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Airworthiness Directives (ADs) are substantive regulations issued by the Federal Aviation Administration in accordance with Title 14 of the Code of Federal Regulations (14 CFR) part 39. ADs are issued when (1) an unsafe condition has been found to exist in particular aircraft, aircraft engines, propellers, or appliances installed on aircraft, and (2) the condition is likely to exist or develop in other aircraft, aircraft engines, propellers, or appliances of the same type design. Once an AD is issued, no person may operate a product to which the AD applies except in accordance with the requirements of that AD.

The purpose of this Airworthiness Directives Manual is to provide procedures for the development, issuance, and distribution of ADs. This manual provides detailed processing procedures and will be updated and changes will be issued as necessary.

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SECTION 1. GENERAL RULEMAKING INFORMATION

1. COMPLIANCE WITH THE ADMINISTRATIVE PROCEDURE ACT: PREAMBLE

LANGUAGE. Airworthiness Directives (ADs) are substantive rules that must comply with the Administrative Procedure Act (APA), Title 14 of the Code of Federal Regulations (14 CFR) part 11 and the Department of Transportation (DOT) Regulatory Policies and Procedures. Two of the requirements of the APA, Sections 553(b) and (d), are of particular concern when drafting a rule.

a. Notice. Section 553(b) of the APA generally requires that notice of the terms or substance of a proposed rule be published in the Federal Register. The purpose of this requirement is to ensure that federal agencies thoroughly consider all information and opinions submitted by the public before any requirements are imposed. Notice is intended to improve both the quality of the regulations and their acceptability to the public.

b. Good Cause for "No Notice." Section 553(b)(3)(B) of the APA states that the notice provision (i.e., the publication of a Notice of Proposed Rulemaking) does not apply when the agency finds that, for good cause, notice and public procedure (i.e., prior public comment) are impracticable, unnecessary, or contrary to the public interest. "No notice" is an exception to the normal procedure. The finding and a brief statement of the reasons for it must be included in the preamble to the rule. A Notice of Proposed Rulemaking (NPRM) should be issued whenever safety considerations do not require the immediate imposition of action under an AD. The FAA's failure to act expeditiously does not, in itself, constitute good cause for "no notice" being given. Good cause is warranted only when one of the three following findings can be justified:

(1) Impracticability.

(a) Notice is IMPRACTICABLE when the proper execution of agency functions would be prevented if rulemaking procedures were followed. For example, if an accident investigation or other service experience indicates that action must be taken immediately to ensure the safety of the public, then it would be impracticable for the agency to follow the notice procedures. This is the justification used when an immediately adopted or Emergency AD is issued.

(b) The explanation of the unsafe condition in the Supplementary Information section of the AD preamble should address the urgency on which the finding of "impracticability" is based. The compliance time specified in the AD must be consistent with this finding. For example, since it generally takes at least 60 days to issue a final rule after the issuance of an NPRM, a compliance time of 60 days or less is consistent with a finding of impracticability. For a compliance time of more than 60 days, the finding may still be justifiable if the reason that earlier compliance is not required is explained in the Supplementary Information (e.g., short term unavailability of parts or scheduling problems). In addition, while not legally required, the FAA's internal handling of the issue should be consistent with a finding of impracticability; i.e., it is more difficult to justify a finding of impracticability if the FAA has not acted expeditiously in addressing the unsafe condition.

(2) Notice is UNNECESSARY when there is no particular public interest in a rule. This justification is used for publication of minor corrections, clarifications, and editorial changes. It may also be used for ADs affecting aircraft/products manufactured outside the United States that have U.S. type certificates, but where none of the affected aircraft or products are U.S.-registered. In this case, no person would be affected by the AD because only operators of U.S.-registered aircraft are required to comply with ADs; therefore, notice is unnecessary. However, ADs that are relieving in nature, provide an alternative

method of compliance, or are being removed from 14 CFR part 39 do not meet this test, and should be issued first as an NPRM, unless other circumstances are cited to justify "no notice."

(3) The PUBLIC INTEREST exception to the notice rule is considered supplementary to the first two categories. It generally requires that the rulemaking procedure shall not prevent an agency from operating and that, in the alternative, lack of public interest in a rulemaking action warrants an agency to dispense with public procedure. This is not an easy standard to satisfy apart from a determination of impracticability or lack of necessity and should not be used indiscriminately in order to avoid the full rulemaking process.

c. Public Comment.

(1) Section 553(c) of the APA requires that, once notice has been published, the public must be given time to comment on the proposed rule. While the APA does not prescribe any particular amount of time for a comment period to remain open, the DOT/FAA standard is 60 days, although a longer period may be more realistic in reaching the aviation community that does not read the Federal Register. If a proposed rule is noncontroversial or contains only technical considerations of little importance to consumers, a 45-day comment period may be used. A shorter period may be used only if it can be justified.

(2) The DOT Policies and Procedures require that opportunity for comment be extended whenever practicable, notwithstanding the exception in the APA. This includes solicitation of comment at the time of publication for both Emergency ADs and immediately adopted ADs. Order 2100.13, FAA Rulemaking Policies, also encourage public participation in rulemaking so as to "stimulate not only the acceptance of a rule, but also input which can lead to improvement in the quality of the rules," including the consequences of an individual rulemaking action. With regard to the value of comments from the general public, the order states that:

The public generally, as distinguished from those segments which are directly affected by our standards and regulations, is not organized to participate in the consultative [informal] process. Yet it is vitally affected and holds a high stake in the results of our regulatory actions.

(3) For these reasons, public participation should be solicited routinely in each Advance Notice of Proposed Rulemaking (ANPRM), NPRM, or final rule that did not previously provide opportunity for comment.

d. Publication. Section 553(d) of the APA requires that a final rule be published in the Federal Register at least 30 days before it becomes effective; however, more than 30 days is always acceptable. This period is provided to give affected persons a reasonable time to comply with the new rule before they may be found in violation and penalties imposed. This period is even more important for rules that were not preceded by an NPRM; in such cases, the 30-day period is the only time the public has to learn of the existence of the rule and let the FAA know about the probable effect of the rule before it becomes mandatory. The APA does allow for the following exceptions to the 30-day rule:

- (1) For a substantive rule that grants or recognizes an exemption or relieves a restriction. (2) For an interpretative rule or statement of policy.
- (3) For good cause found and published with the rule, as provided by the agency.

e. **Good Cause Distinctions.** There are good cause exceptions both to the notice requirement of Section 553(b)(3)(B) and the publication requirement of Section 553(d). While similar considerations must be made in using the good cause exceptions, care should be taken to distinguish the two findings. Moreover, the APA requires that statements supporting the findings of good cause be made by the agency as part of the rule when it is published. The judgment of the agency in finding good cause is subject to judicial review and should not be taken lightly.

f. **Scope.**

(1) The purpose of the APA notice requirement is to ensure that the public is provided a reasonable opportunity to comment on the substance of a proposed rule. The courts have routinely recognized the importance of compliance with this requirement by federal agencies. If a final rule contains a provision that was not in the proposed rule, and that provision increases the burden on the public, the rule will not comply with this notice requirement. The changed material would be considered to be "beyond the scope of the notice." Such changes include (but are not limited to) adding or significantly changing required actions, expanding applicability, and reducing the compliance time.

