

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2020–18–12 The Boeing Company:**

Amendment 39–21233; Docket No. FAA–2016–6140; Product Identifier 2015–NM–059–AD.

**(a) Effective Date**

This AD is effective October 26, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 777–200, 777–200LR, and 777–300 series airplanes, certificated in any category, line numbers 1 through 561 inclusive, excluding airplanes identified in paragraphs (c)(1) through (3) of this AD.

(1) Airplanes on which the center tank consists only of the inboard structural box of the left and right wings (*i.e.*, the wing center structural box is a dry bay and is not part of the fuel tank).

(2) Airplanes equipped with a flammability reduction means (FRM) approved by the FAA as compliant with the fuel tank flammability reduction (FTFR) requirements of 14 CFR 25.981(b) or 26.33(c)(1).

(3) Airplanes equipped with an ignition mitigation means (IMM) approved by the FAA as compliant with the FTFR requirements of 14 CFR 25.981(c) or 26.33(c)(2).

**(d) Subject**

Air Transport Association (ATA) of America Code 28, Fuel.

**(e) Unsafe Condition**

This AD was prompted by the FAA's analysis of the Model 777 fuel system reviews conducted by the manufacturer. The FAA is issuing this AD to prevent ignition sources inside the center fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Modification**

Within 72 months after the effective date of this AD, modify the fuel quantity indicating system (FQIS) to prevent development of an ignition source inside the center fuel tank due to electrical fault conditions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

**(h) Alternative Actions for Cargo Airplanes**

For airplanes used exclusively for cargo operations: As an alternative to the requirements of paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (2) of this AD, using methods approved in accordance with the procedures specified in paragraph (i) of this AD. To exercise this alternative, operators must perform the first

inspection required under paragraph (h)(1) of this AD within 6 months after the effective date of this AD. To exercise this alternative for airplanes returned to service after conversion of the airplane from a passenger configuration to an all-cargo configuration more than 6 months after the effective date of this AD, operators must perform the first inspection required under paragraph (h)(1) of this AD prior to further flight after the conversion.

(1) Within 6 months after the effective date of this AD, record the existing fault codes stored in the FQIS processor and before further flight thereafter do a BITE check (check of built-in test equipment) of the FQIS. If any nondispatchable fault code is recorded prior to the BITE check or as a result of the BITE check, before further flight, do all applicable repairs and repeat the BITE check until a successful test is performed with no nondispatchable faults found, using a method approved in accordance with the procedures specified in paragraph (i) of this AD. Repeat these actions thereafter at intervals not to exceed 750 flight hours. Modification as specified in paragraph (h)(2) of this AD does not terminate the repetitive BITE check requirement of this paragraph.

(2) Within 72 months after the effective date of this AD, modify the airplane by separating FQIS wiring that runs between the FQIS processor and the center tank wing spar penetrations, including any circuits that might pass through a main fuel tank, from other airplane wiring that is not intrinsically safe, using methods approved in accordance with the procedures specified in paragraph (i) of this AD.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

**(j) Related Information**

For more information about this AD, contact Jon Regimbal, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO

Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3557; email: [Jon.Regimbal@faa.gov](mailto:Jon.Regimbal@faa.gov).

**(k) Material Incorporated by Reference**

None.

Issued on August 26, 2020.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2020–19584 Filed 9–18–20; 8:45 am]

**BILLING CODE 4910–13–P**

## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

**36 CFR Part 1155**

[Docket No. ATBCB–2020–0003]

**RIN 3014–AA43**

**Guidance Procedures**

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Final rule.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (hereafter, “Access Board,” or “Board”) issues this final rule to implement an Executive Order entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents.” By this rule, the Access Board establishes internal, procedural requirements governing the issuance, public availability, and modification or withdrawal of Access Board guidance documents.

