserves to know what the "unintentional consequences" of the current rule are and noted that if the FAA cannot advance such reasons, there

are concerns as to whether U.S.C. 44701(a)(5) actually provides authorization for this regulation.

ALPA agrees that numerous cabin safety enhancements have been put in place on today's aircraft as a result of years of industry collaboration and cooperation. However, ALPA does not believe that the safety enhancements identified in the NPRM warrant the crewmember complement changes being proposed.

Continental, American, and ATA commented that they consider the proposed changes to be in the interest of the traveling public, supportive of flight attendants in the performance of their safety related duties, and that there would be no reduction in the level of safety for the traveling public under the proposed requirements. They noted that the FAA has correctly determined that the proposed reductions in flight attendant staffing can safely be made because past safety enhancements have mitigated the risks to passengers during ground operations.

Many individual commenters noted that new technology and procedures have reduced the workload of flight attendants during boarding and increased the safety of ground operations. They further commented that the risks associated with the proposed requirements would be minimal, and could result in significant safety and efficiency benefits for boarding operations. Commenters also noted that the proposed changes could increase the safety and security of passengers and with the improvements made in safety and security procedures and equipment, the current requirements are out of date. In addition, they commented that the workload placed on flight attendants has dramatically changed, requiring less personnel and effort to maintain a superior level of safety and that this proposed rule would better suit the airline operations of today, increasing efficiency, while taking no penalty in regards to the safety and security of travelers and employees.

When developing the final rule "Number of Flight Attendants Required During Intermediate Stops" (47 FR 56460; December 16, 1982) the FAA considered the safety concerns associated with reducing minimum flight attendant crew during intermediate stops. At that time the FAA determined that the unique conditions existing during intermediate stops permitted a reduction in the minimum flight attendant crew from that previously required by § 121.391. These conditions include that the airplane is stationary in a level attitude

with at least one floor-level exit open, all engines are shut down, thus mitigating the risk of an emergency arising from engine torching or overheating, and additional personnel are nearby to assist in the event of an emergency. This final rule requires that these conditions also exist during boarding and deplaning in order to permit a reduction in the minimum number of flight attendants. These conditions, along with the numerous safety enhancements enacted since the adoption of the 1982 Final Rule serve to maintain an equivalent level of safety as that provided by the current regulations.

Accordingly, the FAA has determined that it is appropriate to reduce the minimum required flight attendant crew from that required by § 121.391 and to allow one flight attendant to leave the aircraft to perform safety related duties during boarding provided the flight attendant remains within the immediate vicinity of the door through which passengers are boarding. The FAA contends that the regulations set forth in this final rule promote safe flight of civil aircraft in a manner necessary for safety in air commerce. The FAA believes that its action not only assigns, maintains, and enhances safety as the highest priorities in air commerce as directed by 49 U.S.C. 40101(d)(1), but also serves to regulate air commerce in a way that best promotes safety as required by 49 U.S.C. 40101(d)(2).

#### (2) Exit Seat Passengers

In the NPRM the FAA stated that passengers in exit seats will likely initiate their own self-help in the event of an emergency. AFA commented that it was inappropriate for the agency to use this assumption to justify a reduction in flight attendant staffing.

AFA commented that until a flight attendant has verified that an exit seat passenger meets appropriate criteria to occupy an exit row seat, and has been briefed on exit row responsibilities and the directions regarding the opening method of the emergency exit, the passenger could be sitting in an exit row seat during the entire boarding process without actually meeting the applicable criteria for occupying that seat.

ALPA commented that exit row briefings by a trained cabin crewmember do not qualify an individual to make time-critical decisions in terms of initiating a cabin evacuation. ALPA further stated that intervention on the part of a trained and qualified cabin crewmember must be available at all times.

An individual commented that current regulations fail to prevent any adult from sitting in an exit row and

that 'screening' is quite minimal. This individual further commented that the assumption that an average citizen is just as well equipped to initiate and lead an evacuation as a trained flight attendant is a doubtful proposition.

Conversely, another individual commented that passengers in exit seats are now pre-screened to ensure they are capable of fulfilling emergency exit responsibilities.