(2) On occasion, a comment that exceeds the scope of the notice may raise an issue that should have been addressed in the proposed rule. If such a change is necessary, whether based on a comment or other new information, three options are available:

(a) The FAA may issue a supplemental notice of proposed rulemaking (SNPRM), allowing the public to comment on the changes before adopting a final rule; or

(b) The FAA may adopt a final rule that is "within the scope" of the original proposal and immediately issue a new notice proposing to supersede or otherwise amend the final rule with a new rule that incorporates the necessary changes; or

(c) If the changes themselves address an urgent safety problem sufficient to support a finding of "impracticability," the changes can be included in the final rule, and the final rule issued as an immediately adopted rule (that is, a "Final rule, request for comment"). In this case, the Supplementary Information section should include both the discussion of comments submitted regarding the proposed rule and the required finding of impracticability relating to the changes. Comments limited to the new issue should also be solicited.

(d) Regarding options (2)(a) and (2)(b), the choice depends on the urgency of the actions originally proposed in the notice, not the issue raised by the commenter. If the actions are not urgent, the first option is appropriate; if the actions must be taken as soon as possible, the second option should be chosen.

(3) If the change involves a terminating action for a repetitive inspection or operating limitation, the final rule can be revised to include the terminating action as an option, since optional actions do not impose additional burdens. If the terminating action must be made mandatory, it can be mandated by a subsequent rulemaking, beginning with an NPRM.

2. ECONOMIC ANALYSES. The cost impact of each AD must be considered in various ways, such as the direct cost to operators to accomplish the AD, whether it will have a substantial impact on small entities, and whether it will affect the relationship between the federal government and smaller government entities.

a. Cost of an AD.

(1) In general, the direct cost to an operator is the most significant economic consideration of an AD. The cost is usually expressed as the number of work hours required to complete the AD (or one inspection cycle, if appropriate) at the current established burdened labor rate plus the cost of parts. (The burdened labor rate includes the actual labor cost, overhead, administrative expenses, etc., and is the rate established for use by the Office of Aviation Policy, Plans, and Management Analysis (APO). The labor + parts cost may be expressed in terms of individual airframes (or engines or products), but a total should be given for the entire affected U.S.-registered fleet. This total is used to determine whether the AD is a "significant regulatory action" rule under Executive Order 12866 or a "significant rule" under the DOT Regulatory Policies.

(2) The following should be considered when determining the cost figures to be used in an AD:

(a) The numbers must "add up"; i.e., the number of hours (at the burdened labor rate), cost of parts, and the total number of registered aircraft must, using simple addition and multiplication, equal the number stated as the total cost. Do not build in other unstated factors; the number should represent the FAA's best estimate. The public must be able to determine how the FAA reached the total.

(b) Do not make unstated presumptions concerning how many aircraft have already undergone the work required by the AD. If such numbers are actually known, they may be stated as a means of reducing the total cost, but all registered aircraft must be accounted for in the AD.

(c) If the AD calls out more than one category of aircraft based on the work to be done, be sure the cost to each category is stated separately.

(d) If a manufacturer's warranty covers some or all of the costs of an AD, calculate the costs and state them in the preamble as if no warranty program existed. Then, if applicable, include an additional statement describing the portion of the costs that may be covered by the warranty program, and reduce the cost estimate accordingly.

(e) Calculations need not go beyond initial labor and parts costs. It is not necessary to include costs that operators may incur in individual maintenance scheduling or costs that operators might pass on to others.

b. Costs vs. Benefits.

(1) DOT Regulatory Policies and Procedures (DOT Order) require the preparation of a Regulatory Analysis to determine whether a proposed or final rule is significant. Under the DOT Order, a rule is significant if one or more of the following applies:

(a) It is not an emergency AND will have an annual effect on the economy of \$100 million or more;

(b) Will have a major effect on the economy in terms of costs, production, or consumer prices;

(c) Will result in major cost increases for industry, government agencies, or specific geographic areas;

- (d) Will have a substantial impact on the U.S. balance of trade;
- (e) Concerns a matter on which there is substantial public interest or controversy; (f)

Has a major impact on other operating administrations, parts of the Department, or another federal agency;

- (g) Has a substantial effect on state and local government;
 - (h) Has a substantial impact on a major transportation safety problem; (i)
- Initiates a substantial regulatory program or change in policy;
- (j) Differs substantially from international requirements or standards; or
 - (k) Otherwise involves important Department policy.

(2) In general, a full cost-benefit analysis will not be accomplished for each AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost beneficial. When the FAA makes a finding of an unsafe condition in an AD, it means that this cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost beneficial and does not add an additional regulatory requirement, a full cost-benefit analysis for each AD would be redundant and unnecessary.

c. Regulatory Flexibility. Every AD must contain a determination of the rule's economic impact on small entities. Very few ADs will ever reach the level of having a "significant economic impact, positive or negative, on a substantial number of small entities," since either most aircraft operators do not meet the agency's criteria for small entities, or because the cost of an individual AD usually does not exceed the agency limit for significant impact. Questions regarding the exact numbers to be used in determining what constitutes a small entity or a significant cost should be directed to Directorate Counsel or the Regulation and Organizational Analysis Division, APO-300. A statement concerning the impact, or lack of it, must be included in the certification statement in each AD.

d. Federalism Assessment. Executive Order 13132 requires that every rule be assessed for its impact on state and local government. Generally, ADs will not have an effect on other government entities. Aircraft operated by government entities are normally considered public aircraft and are not subject to the Federal Aviation Regulations. A "boilerplate" paragraph regarding this required finding is included in the AD Formats.

e. Environmental Assessment.