**DATES:** This final rule is effective on October 21, 2020.

**FOR FURTHER INFORMATION CONTACT:** Christopher Kuczynski, Deputy General Counsel, U.S. Access Board, (202) 272–0042, [kuczynski@access-board.gov](mailto:kuczynski@access-board.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

In October 2019, the President signed Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents.” 84 FR 55235 (Oct. 15, 2019). Section 4 of this Executive Order directs Federal agencies to finalize new regulations (or update existing regulations) that provide procedures for, among other things, issuance of non-binding guidance documents, coordinated review of “significant” guidance documents by the Office of Management and Budget (OMB), and agency review of petitions by members of the public for modification or withdrawal of existing agency guidance materials.

In accordance with E.O. 13891, the Access Board promulgates this new rule, which establishes internal agency procedures with regard to the issuance, publication, and modification or withdrawal of Access Board guidance documents. All current guidance documents already in effect are posted on our website's guidance portal, [www.access-board.gov/guidance](http://www.access-board.gov/guidance). See Notice of Guidance Documents, 85 FR 11949 (Feb. 28, 2020). Any guidance document not posted on the Agency's guidance portal are considered to be rescinded and neither the Agency nor a party may cite, use, or rely on such a guidance except to establish historical facts.

## II. Regulatory Process Matters

### *Administrative Procedure Act*

The guidance procedures established by this final rule implement E.O. 13891 and solely address internal matters related to agency management and practices. As such, this rule is exempt from the notice-and-comment process pursuant to the Administrative Procedures Act. See 5 U.S.C. 553(a)(2), 553(b)(3)(A).

### *Executive Order 12866*

This final rule establishes internal rules of agency procedure only. OMB has determined that the rule is not a significant regulatory action within the meaning of Executive Order 12866.

### *Executive Order 13771*

This final rule is not subject to Executive Order 13771 because it is a non-significant regulatory action that relates solely to "agency organization, management, or personnel." See Executive Order 13771, 82 FR 9339 (Feb. 3, 2017); OMB, M–17–21, "Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs'" (April 5, 2017).

### *Congressional Review Act*

This final rule is not a major rule within the meaning of the Congressional Review Act. See 5 U.S.C. 801 *et seq.*

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires Federal agencies to analyze regulatory options that may assist in minimizing any significant impact of a rule on small businesses and small governmental jurisdictions. See 5 U.S.C. 604, 605(b). Because this final rule relates solely to agency internal procedures and, moreover, is not subject to notice-and-comment rulemaking, the RFA is inapplicable.

### *Federalism (Executive Order 13132)*

The Access Board has analyzed this final rule in accordance with the principles and criteria set forth in Executive Order 13132. The Board has determined that this action will not have a substantial direct effect on the States, 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.

### *Paperwork Reduction Act*

This final rule does not specify any new collections of information or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act. See 44 U.S.C. 3501 *et seq.*

### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (codified at 2 U.S.C. 1531 *et seq.*) ("UMRA") generally requires that Federal agencies assess the effects of their discretionary regulatory actions that may result in the expenditure of \$100 million (adjusted for inflation) or more in any one year by the private sector, or by State, local, and tribal governments in the aggregate. Because this final rule is not subject to notice-and-comment rulemaking, UMRA's analytical requirements do not apply. See 2 U.S.C. 1532(a).

### List of Subjects in 36 CFR Part 1155

Administrative practice and procedure.

■ For the reasons stated in the preamble, the Access Board adds 36 CFR part 1155 to read as follows:

## PART 1155—GUIDANCE PROCEDURES

### Sec.

- 1155.1 Purpose.
- 1155.2 Definitions.
- 1155.3 Legal review by Office of General Counsel.
- 1155.4 Requirements applicable to all guidance documents.
- 1155.5 Public availability of guidance documents.
- 1155.6 Significance determinations.
- 1155.7 Additional requirements applicable to significant guidance documents.
- 1155.8 Notice-and-comment procedures.
- 1155.9 Petitions for modification or withdrawal.
- 1155.10 No private right of action.

**Authority:** 29 U.S.C. 792; E.O. 13891, 84 FR 55235, 3 CFR, 2019 Comp., p. 371; 36 CFR 1151.3.

## PART 1155—GUIDANCE PROCEDURES

### § 1155.1 Purpose.

(a) *General.* This part implements Section 4 of Executive Order 13891 by establishing requirements and procedures for issuance, publication, and modification or withdrawal of guidance documents of the United States Access Board ("Access Board" or "agency").