The purpose of § 121.585, Exit seating, was to establish criteria for passengers who occupy seats adjacent to exits (55 FR 8072; March 6, 1990). The provisions of that rule require air carriers to only provide exit seats to passengers who appear to be able to perform functions in an emergency evacuation, and require that, prior to pushback or taxi, a crewmember verify that no exit seat is occupied by a person the crewmember determines is likely to be unable to perform the applicable functions of an exit seat. The FAA did not intend that passengers who occupy exit seats meet the training and qualification requirements that prepare a flight attendant to initiate and lead an evacuation. The FAA intended that these requirements would result in an airline passenger who occupies an exit seat to be able to physically open the exit, understand flight attendant commands and be able to understand and concentrate on their exit seat responsibilities. The FAA contends that the various provisions of the exit seat rule reduce the likelihood of passenger-caused evacuation delays. Many exit seat passengers are pre-screened by ground personnel or undergo selective procedures during online ticketing. The exit seat rule, in addition to the safety enhancements discussed earlier, has resulted in improvements in cabin survivability that facilitate the conditions necessary to initiate the regulatory changes in this final rule.

#### (3) Carry-On Baggage

AFA commented that carry-on bags were still a problem at their individual member air carriers and that the amount of carry-on baggage has not been reduced, as the FAA discussed in the NPRM. AFA stated that during passenger boarding the cabin can be a hectic, confusing environment with many passengers standing in the aisle, possibly moving in different directions. AFA further stated that stowage and removal of carry-on baggage is one of the factors that contribute to the confusion, contention, and additional movements in the aisle during boarding. AFA further commented that one of the main reasons flight attendants need to get off the aircraft to deal with removing

carry-on baggage is because carriers are not adequately screening the amounts and size of carry-on baggage prior to boarding and do not have adequate ground staff to perform this function.

The FAA generally does not consider the movement of passengers in the aisles of the aircraft while boarding to be a safety issue. However, the FAA does agree that management of carry-on baggage in the aircraft cabin is a safety issue. Allowing flight attendants to step off the aircraft during boarding to remove excess carry-on bags to the passenger loading bridge, instead of having these bags in the aircraft aisle or galley area where they may impede emergency egress from the aircraft, is a positive safety enhancement. The FAA agrees with the commenters that flight attendants may need to step off the aircraft to remove excess carry-on baggage that can not be stowed safely in the cabin. Baggage screening and ground staffing issues, however, are beyond the scope of this rulemaking.

AFA commented that the FAA has neither thoroughly or even adequately considered the injury consequences that could result from flight attendants being required to lift and handle passenger bags. AFA further commented that this may also be contrary to many carrier policies that do not require flight attendants to lift passenger carry-on baggage, and in fact, have denied flight attendant industrial claims regarding injuries resulting from stowing of passenger carry-on baggage.

This rulemaking does not require an air carrier to change operational policies or procedures nor does it address air carrier policies regarding flight attendants lifting and handling passenger bags. The FAA also considers this comment to be outside the scope of this rulemaking.

#### (4) Emergency Evacuation Procedures

AFA commented that the FAA should determine who is going to be responsible for opening the emergency exit on the aircraft if the flight attendant assigned to that exit is permitted to be 30 feet up the jetway.

Under current rules the FAA does not require each flight attendant to remain directly adjacent to his or her assigned exit during boarding. Flight attendants typically move around the cabin during passenger boarding. If an emergency evacuation was necessary during boarding, the flight attendant would either return to his or her assigned exit, or another flight attendant would open the exit.

Based on this comment and other comments received, the FAA has revised the proposed language which



would have required a flight attendant to remain within 30 feet of the passenger boarding door. The final rule requires the flight attendant to remain within the immediate vicinity of the boarding door. Under the limitation in the final rule, a flight attendant who has stepped off the aircraft may be in a better position to assist in the opening of certain floor level exits and facilitating an evacuation than a flight attendant who is located in the middle of the cabin.

#### (5) Security Requirements

AFA commented that security situations can and do arise which could require an immediate response by the flight attendant crew acting as a coordinated team. The AFA further commented that despite stronger security regulations, threats still present themselves.

An individual commented that the NPRM failed to account for the potential impact on security and that the NPRM ignored public expectations of flight attendants during boarding. This individual noted that most members of the public look to flight attendants to spot potentially dangerous situations before they develop and that flight attendants are likely the only people on board trained to recognize and handle these situations. The commenter further noted that if a flight attendant leaves the cabin, there is one less person present to notice and respond to a dangerous circumstance. This individual stated that in addition to more thoroughly considering this issue, the FAA should explicitly consult the Department of Homeland Security (DHS) on this proposal. The commenter further noted that 6 U.S.C. 233 requires that the Secretary of Homeland Security consult the head of the FAA on measures affecting airline safety, although there does not appear to be a reciprocal requirement that the FAA contact the Secretary. The commenter also stated that this law evinces a Congressional intent that FAA and DHS consult on matters affecting airline safety.