(1) The National Environmental Policy Act (NEPA) requires that all regulations be considered for their environmental impact. Each regulation must undergo an environmental assessment (EA), which results in a Finding of No Significant Impact (FONSI) or a full Environmental Impact Statement (EIS).

(2) In Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, ADs are categorically excluded from routine environmental assessments. However, since any rulemaking

action may be found later to have an environmental impact that requires a formal finding, the possibility of such impact should be kept in mind whenever AD action is considered. Questions concerning the extent of suspected environmental impact should be brought to the attention of Directorate Counsel.

f. Energy Assessment. Section 82.a. of Order 1053.2, Aviation Energy Policy, requires an energy assessment to be conducted and made part of agency actions that affect aircraft operators. In general, ADs are not expected to have the kind of energy impact that would require energy assessments to be made. As with all rulemaking, however, drafters should be aware that an AD that affects aircraft operations might reach the level where an energy assessment would be prudent. However, Section 82.c. of the order states:

Energy conservation does not take precedence over the safety mandates of FAA, but whenever possible, the agency's safety oriented actions will coincide with conservation practices.

3. EX PARTE CONTACTS.

a. Definition. An ex parte contact is any communication between the FAA and a party outside the government related to a specific rulemaking proceeding, before that proceeding closes. A rulemaking proceeding does not close until the final rule is published. "Ex parte" is a Latin term that is interpreted to mean "one sided," and indicates that not all parties to an issue were present when it was discussed. Because some interested persons, including the general public, are excluded from an ex parte communication, such a contact may give rise to the appearance of impropriety. Written comments submitted to the docket are not ex parte contacts because they are available for inspection by all members of the public.

b. Scope. Whether ex parte contacts are initiated by the FAA or by a member of the public (including affected industry), they are improper if they affect the basic openness and fairness of the rulemaking process. Because of this possibility and because of the possible appearance of impropriety, DOT policy on ex parte contacts is very strict. This policy, however, does not significantly restrict the gathering of information needed for the issuance of an AD.

c. DOT Policy.

(1) General. It is DOT policy to encourage full public participation in rulemaking actions and to provide for open development of rules. (See DOT Order 2100.2, Policies for Public Contacts in Rulemaking.) The DOT policy does provide for appropriate ex parte contacts as follows:

To assure adequate public participation, apart from the opportunity to respond in writing to a notice of proposed rulemaking and to appear and be heard at a hearing... [p]ersons directly responsible for a rulemaking action should undertake such contact with the public as will be helpful in the resolution of questions of substance and justification, and should be receptive to proper contacts from those affected by or interested in the proposed action.

The DOT General Counsel has indicated specifically that it is permissible to talk to the public to obtain any up-to-date information needed for the rulemaking action or to clarify written comments. In the development of ADs, this applies to the specific need to obtain a thorough understanding of the products involved, which frequently can be obtained only from the manufacturer. Similarly, only the manufacturer and the aircraft operator may have information needed to thoroughly evaluate the cost impact of the action under consideration.

(2) Disclosure. While the DOT order recognizes the importance of ex parte contacts, it also contains a strict mandate to disclose these contacts:

To discharge the Department's obligation to conduct its rulemaking activities in a public manner, interested members of the public should be afforded adequate knowledge of such contacts. This is necessary to assure the equal opportunity to which all interested members of the public are entitled in making their views known to the Department. Knowledge of the substance of contacts with individual members of the public may be important for consideration by other interested members of the public as knowledge of individual written comments. Further, if such knowledge is not made available, the Department may be deprived of informed and valuable comment.

(3) Recording Contacts. In implementing this order, the DOT General Counsel has directed that each communication that could influence the decision maker be reflected in the rulemaking record (the docket or the preamble). There are two reasons for this requirement: (1) that the record can be as complete as possible to permit full judicial review; and (2) that all members of the public have equal access to the information available to the decision maker and, therefore, an equal opportunity to present their views.

(4) Proprietary data. The obligation to provide equal access does not require the disclosure of proprietary information; the disclosure of the substance of influential communications is sufficient.

d. Permitted Contact. The kind of ex parte contacts permitted and the procedures to be followed depend on when the contact occurs in the rulemaking process. The following is a discussion of the requirements of DOT policy at each phase of rulemaking. A summary of these requirements may be found in the chart at the end of this paragraph.

(1) Before issuance of an ANPRM, NPRM, Supplemental NPRM, or immediately adopted final rule.

(a) Authorized contact. The DOT policy authorizes ex parte contacts that are needed to obtain technical and economic information. Each contact that influenced the rulemaking should be noted in the preamble, unless it would be unreasonable to do so. For example, when the development of an AD involves numerous ex parte contacts to gather information from manufacturers and operators, in most cases it is appropriate to refer generally to the gathering of such information, and unnecessary to discuss individual contacts in the preamble to an AD. When these contacts are not noted in the preamble, a report discussing each contact or group of related contacts should be placed in the docket when it is opened.

(b) Recording contacts. A record of a contact or series of contacts need only be made when it is determined that the contact influenced the agency's action. Thus, a record need not be made of every routine contact with a manufacturer and operator concerning matters such as service difficulties unless it is determined that the contact influenced the issuance of an AD. The record of a contact or series of contacts may be made at any time after the contact, but must be made before issuance of the AD.

(c) Statement in text. The preamble to an NPRM or an immediately adopted final rule should contain the following statement, if individual contacts are not discussed:

In preparation of notices and immediately adopted final rules without notices, it is the practice of the FAA to obtain technical information and information on operational and economic impacts from

manufacturers and aircraft operators. A discussion of each contact or series of contacts influencing the agency's position may be found in the rulemaking docket.

(d) Scope. The DOT General Counsel cautions that the closer in time a communication is to the issuance of a notice, the more likely is the appearance of improper influence. Therefore, after the agency has gathered all the technical, operational and economic information it needs for making a well-informed decision and the rulemaking document is in the final phase of development, ex parte contacts should be avoided. DOT guidance, however, does not preclude the agency from obtaining needed information, even if the need occurs in the last stages of developing the rule. Questions about specific contacts may be discussed with Directorate Counsel. Because of the number of ex parte contacts that are often needed in the development of ADs, specific discussion of each contact may be impractical; however, the general conduct of these contacts should be discussed with the Directorate Counsel. Also, unusual or difficult circumstances should be discussed with Directorate Counsel before the meeting, if possible.