(b) *Application.* Unless otherwise stated, the requirements and procedures set forth in this part apply to all guidance documents issued or revised by the Access Board on or after October 21, 2020.

### § 1155.2 Definitions.

For the purpose of this part, the following terms have the indicated meaning:

(a) *Guidance document.* Subject to the exceptions provided in paragraph (b) of this section, a written statement of general applicability that the Access Board intends to:

- (1)(i) Have future effect on the behavior of regulated parties;
  - (ii) Set forth agency policy on a statutory, regulatory, or technical issue; or
  - (iii) Interpret a statute or regulation.
- (2) Guidance documents are not limited to formal, written documents, and may be set forth in other documentary formats, such as electronic, digital, audio, or video materials.

(b) *Exceptions.* The following types of guidance documents are exempt from compliance with the requirements and procedures specified in this part:

- (1) Rules promulgated pursuant to notice and comment under 5 U.S.C. 553, or similar statutory provisions;
- (2) Rules exempt from rulemaking requirements under 5 U.S.C. 553(a);
- (3) Rules of internal organization, procedure, or practice within the Access Board, provided such rules do not alter substantive obligations for parties outside the Access Board;
- (4) Access Board decisions in formal adjudications conducted pursuant to 5 U.S.C. 554, or similar statutory provisions;
- (5) Internal guidance directed to Access Board personnel or other Federal agencies or officials that is not intended to have substantial future effect on the behavior of regulated parties;
- (6) Internal executive branch legal advice or opinions addressed to other executive branch officials or Federal agencies;
- (7) Access Board statements of specific applicability, including:

advisory or legal opinions directed to particular parties about circumstance-specific questions, and correspondence with individuals or entities;

(8) Legal briefs, other court filings, or written positions taken by the Access Board or its legal counsel in administrative, legal, or enforcement proceedings;

(9) Access Board statements that do not set forth agency policy on a statutory, regulatory, or technical issue or interpretation of a statute or regulation, such as: speeches and individual presentations, editorials, media interviews, press materials, or congressional testimony by Access Board officials that does not set forth new agency regulatory policy;

(10) Contract solicitations and awards; and

(11) Access Board policies or guidance directed solely to agency employees, contractors, or other Federal agencies that are not anticipated to have substantial future effect on the behavior of regulated parties outside of the Federal Government.

(c) *Significant guidance document.* A type of guidance document that may reasonably be anticipated to:

(1) Lead to an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

### **§ 1155.3 Legal review by Office of General Counsel.**

The Office of General Counsel is responsible for ensuring that Access Board guidance documents comply with applicable laws, regulations, and other Federal authorities, including the procedural requirements established in this part. Agency guidance documents must be reviewed and cleared before issuance or publication by the General Counsel or his or her designee, upon written delegation.

### **§ 1155.4 Requirements applicable to all guidance documents.**

(a) *General.* Access Board guidance must be issued, published, and

modified or withdrawn in compliance with this part, as well as other applicable Federal statutes, regulations, or executive branch authorities.

(b) *Requirements.* In addition to its substantive or informational content, Access Board guidance must:

(1) Comply with all relevant statutes or regulations (including any statutory deadlines for agency action, absent exigent or unforeseen circumstances);

(2) Be written in plain and understandable English;

(3) Use the term "guidance";

(4) Include each of the following documentary elements, unless its nature or format makes inclusion impracticable (in which case, the document should conform to such element to the maximum extent feasible):

(i) Title;

(ii) Date;

(iii) Revision number (if applicable);

(iv) Unique document identification number;

(v) Identity of issuing agency or component;

(vi) Citation(s) of Federal laws, regulations, or other authorities being interpreted or applied;

(vii) Description of target audience;

(viii) Summary of subject matter near the top of the document; and

(ix) A disclaimer, stating: "The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies."