This final rule provides operational flexibility while regulating air commerce in a manner that best promotes aviation safety. In response to comments, the FAA has revised the proposal to require that flight attendants who have stepped off the aircraft remain within the immediate vicinity of the boarding door. The FAA has determined that this revision will help to ensure that a flight attendant who steps off an aircraft can maintain awareness of potential security threats and the ability to immediately respond to those threats, to include threats that may make

themselves apparent prior to passengers boarding an aircraft. Permitting a flight attendant to step off the aircraft to perform safety related duties does not result in a decreased ability to maintain awareness of potential security threats in the vicinity of an aircraft, but rather expands the area where those threats may be observed.

The FAA agrees that the DHS is required to consult with the agency before taking any action that might affect aviation safety. In addition, the FAA regularly consults with DHS, TSA, and other governmental agencies when developing regulations that could potentially affect aviation security.

#### *Reduction in the Number of Required Flight Attendants During Passenger Deplaning*

Delta, US Airways and Continental all generally commented that they support the FAA proposal to alter crew limitations applicable to passenger deplaning which would permit a reduction to half the number of flight attendants required by § 121.391(a), rounded down to the next lower number in the case of a fraction, but never fewer than one. They stated that this change in limitations would support occasions when a flight attendant may be asked to conduct other than safety related duties during passenger deplaning such as maintaining custody of an unaccompanied minor. One airline commented that “it would also help ensure appropriate crew nutrition (an effective element of fatigue mitigation) by permitting a crewmember leaving the aircraft to procure food or beverage between flights.”

AFA commented that in the NPRM the FAA stated that a safety related reason a flight attendant may need to step off the aircraft during deplaning would be to maintain custody of an unaccompanied minor. AFA noted that this is not a safety related duty. The FAA agrees that maintaining custody of an unaccompanied minor is not a safety related duty and that the characterization of this action as safety related in the NPRM was in error. However, the FAA clarifies that the “safety related duty” test is only applied as criteria to allow one required flight attendant to step off the aircraft during passenger boarding. The provisions in the final rule that allow the reduction of flight attendants during passenger deplaning do not require the flight attendants who step off the aircraft to only accomplish safety related duties. Maintaining custody of an unaccompanied minor is therefore an appropriate duty for a flight attendant to perform during deplaning.

#### *Miscellaneous*

##### (1) Limitations on Leaving the Aircraft After Flight Attendant Substitution

AFA commented that the NPRM allows a reduction of two flight attendants for boarding due to the fact that the FAA is proposing to allow a flightcrew member to substitute for another flight attendant.

The NPRM, as well as the final rule, explicitly states that at no time during boarding may more than one required flight attendant leave the aircraft. A substituting pilot or flight engineer is not considered to be a flight attendant for purposes of meeting the minimum required compliment of flight attendants specified in § 121.391.

If a pilot or flight engineer is substituting for a required flight attendant under the provisions of this rule during passenger boarding, the substituting pilot or flight engineer and the remaining flight attendants may not leave the aircraft. Accordingly, a substituting pilot or flight engineer, or remaining flight attendant(s), may not leave the airplane with the intent to conduct safety related duties, even if that person remains within the immediate vicinity of the door through which passengers are boarding.

##### (2) Relationship of Rule to Previous Petitions for Exemption

AFA commented that it believes the proposal is an “extension” of Southwest Airlines’ petition for exemption and therefore its previous comments to that petition for exemption are relevant for the FAA to consider in this rulemaking as well.

The FAA has considered those comments submitted in response to Southwest Airlines’ petition for exemption (Docket No.: FAA–2006–25466) from §§ 121.391(a) and 121.393(b) in developing this proposal.

##### (3) Additional Comments Beyond the Scope of This Rulemaking

AFA commented that the FAA should also determine why passengers are able to bring excess and oversized carry-on baggage on board the aircraft and how to prevent this problem as a regulator instead of first reducing the number of flight attendants required during boarding and deplaning.