(2) During the comment period.

(a) Contact limited. Ex parte contacts are strongly discouraged, since requests for information can be submitted in writing or at a public meeting. The only information that should be given out is that contained in the proposed rule, and any other information made generally available during a public meeting. Other information, such as facts not presented in the NPRM or at a public meeting, or the agency's preliminary thinking on the final rule, should not be discussed.

(b) Disclosure. Persons who contact the agency by phone, email, or in person to discuss the proposal should be advised that the proper avenue of communication during the comment period is by written comment submitted to the docket. When the agency determines that it would be helpful to meet with a person or group during the comment period, the meeting must be announced in the Federal Register and all interested persons invited.

(c) AD docket material. Summaries of all substantive oral communications and copies of materials provided at any meetings that could affect the agency position must be placed in the docket. Individuals who have made oral comments at meetings should be encouraged to also submit those comments to the docket in writing. In a formal public meeting, the testimony is usually recorded and the transcript added to the docket.

(d) General requests. Persons who contact the agency simply to obtain information regarding the proposal may be provided with information that has already been made available to the general public. No record of such a contact is required.

(3) After the comment period has closed.

(a) Written material. Any written communications received should be placed in the docket. Inform persons who wish to file "late filed" comments that, in accordance with 14 CFR part 11, their comments will be considered to the extent that consideration does not cause undue expense or delay.

(b) Later meetings. If the agency determines that it would be helpful to meet with a person or group after the close of the comment period, the meeting must be announced in the Federal Register, and consideration should be given to reopening the comment period. Substantive oral communications in any other form are discouraged by DOT policy; however, if it is discovered that such a contact has occurred, DOT policy further provides that a summary of the contact must be placed in the docket. Such a summary must be accompanied by copies of any material distributed during meetings

between the FAA and interested parties. This material should be placed in the docket if it could be perceived as influencing the rulemaking process.

(c) Oral comments. If an ex parte communication that could substantially influence the rulemaking is received after the comment period has closed, DOT policy provides that "the comment period may have to be reopened." Guidance from the General Counsel cautions:

[O]ral communications that occur after the end of a comment period must be carefully reviewed to see whether reopening of the comment period will be required. For example, if the significance of the oral communication or the opportunity it offered the commenter to rebut comments received before the close of the comment period will result in that commenter having an unfair advantage, the comment period should be reopened. Even if summarized in writing and placed in the docket, oral comments made after the end of the comment period tend to be hidden because the public generally has no reason to review the docket at this stage.

When the substance of a proposed AD is significantly changed as a result of oral communications after the comment period has closed, DOT policy and practice requires that the comment period be reopened by issuing a supplemental NPRM in which the reasons for the change are discussed.

(d) General policy. Because contacts after the close of the comment period may result in reopening the comment period, they should be avoided. However, important information should never be disregarded simply because it is late. Written comments received after the closing date do not require reopening the comment period unless the agency is substantially and specifically influenced by the comment.

e. International Airworthiness Authorities. Care should be taken particularly when communicating with international airworthiness authorities. While representing the official interests of their governments, they often represent the commercial aviation interests of manufacturers and operators in their countries as well. Such contacts, therefore, should be limited during any phase of the rulemaking process to exchanges of factual information or to exchanges that are needed for the purpose of harmonization. In the latter case, the international authority should be cautioned not to distribute information or documents on the proposed rules to private individuals.

f. Form of Report for the Docket. If it is apparent that a contact may be influential in the development of an AD, the FAA representative should advise all participants to the discussion that a record of the communication will be placed in the docket. The report of an ex parte contact need not be a verbatim transcript of the communication. However, a mere recitation that on a stated day a meeting was held with listed persons to discuss a named general subject is inadequate. At a minimum, the report of the meeting or contact should contain the following: (1) the date and time of the meeting or conversation; (2) a list of the participants; (3) a summary of the discussion (more than a simple list of the subjects discussed); and (4) a specific statement of any commitments made by any DOT/FAA personnel. A copy of any documents discussed should be attached to the record. Any questions on preparing the record should be addressed to Directorate Counsel.

g. Advice from Counsel. Any questions concerning the propriety of an ex parte contact or the actions to be taken after a contact should be directed to Directorate Counsel or the Office of the Chief Counsel (AGC). Ex parte contacts must be handled correctly to prevent unwarranted delay and legal challenge.

h. Release of the Text of Rulemaking Documents. It is the policy of the agency and the DOT not to provide parties outside the agency with the text of rulemaking documents under consideration. It may be necessary to discuss possible specific regulatory provisions under consideration in order to obtain information on technical, operational, and economic impacts needed for agency deliberations. However, disclosure prior to publication of the official text or preamble of a proposed or final rule is contrary to DOT policy because it may give the appearance that the agency is seeking approval of an outside party before issuing the AD, and may give an advantage to some parties over other members of the public, e.g., more time to prepare comments in response to the notice. For this reason, the public (including manufacturers and affected operators) should not have access to the text of a notice or final rule before it is published or put on display at the Office of the Federal Register (OFR). The only exception to this policy is the strictly limited discussion of specific regulatory language needed to obtain the information noted above. Discussion of specific language should be avoided unless needed information cannot be obtained without discussion of the precise technical language to be used. When necessary, discussion and disclosure should be limited to the minimum amount of rule text necessary to accomplish the task. Preamble text is not to be distributed before publication.

**FIGURE 1
EX PARTE CONTACT SUMMARY**

1. Before issuance of an ANPRM, NPRM, Supplemental NPRM, or immediately adopted final rule.

Permitted:	Contacts by the FAA to gather needed factual (technical or economic) information.
Required:	Discussion in preamble or record in docket.
Improper:	Communications intended to influence agency decisions beyond providing factual information.
Caution:	As issuance approaches, all contacts should be restricted unless clearly necessary. Any appearance of seeking industry "concurrence" should be avoided.

2. During public comment period.

Permitted:	Contact made only by the FAA and only to clarify the facts presented in a written comment.
Required:	All ex parte contacts must be recorded in the public docket. All meetings must be open to the public and announced in the <u>Federal Register</u> .
Improper:	All oral contacts other than those permitted above.