### **§ 1155.5 Public availability of guidance documents.**

(a) *General.* Subject to the exceptions provided in § 1155.2(b), all current, in-force guidance documents, including significant guidance documents, shall be made publicly available on a single, searchable web-based "guidance portal" on the Access Board website. Guidance documents posted on this portal should, to the maximum extent feasible, comply with the identification requirements specified in § 1155.4(b). The Access Board shall only cite, use, or rely on guidance documents that are listed on its guidance portal except to establish historical facts or similar archival information.

(b) *Portal requirements.* The Access Board guidance portal must include the following elements or features:

(1) A statement that guidance documents lack the force and effect of law, except as authorized by law or as incorporated into a contract;

(2) When proposed significant guidance is open for public comment in

conformance with § 1155.8, a notice informing members of the public how to submit comments or link to the appropriate electronic docket;

(3) The citation for, or link to, the procedural regulations concerning guidance documents set forth in this part; and

(4) A notice informing individuals how to submit requests for issuance, modification, or withdrawal of guidance documents, in accordance with § 1155.9.

### **§ 1155.6 Significance determinations.**

(a) *Agency requests.* The Access Board should make an initial, informal assessment concerning the "significance" of each proposed guidance document. The Office of General Counsel shall submit the proposed guidance to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) for a significance determination. The agency's request shall include, at minimum, a copy of the proposed guidance document, the agency's designation recommendation, and the bases for this recommendation.

(b) *OIRA significance determinations.* If OIRA determines that a guidance document is significant, the Access Board shall comply with the enhanced procedural requirements specified in §§ 1155.7 and 1155.8 prior to issuance. Otherwise, the Access Board may proceed to issue the guidance document after the Office of General Counsel has determined it complies with the requirements of § 1155.4.

(c) *Emergency situations.* When an emergency, statutory deadline, judicial order, or other conditions, require the Access Board issue significant guidance more quickly than otherwise possible under the procedures established in this part, the Office of General Counsel will notify OIRA, as soon as possible, and comply with applicable clearance requirements to the maximum extent feasible.

### **§ 1155.7 Additional requirements applicable to significant guidance documents.**

(a) *General.* Guidance documents deemed "significant" by OIRA must comply with the additional requirements specified in this section.

(b) *Additional requirements.* Significant guidance documents must:

(1) Satisfy the requirements in § 1155.4, which are applicable to all guidance documents;

(2) Be approved by the Chair of the Board, on a non-delegable basis;

(3) Be accompanied by a regulatory impact analysis for proposed guidance

that OIRA has determined to be economically significant;

(4) Be submitted to OIRA for coordinated review, along with, at minimum, a summary of the proposed guidance and documentation demonstrating compliance with applicable rulemaking requirements set forth in Executive Orders 12866, 13563, 13609, 13771, and 13777; and

(5) Comply with the notice-and-comment procedures prescribed in § 1155.8, unless the General Counsel or his or her delegate issues a written determination that these informal rulemaking procedures would be impracticable, unnecessary, or contrary to the public interest.

#### **§ 1155.8 Notice-and-comment procedures.**

The Access Board shall publish a notice of availability in the **Federal Register** with a public comment period of not less than 30 days, absent written determination by the General Counsel that a public comment period would be impracticable, unnecessary, or contrary to the public interest. After the close of the public comment period, the Access Board will also prepare a written response to any major concerns raised by commenters and make this response document publicly available on the Access Board website and/or electronic rulemaking docket (such as regulations.gov), either before the guidance is finalized or upon publication.

#### **§ 1155.9 Petitions for modification or withdrawal.**

Any person may petition the Access Board, in writing, for issuance, modification, or withdrawal of an agency guidance document. Requests should be addressed to the Office of General Counsel, describe the action(s) the requester wishes the agency to take with regard to existing or new guidance, and explain the bases for this request. Requests may be submitted by email ([OGC@access-board.gov](mailto:OGC@access-board.gov)) or regular mail (Office of General Counsel, 1331 F Street NW, Suite 1000, Washington, DC 20004). The Office of General Counsel will review the request and respond in a timely manner, which, typically, is within 90 days of receipt.