RAA supported the FAA’s initiative to revise this regulation so that it offers airlines more flexibility in achieving their safety responsibilities. RAA suggested, however, that FAA’s commitment to the Safety Management System requires that regulations be written in a style that clearly addresses the identified safety issue and that the



administrative issues necessary to ensure compliance with identified hazards be placed in an advisory circular, 8900 series order, or within the preamble to the regulation, and not within the regulation itself. RAA further commented that this action will permit airlines to develop and implement procedures and controls specific to their unique operations that will ensure that their hazard mitigation and regulatory compliance efforts are as efficient and effective as possible.

Regulations regarding carry-on baggage and the implementation of safety management systems are beyond the scope of this final rule.

### Conclusion

The FAA has determined that these revisions to current regulations can be made as a result of safety enhancements to airplane certification and operational requirements. These changes have mitigated the risks to passengers during ground operations that previously required all flight attendants on board the airplane during passenger boarding and deplaning.

This final rule will increase safety and efficiency in commercial passenger operations by permitting one required flight attendant to deplane during passenger boarding, and conduct safety related duties, as long as certain conditions are met, and by allowing a reduction of flight attendants remaining on board the airplane during passenger deplaning, as long as certain conditions are met.

### 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. We have determined that there is no current or new requirement for information collection associated with this amendment.

### 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 determined that there are no ICAO Standards and Recommended Practices that correspond to these 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 of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465) prohibits agencies from setting standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, these acts require 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 impacts of this final 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 to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows.

Since this final rule only permits a reduction in the required number of flight attendants or the substitution of a pilot or flight engineer not assigned to the flight for a flight attendant during passenger boarding and allows a reduction of flight attendants remaining on board the airplane during passenger deplaning, the expected outcome will be a minimal impact with positive net benefits, and a regulatory evaluation was not prepared.

The FAA has, therefore, determined that this final 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 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 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.

Because there were no comments on the regulatory flexibility determination, our conclusion that there is no significant economic impact on a substantial number of small entities has not changed. As this final rule merely allows one required flight attendant to deplane during passenger boarding, and conduct safety related duties, the expected outcome will have only a minimal impact on any small entity affected by this rulemaking action.

Therefore, the FAA Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### International Trade Analysis

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 any 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 are not considered unnecessary obstacles to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statutes also require consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA notes the purpose is to ensure the safety of the American public, and has assessed the effects of this rule to ensure it does not exclude imports that meet this objective. As a result, this final rule is not considered as creating an unnecessary obstacle to foreign commerce.

### 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 (in 1995 dollars) 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 \$143.1 million in lieu of \$100 million.

This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act 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 Federal 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 1050.1E 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 rulemaking action qualifies for the categorical exclusion identified in paragraph 312(f) and involves no extraordinary circumstances.

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

The FAA analyzed this final rule 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.

### 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 amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

### List of Subjects in 14 CFR Part 121

Aviation Safety, Air carriers, Air transportation, Airplanes, Airports, Boarding, Crewmembers, Deplaning, Flight attendants, Pilots, Transportation, Common carriers.

### The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends chapter I, part 121 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. Revise § 121.391(a) introductory text to read as follows:

#### § 121.391 Flight attendants.

(a) Except as specified in § 121.393 and § 121.394, each certificate holder must provide at least the following flight attendants on board each passenger-carrying airplane when passengers are on board:

\* \* \* \* \*

■ 3. Add § 121.394 to read as follows:

#### § 121.394 Flight attendant requirements during passenger boarding and deplaning.

(a) During passenger boarding, on each airplane for which more than one flight attendant is required by § 121.391, the certificate holder may:

- (1) Reduce the number of required flight attendants by one, provided that:
  - (i) The flight attendant that leaves the aircraft remains within the immediate vicinity of the door through which passengers are boarding;
  - (ii) The flight attendant that leaves the aircraft only conducts safety duties related to the flight being boarded;
  - (iii) The airplane engines are shut down; and
  - (iv) At least one floor level exit remains open to provide for passenger egress; or
- (2) Substitute a pilot or flight engineer employed by the certificate holder and trained and qualified on that type airplane for one flight attendant, provided the certificate holder—
  - (i) Describes in the manual required by § 121.133:

(A) The necessary functions to be performed by the substitute pilot or flight engineer in an emergency, to include a situation requiring an emergency evacuation. The certificate holder must show those functions are realistic, can be practically accomplished, and will meet any reasonably anticipated emergency; and

(B) How other regulatory functions performed by a flight attendant will be accomplished by the substitute pilot or flight engineer on the airplane.