3. After comment period closes.

Permitted:	Contact made only by the FAA and only to clarify the facts presented in a written comment or to obtain needed factual information needed for the preparation of the final rule. Inquiries related to procedure only (closing dates, addresses) are proper at any time.
Required:	All ex parte contacts must be recorded in the public docket. If an ex parte contact substantially influences the agency's position, the comment period must be reopened. FAA counsel should be consulted. All meetings must be open to the public and announced in the <u>Federal Register</u> . Reopening the comment period must be considered.
Improper:	All oral contacts other than those permitted above.

4. EXCHANGE OF CONTINUING AIRWORTHINESS INFORMATION. Amendment 94 to International Civil Aviation Organization (ICAO) Annex 8, Airworthiness of Aircraft, Section 4, obligates the United States to exchange continuing airworthiness information with ICAO member states. Bilateral agreements between the United States and other countries also require the exchange of AD information. This requirement is met by ensuring that ICAO Member States that have notified the FAA of the inclusion of a U.S.-manufactured aircraft on its registry will be sent all applicable ADs. AIR-140, is the focal point for the exchange of airworthiness information with international civil aviation authorities.

5. - 19. RESERVED.

SECTION 2. CATEGORIES OF ADs

Airworthiness Directive rulemaking may take one of three forms:

20. NOTICE OF PROPOSED RULEMAKING (NPRM) FOLLOWED BY A FINAL RULE. This is the standard procedure. After an unsafe condition is discovered, a proposed solution is published as an NPRM, which solicits public comment on the proposed action. After the comment period closes, the final rule is prepared, taking into account all relevant comments received, with the rule perhaps being changed as warranted by the comments. If no changes were made or no comments were received, the final rule must state this in the preamble.

21. IMMEDIATELY ADOPTED RULE (WITH REQUEST FOR COMMENTS).

a. In certain cases, an unsafe condition may warrant the immediate adoption of a rule without prior notice and solicitation of comments. This is an exception to the standard procedure, and it should not be used indiscriminately. Compliance times should not be shortened artificially in order to fit the criteria of an immediately adopted rule and bypass full rulemaking procedure.

b. The APA does not set out any time limit for a rule to qualify for immediate adoption. In general, it should only be used when the time in which the action is required is too short to allow the time necessary for public comment and the subsequent publication of a final rule.

c. In some cases, the corrective action for an unsafe condition that warrants an immediately adopted rule involves both a short-term interim action (e.g., repetitive inspections or operating restrictions) and a longer-term terminating action (e.g., modification). In these cases, since the notice exceptions are narrowly construed, the APA requires that EACH requirement be analyzed separately to determine whether notice is required. Therefore, the terminating action may be included in an immediately adopted rule only if an independent finding of "impracticability" can be made with respect to it. In other words, the APA does not permit "bootstrapping" a long-term requirement into an immediately adopted rule.

(1) For example, if the interim action establishes an acceptable level of safety so that the terminating action is not urgent (e.g., a compliance time of one year), the FAA can give the public the chance to comment on the requirement for the terminating action, and the APA requires the issuance of an NPRM before mandating it. (The immediately adopted rule can include the terminating action as an OPTION.)

(2) If the level of safety established by the interim action is inappropriate for long-term operation, so that the time by which the terminating action must be accomplished is too short to allow for public comment (e.g., within 60 days), then a finding of impracticability is justified for the terminating action, and it can be included in the immediately adopted rule.

d. As discussed previously, DOT and FAA policies require that public comment be solicited in immediately adopted final rules. A published disposition of the comments is necessary when a comment warrants a change to the final rule, or when a significant issue is raised that should be addressed (even though the final rule is not being changed). Dispose of other comments either by a statement signed by the reviewing engineer indicating that no further action or response is necessary or by a written response sent directly to the commenter from the issuing office. In either case, a copy of both the comment and either the signed statement or the written response must be retained in the docket file.

e. Remember that when an AD has not been preceded by an NPRM, the "good cause" findings required under Section 553(b)(3)(B) of the APA must be made and stated in the preamble. Since the effective date is fewer than 30 days after publication, the requirements of Section 553(d) must also be satisfied and that "good cause" finding stated separately.

22. IMMEDIATE SAFETY-OF-FLIGHT RULES (EMERGENCY ADs). When an unsafe condition exists that requires immediate action on the part of owners/operators, the AD may be issued as an Emergency AD. The following issues should be considered when issuing an Emergency AD:

a. When an AD is issued under this justification, the AD is effective ONLY to the people who actually receive it. This is known legally as "actual notice"; those who do not physically receive the AD do not have to comply with it, even if they hear about it.

b. Follow-up publication in the Federal Register is critical to make the AD effective to all persons. Publication should take place as soon as possible after the Emergency AD is sent out, and at least within 30 days. Other than very minor corrections (such as obvious typographical errors) and the addition of boilerplate, standard format and material required for incorporation by reference, the version published in the Federal Register as a final rule MUST BE IDENTICAL to the Emergency AD, or serious legal consequences could result. For example, a follow-up publication that differs from (but does not supersede) the original creates two classes of persons required to comply: those who got the Emergency AD and those who did not. It is difficult to predict what the legal outcome of such a situation might be, but the courts would have to deal with the FAA promulgating conflicting regulations. The existence of two different corrections to the same unsafe condition is logically incompatible, and it must be presumed that the first one was insufficient or not as effective as the revised version. Further, the FAA could be creating another unsafe condition by causing such a situation to occur. This is not the place to "take a chance" and correct or change any feature of an AD.

c. Follow-up publication of an Emergency AD is normally issued as an immediately adopted final rule, and must contain the "good cause" findings required by Sections 553(b)(3)(B) and 553(d) of the APA. Failure to publish the original version and make it effective to all persons leaves an "open" condition in the rules and causes confusion for those who must comply; causes legal problems in enforcement; and could cause logistical problems in AIR-140's indexing and tracking of ADs. These situations can best be avoided by the immediate publication of the final rule after the Emergency AD is issued, i.e., before any new information is discovered. To expedite publication, Directorates are strongly encouraged to prepare a final rule version of the AD at the same time as the Emergency AD version.

d. In the event that circumstances warrant a substantive change to an Emergency AD before the final rule is published, one of three options may be chosen:

(1) A final rule version that is identical to the Emergency AD can be published using the boilerplate format for a "final rule; request for comments." This rule is effective to all persons except those who received the originally issued Emergency AD. Subsequent to issuing that final rule, a second, new AD that incorporates the changes can be issued that would be effective to all persons.