#### **§ 1155.10 No private right of action.**

This part is solely intended to improve the internal management of the Access Board. Nothing in this part is intended to, or does, create a private right of action against the United States, its agencies or other entities, its officers or employees, or any other person. Authority to enforce compliance with

this part is vested exclusively with the Board.

Dated: August 18, 2020.

**Gretchen Jacobs,**

*Interim Executive Director.*

[FR Doc. 2020–18411 Filed 9–18–20; 8:45 am]

**BILLING CODE 8150–01–P**

## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 21**

**RIN 2900–AQ61**

### **Elimination of On-the-Job Training and Apprenticeship Trainee Certification**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its regulations that contain the requirements for certification of attendance at on-the-job training and apprenticeship programs. This final rule adopts without change a proposed rule implementing a section of the “Veterans Apprenticeship and Labor Opportunity Reform Act” (VALOR Act), which eliminated the requirement that veterans and other eligible persons certify attendance at an on-the-job or apprentice training program prior to disbursement of a training assistance allowance. This final rule also eliminates the certification requirement for trainees in a program of apprenticeship or on-the-job training under chapter 30 of title 38, United States Code.

**DATES:** This rule is effective on October 21, 2020.

#### **FOR FURTHER INFORMATION CONTACT:**

Cheryl Amitay, Chief, Policy and Regulation Development Staff (225C), Education Service, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** On February 28, 2020, VA published a proposed rule in the **Federal Register** (85 FR 11906), which would amend its regulations that contain the requirements for certification of attendance at on-the-job training and apprenticeship programs. VA provided a 60-day comment period, which ended on April 28, 2020. We received 2 comments on the proposed rule. This rule adopts as a final rule, without changes, the proposed rule published in the **Federal Register** on February 28, 2020.

Section 3 of the “Veterans Apprenticeship and Labor Opportunity

Reform Act” (VALOR Act), Public Law 115–89, amended 38 U.S.C. 3680(c) to eliminate the requirement that veterans and other eligible persons who receive on-the-job training or apprenticeship training (“trainees”) certify attendance at on-the-job or apprenticeship training prior to disbursement of a training assistance allowance, thereby placing the responsibility solely on employers to certify attendance in on-the-job and apprenticeship programs. VA proposed to implement the VALOR Act by amending 38 CFR 21.4138(e)(2)(ii), 21.5133(b)(2), and 21.7640(a)(3)(ii) to remove references to the trainee certification requirement, revising the authority citation for §§ 21.4138(e) and 21.5133, and revising the information collection approval parenthetical at the end of §§ 21.4138, 21.5133, and 21.7640.

VA also proposed to revise 38 CFR 21.7140(c)(2)(ii) to eliminate the trainee certification requirement for trainees in a program of apprenticeship or on-the-job training under 38 U.S.C. chapter 30, add an authority citation for paragraph (c)(2), and revise the information collection approval parenthetical at the end of the section.

Both comments on the notice of proposed rulemaking that VA received were supportive in part or in whole and lauded VA for reducing the administrative burden on veterans pursuing apprenticeship or on-the-job training programs eligible for GI Bill benefits. One commenter pointed out that the rule codifies Congressional intent in enacting the VALOR Act and eliminates an obstacle to obtaining training. VA agrees with the commenter.

The other commenter stated that, because a trainee would no longer be required to sign a certification under the proposed rule, a disagreement could arise if the trainee does not agree with the training establishment or trainer’s calculation of hours. However, VA finds that there should rarely, if ever, be a discrepancy as to the number of hours earned by a trainee because the total amount of program hours is already prescribed in the established, documented training plan for the program. The periodic certification merely indicates to VA that the correct apportioned amount has been completed, *i.e.*, that the trainee remains in the program and has not terminated training. Indeed, Congress eliminated the dual certification requirement because experience had shown it to be unnecessary. H.R. Rep. 115–398, at 3–4 (2017). In the unlikely event a discrepancy does arise, VA would, of course, take appropriate steps to resolve the discrepancy with the trainee and the training establishment or trainer, and