(ii) Ensures that the following requirements are met:

(A) The substitute pilot or flight engineer is not assigned to operate the flight for which that person is substituting for a required flight attendant.

(B) The substitute pilot or flight engineer is trained in all assigned flight attendant duties regarding passenger handling.

(C) The substitute pilot or flight engineer meets the emergency training requirements for flight attendants in evacuation management and evacuation commands, as appropriate, and

(A) The substitute pilot or flight engineer is not assigned to operate the flight for which that person is substituting for a required flight attendant.

(B) The substitute pilot or flight engineer is trained in all assigned flight attendant duties regarding passenger handling.

(C) The substitute pilot or flight engineer meets the emergency training requirements for flight attendants in evacuation management and evacuation commands, as appropriate, and

frequency of performance drills regarding operation of exits in the normal and emergency modes on that type aircraft.

(D) The substitute pilot or flight engineer is in possession of all items required for duty.

(E) The substitute pilot or flight engineer is located in the passenger cabin.

(F) The substitute pilot or flight engineer is identified to the passengers.

(G) The substitution of a pilot or flight engineer for a required flight attendant does not interfere with the safe operation of the flight.

(H) The airplane engines are shut down.

(I) At least one floor-level exit remains open to provide for passenger egress.

(b) During passenger deplaning, on each airplane for which more than one flight attendant is required by § 121.391, the certificate holder may reduce the number of flight attendants required by that paragraph provided:

(1) The airplane engines are shut down;

(2) At least one floor level exit remains open to provide for passenger egress; and

(3) The number of flight attendants on board is at least half the number required by § 121.391, rounded down to the next lower number in the case of fractions, but never fewer than one.

(c) If only one flight attendant is on the airplane during passenger boarding or deplaning, that flight attendant must be located in accordance with the certificate holder's FAA-approved operating procedures. If more than one flight attendant is on the airplane during passenger boarding or deplaning, the flight attendants must be evenly distributed throughout the airplane cabin, in the vicinity of the floor-level exits, to provide the most effective assistance in the event of an emergency.

(d) The time spent by any crewmember conducting passenger boarding or deplaning duties is considered duty time.

Issued in Washington, DC, on October 28, 2010.

**J. Randolph Babbitt,**

*Administrator, Federal Aviation Administration.*

[FR Doc. 2010-28056 Filed 11-4-10; 8:45 am]

**BILLING CODE 4910-03-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Part 665

[Docket No. 0907211157-0522-04]

RIN 0648-AX76

### Fisheries in the Western Pacific; Community Development Program Process

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; effectiveness of collection-of-information requirements.

**SUMMARY:** In this rule, NMFS announces approval by the Office of Management and Budget (OMB) of collection-of-information requirements contained in regulations implementing Amendment 1 to the Fishery Ecosystem Plans for American Samoa, Hawaii, the Mariana Archipelago, and Western Pacific Pelagic Fisheries, relating to the community development plan process. The intent of this final rule is to inform the public that OMB has approved the associated reporting requirements.

**DATES:** New 50 CFR 665.20(c), published at 75 FR 54044 (September 3, 2010), has been approved by OMB and is effective on December 6, 2010. The amendment to 15 CFR part 902 in this rule is effective December 6, 2010.

**ADDRESSES:** Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS, attention Michael D. Tosatto, 1601 Kapiolani Blvd., Honolulu, HI 96814, and to OMB by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Jarad Makaiau, NMFS Pacific Islands Region (PIR), Sustainable Fisheries, tel 808-944-2108.

**SUPPLEMENTARY INFORMATION:** A final rule for Amendment 1 was published in the **Federal Register** on September 3, 2010 (75 FR 54044). The requirements of that final rule, other than the collection-of-information requirements, were effective on October 4, 2010. Because OMB had not approved the collection-of-information requirements by the date that final rule was published, the effective date of the associated permitting and reporting

requirements in that rule was delayed. OMB approved the collection-of-information requirements contained in the final rule on September 22, 2010.

Under NOAA Administrative Order 205-11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

### Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB control number.

This final rule contains new collection-of-information requirements subject to the PRA under OMB Control Number 0648-0612. The public reporting burden for developing and submitting a development plan is estimated to average six hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (*see ADDRESSES*) and to OMB by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

### List of Subjects in 15 CFR Part 902

Reporting and recordkeeping requirements.

Dated: November 2, 2010.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 15 CFR part 902 is amended as follows:

### PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, amend the table in paragraph (b), under the entry “50 CFR”