(2) A new immediately adopted rule that contains the corrected information may be issued as a rule that supersedes the Emergency AD. This rule should use the boilerplate format designated as "immediate adopted rule - supersedure of existing AD." This rule will be effective to all persons.

(3) An Emergency AD that supersedes the existing Emergency AD followed by Federal Register publication of the "final rule; request for comments." may be issued.

23. - 29. RESERVED.

SECTION 3. CHANGES TO PREVIOUSLY ISSUED ADs

30. GENERAL. When a previously issued AD is changed, it is issued as a correction, a revision, or a supersedure, depending on the nature of the material being changed. Although this information is presented in terms of final rules, it may be used for NPRMs. The tables at the end of this section can be used to determine what type of change is being effected. When using the table or the information contained in this paragraph, there are three considerations to keep in mind:

a. The first is whether the material being changed was an error; that is, the material published was incorrect. If the material was correct as published but now must be changed, it is classified as a change.

b. The second consideration is whether the information is substantive or nonsubstantive; that is, whether it affects the substance of the AD.

c. The final consideration is the effect the change will have on the AD system and the owners/operators affected by the AD.

31. CORRECTION ADs (NONSUBSTANTIVE CORRECTIONS). The simplest form of an AD change is a correction of nonsubstantive material, i.e., the change has no effect on compliance with the AD. An AD may require correction of an error whether it was a nonsubstantive FAA error or a printing error in the Federal Register. Correction procedures are as follows:

a. If a nonsubstantive error is discovered in an AD before it is placed on public display at the Office of the Federal Register (OFR), it may be recalled for correction. (There is a limited opportunity for the OFR to make minor corrections that are phoned in without the document being returned.) If the AD is recalled, be sure that all copies of the AD that have been distributed are called back.

b. If a nonsubstantive error is discovered after the document is on display at the OFR, but before it has been published, the OFR should be alerted to cancel the publication. The document can only be removed from public display and returned to the agency after a letter indicating the reasons for withdrawing the document is received at the OFR. Note that the withdrawal letter will be put on display with the document that is being withdrawn.

c. If a nonsubstantive error is discovered in the published version of the document, determine whether it was an error submitted in the original document or a printing error that occurred at the Government Printing Office (GPO).

(1) If the OFR or GPO made the error, they will publish a correction upon request. This correction may be requested by telephone; the person calling the OFR will be asked to give his/her name as the submitter of the correction for OFR records.

(2) If the error is the FAA's and it is one that is nonsubstantive, a correction document must be issued. The correction document must be cross-referenced to the AD document by amendment and docket number (the procedure is different for substantive errors). The ACTION line in the heading should read "Final rule; correction" and the Federal Register citation of the published rule must be given in the Supplementary Information portion of the preamble to the AD. The summary paragraph and the supplementary information sections need discuss only the error and present the corrected information. The entire rule need not be republished in the Federal Register.

(3) A correction AD does not get a new amendment number or a new AD number. This is the reason that corrections are limited to nonsubstantive errors. Any change that has to be able to be tracked (i.e., affects compliance with the AD) must be issued as a revision or supersedure.

d. Correction of a substantive error must be issued as either a supersedure or a revision.

32. SUPERSEDING ADs.

a. With a few notable exceptions, a substantive change to an AD should be issued as a supersedure. Substantive changes and corrections are those made to any instruction or reference that affects the substance of the AD, and may include part numbers, service bulletin and manual references, compliance time, expanded applicability, methods of compliance, corrective action, inspection requirements, and effective dates.

b. Because some maintenance records historically do not include the AD revision number, supersedure is appropriate whenever it is necessary to ensure that maintenance records clearly identify the version of the AD with which an operator has complied. For example, if an AD expands the scope of an inspection, the new AD number required for a supersedure will be recorded, indicating the version complied with. In general, whenever there is an additional (or different) requirement imposed by a change to an AD, the change should be issued as a supersedure.

c. Because superseding ADs tend to command more attention by operators than revisions do, an AD that expands applicability is usually issued as a supersedure. This helps prevent operators of newly affected products from overlooking the expansion of applicability.

d. If an error occurs in a substantive portion of an AD, consider the following:

(1) If it is POSSIBLE to comply with the rule as published, a superseding AD should be issued as an immediately adopted final rule if it meets the proper criteria (usually, notice will be unnecessary because the error is obvious). The heading would be "Final rule; request for comment" in the ACTION line. The Supplementary Information section should include a discussion of each change, how each change affects compliance, and the fact that all other parts of the rule remain as originally published. Be sure to consider whether the change/supersedure affects compliance time.

(2) If it is IMPOSSIBLE to comply with the rule as published (such as the publication of a nonexistent part number), a revision AD should be issued as an immediately adopted final rule if it meets the proper criteria (usually, notice will be unnecessary because the error is obvious). The heading would be "Final rule; correction" in the ACTION line. The Supplementary Information section should include a discussion of each change, how each change affects compliance, and the fact that all other parts of the rule remain as originally published. Be sure to consider whether the change affects compliance time.

e. If a change must be made to a substantive portion of an AD, the changed rule should be issued as a proposed superseding rule (NPRM) unless it meets the criteria of an immediately adopted rule (an Emergency) or one of the criteria that allows a revision to be proposed.

f. A superseding AD must comply with all of the requirements of a new AD including notice, opportunity for comment, incorporation by reference, and any other regulatory requirements, including any new requirements effective since the promulgation of the rule. Substantive changes and corrections are those made to any instruction or reference that affects the substance of the AD, and may include part numbers, service bulletin and manual references, compliance time, expanded applicability, methods of compliance, corrective action, inspection requirements, and effective dates.

g. Keep the following in mind when an AD is being superseded:

(1) The summary and supplementary information sections of the preamble must indicate that a previous AD is being superseded. The information must also be added to the product identification statement at the beginning of the AD text.

(2) Where appropriate, credit should be given for work accomplished under the superseded AD. When restating old compliance dates, be careful to limit them to the previous requirements only. When applicability is increased, old compliance dates should not be used. On the other hand, it is also important to make sure that provisions of the previous AD that are intended to remain in effect are not omitted inadvertently. A careful "side-by-side" comparison of the previous AD and the new AD draft is essential.

(3) Remember that the instruction to be given in the amendatory language must be given in the terms acceptable to the OFR (see Section 11 of this Manual). Supersedure is an internal FAA term. The amendatory language should read:

Section 39.13 is amended by removing amendment number 39-0000 (999 FR 12345, February 30, 1999,) and adding a new airworthiness directive, amendment number 39-0001, to read as follows:

h. A superseding AD gets a new amendment number and a new AD number; the previous AD is deleted from the Federal Register system. RGL compiles superseded ADs and the FAA has access to these through that database. At this time, the public does not have access to superseded ADs.

33. REVISED ADs. In some instances, supersedure requires additional operator recordkeeping that may not be warranted by the nature of the change to an AD. Where the version of an AD being complied with is not at issue, revision may be appropriate. However, if the new AD imposes new requirements, it must be issued as a supersedure even if it otherwise meets the criteria described below.

a. Generally, revisions are used to issue necessary changes in material that is nonsubstantive in nature. Examples include a change in the address where a service bulletin is available, a change in the name of the contact person, or something equally nonsubstantive.

b. In addition, an AD may be revised if the change is relieving in nature, such as the addition of an optional terminating action. While this would normally be viewed as a substantive change requiring a supersedure, the reasons for requiring a supersedure do not apply. In the case of an optional terminating action added to an AD that continues to require a repetitive inspection, failure to record the correct revision number is not critical to compliance. The same required inspection must be performed under all revisions; compliance with an earlier version would have no effect on safety.

c. The third use of a revision is for reduced applicability. Because this is a type of relieving AD, it is not critical to record a new AD number.

d. The fourth use of a revision is to correct substantive errors that cause compliance to be impossible. For example, an AD that requires the installation of a nonexistent part (no such part number) is impossible to comply with, and the issue of whether the proper revision number is recorded is not critical to compliance.

e. Revised ADs must retain their original paragraph designations because maintenance record entries that refer to specific paragraphs will be incorrect if the information is moved or replaced. A change in the designation of a paragraph that contains a substantive requirement requires the issuance of a superseding AD.

f. The full text of a revised AD must be redistributed to owners/operators.

g. A revised AD gets a new amendment number, but retains its AD number with the addition of the revision number, e.g., 2002-14-03 R1.

34. DETERMINING THE TYPE OF "CHANGING" AD TO ISSUE

FIGURE 2

<u>Type of Error</u>	<u>Type of Action</u>	
Nonsubstantive	Correction (Final rule; correction)	Revision (Final rule or NPRM)
Substantive	Supersedure (Final rule; correction)	Supersedure (NPRM, or immediately adopted rule, if emergency exists)

FIGURE 3

The following chart lists the most common reasons for changing a previously issued AD and the type of AD action that should be considered.

<u>TYPE OF CHANGE</u>	<u>REVISION</u>	<u>SUPERSEDURE</u>	<u>CORRECTION</u>
Nonsubstantive Correction			X
Expanded Applicability*		X	
Reduced Compliance Time*		X	
Additional Inspection(s)*		X	
Mandatory Terminating Action*		X	
Reduced Applicability+	X		
Extended compliance time+	X		
Optional Inspection Method+	X		
Optional Terminating Action+	X		
Substantive correction - impossible**	X		
Substantive correction - possible**		X	

* Any AD that imposes a new requirement, of which this is an example, is issued as a supersedure. If an AD imposes any additional requirement it should be issued as a supersedure, even if other portions of the AD are considered relieving.

+ A relieving AD, of which this is an example, should be issued as a revision.

** If it is impossible to comply with an AD (one that needs to be changed), as in the case of a nonexistent part number, the new AD may be issued as a revision. If it is possible to comply with an original AD, as in the case of an existing but incorrect part number, the AD is issued as a supersedure.

35. AD REMOVAL. Airworthiness Directives that are no longer valid should be removed from the system; this is sometimes referred to within the FAA as a "rescission." Removal may be an appropriate action if the information the AD was based on is found to be in error. Keep the following in mind when removing an AD:

a. Check whether the AD being removed mentions or affects another AD in the system.

b. Be sure that the removal of the AD will not leave an unsafe condition unresolved.

c. The fact that an AD has been complied with by all owners/operators does not make the AD (the change in type design) unnecessary. Therefore, an AD must never be removed based on the representation of a manufacturer that all affected aircraft are in compliance with the AD, or the information that there are no affected aircraft left on the U.S. registry.

d. Removal of an AD requires a full amendment to 14 CFR part 39. The standard procedure is to issue the proposed removal as an NPRM and solicit public comment to ensure that the removal will not cause unanticipated problems by reinstating a former rule on an operator. Whether processed as an NPRM or justified as an immediately adopted rule, a removal must be processed as a rule change; it cannot be published as a notification of agency action.

36. - 39. RESERVED.

SECTION 4. FEDERAL REGISTER PUBLICATION OF ADs

40. GENERAL. All ADs are regulations accomplished by rulemaking and are subject to the APA requirement for Federal Register publication.

41. NOTICE OF PROPOSED RULEMAKING. A Notice of Proposed Rulemaking (NPRM) published in the Federal Register must be followed in a timely manner, after the comment period, by publication of either a "Final Rule" or a "Withdrawal of NPRM." An NPRM is considered "stale" after 16 months. Depending on the circumstances, a new NPRM or supplemental NPRM may be necessary. Consult with Directorate Counsel or the Airworthiness Law Branch, AGC-210, if this issue arises.

42. IMMEDIATE SAFETY-OF-FLIGHT AD. An immediate safety-of-flight AD, initially issued as an Emergency AD, must have its identical final rule version published in the Federal Register as soon as possible, and at least within 30 days, to avoid legal, compliance, and logistical complications. If the Emergency AD changes before it is published, reference paragraph 22.d. of this Manual.

43. IMMEDIATELY ADOPTED RULE. An immediately adopted rule may be issued when the proper circumstances and legal justification exist. It is issued as a "Final rule; request for comments."

44. ADVANCE NOTICE OF PROPOSED RULEMAKING. An Advance Notice of Proposed Rulemaking (ANPRM) may be issued and published in the Federal Register to solicit preliminary comments concerning a rulemaking action being considered by the agency. The procedure for preparing an ANPRM is similar to that for an NPRM, but the content of the document is not intended to be as detailed in presenting a regulatory proposal. Advance notices cannot be used as an alternative to a full NPRM; an NPRM must follow an ANPRM before a final rule is issued. In presenting a regulatory proposal, actual rule language is not required.

45. WITHDRAWAL OF DOCUMENTS FROM THE OFFICE OF THE FEDERAL REGISTER (OFR). Withdrawal of a document from the OFR is a serious matter that requires very quick action.

a. Documents generally go on display at 8:45 a.m. Eastern time the day after they are received at the OFR. Documents must be on display for at least 24 hours before they are published. The material is generally in the hands of GPO being typeset by early afternoon. If the document must be recalled, the following procedure is recommended.

(1) Call OFR Scheduling (202 523-3187) and inform them that a document needs to be recalled and a withdrawal letter is being faxed.

(2) Fax (202 523-6866) the withdrawal immediately after the call. Note: Never fax anything to the OFR without their knowledge that it is coming. They do NOT accept routine questions or requests for information or document review by fax.

(3) Send the original signed withdrawal request immediately by overnight mail.

b. Early and complete notification is the only way that the document can be withdrawn successfully (note that the agency may be charged for publication anyway). If the document gets published, follow the rules for publishing the correct document or withdrawing the erroneous document.

46. - 49. RESERVED.

SECTION 5. PUBLICATION OF REFERENCED MATERIAL

50. GENERAL. The APA requires that every regulation must be complete "on its face" when published. This means that all information necessary to comply with that regulation, including those portions drawn from technical reference material, should be contained therein. In 1946, the volume of regulations published in the Federal Register became overwhelming when all of this supplemental technical material was published. Congress provided that this material may be "incorporated by reference" into the regulations. In essence, it means that the material may be submitted with the rule to the OFR to be kept on file in the event that it is requested by an interested person, but that the material will not be published with the regulation. In addition, the law requires that such material be reasonably available to all persons affected by the rule without resort to the Federal Register.

For guidance on the implementation of incorporation by reference procedures, see Section 13 of this Manual.

51. - 59. RESERVED.

SECTION 6. AD RULES DOCKET

60. GENERAL. A docket must be maintained for each AD action in the office of the Assistant Chief Counsel for the originating rulemaking Directorate, or other location in the issuing Directorate consistent with Directorate procedures. The docket must include sufficient documentation to support the AD action.

61. DOCKET CONTENT. In addition to the Federal Register version of the NPRM, Emergency AD or final rule, and public comments (if any), the docket must contain any justification documents that support the part 39 action, for example: the AD worksheet; any applicable manufacturer's service instructions; FAA reports, summaries or lists of facts, data or reports that support the AD action; any record of technical decisionmaking; an AD or other similar document issued by an international civil aviation authority; the economic evaluation; and a record of each ex parte contact or series of contacts. Records of approval of documents incorporated by reference must also be maintained in the docket.

62. DRAFT DOCUMENTS. Do not place any draft versions of the AD or any copy that is not identical to the version sent to the OFR in the docket file.

63. PROPRIETARY DATA IN RULES DOCKETS. All documents placed in the rules docket are available for public inspection. Material placed in the docket should be of sufficient detail to form the basis for the rulemaking action and support the choices made. Exclusion of such information should be avoided so as to deter successful legal challenge to the rulemaking action. Proprietary data from a product manufacturer or other source must be excluded from the docket unless it is intended by the provider of the information that it be included in the docket. Issues relating to the inclusion or exclusion of proprietary information in the rules docket should be given careful consideration. If any questions arise, consult Directorate Counsel.

64. COMMENTS SUBMITTED TO DOCKET. The rulemaking document indicates that all comments submitted in response to a rulemaking action will be available for examination by interested persons. It can be presumed that the comments and supporting documentation submitted are intended for public review; this is also true of service information developed by a manufacturer to be used in support of a repair or AD action and incorporated into the rulemaking document. Each comment to the docket, including a hard copy of any comment submitted electronically, must be included in the docket.

65 - 69. RESERVED.

SECTION 7. AD DEVELOPMENT AND REVIEW PROCESS

70. PROCEDURES. The following is a general description of the process used when developing and issuing ADs. Individual Directorates may adopt minor variations to these procedures depending on their unique local needs, subject to the approval of the Directorate's Manager. Contact the accountable Directorate for information concerning its procedures.

a. **Step 1 - Technical Decisionmaking.**

(1) For NPRMs and immediately adopted rules, the AD initiation and review process begins, in most cases, with an Aircraft Certification Office (ACO) engineer. In the case of ADs issued against products manufactured in other countries, this process may begin with a staff engineer in a Directorate. The initiating office will work with the manufacturer of the affected product, or in the case of products manufactured outside the United States with the cognizant civil aviation authority, and appropriate industry groups to assure the availability of parts, tools, and service instructions. However, this data gathering must not unduly delay the issuance of the AD. This data-gathering period is necessary to obtain all available information in order to properly assess the need for AD action and to develop the necessary corrective action. In addition, the project engineer will obtain all necessary information and guidance [e.g., from ACO management, Directorate staff engineers, Directorate Legal Counsel, Aircraft Evaluation Group (AEG), other branch engineers, and Manufacturing Inspection District Office (MIDO) personnel].

(2) In the event of disagreement between the ACO project engineer and consulting personnel, the initiating office manager shall resolve problem areas with the appropriate consulting office managers. Issues that cannot be resolved through normal working level channels will be elevated to the Directorate manager for final disposition.

(3) As the technical decisions are made during this step of the process, the project engineer records the decisions on the AD Proposal Worksheet. This step is completed when the project engineer and the ACO manager sign off on the worksheet. All personnel involved in the AD process should give ADs top priority. Factors that must be considered in this process are:

(a) Compliance with 14 CFR part 39.

- Does an unsafe condition exist?
- Are other products of the same type design affected?

(b) Other Factors.

- Is the cause of the condition known?
- Is supporting documentation for the unsafe condition available?
- Can the AD be accomplished, and will it correct the condition?
- Is the compliance time realistic?
- Are parts and materials available?
- Are referenced documents available?
- Are the inspection procedures complete?
- Are fleet impacts justified by the urgency surrounding the unsafe condition?
- Should more stringent or lenient compliance requirements be considered?

(c) Interim Action. Can interim operating limitations or conditions be used to allow continued operation of the aircraft if a potential grounding situation exists?

(d) Type of Action. Is an NPRM acceptable, or does flight safety dictate the need for an immediately adopted rule? How should it be distributed? Does the urgency of the corrective action warrant issuance as an Emergency AD prior to publication in the Federal Register? The Directorate Counsel will provide guidance to assure compliance with the Administrative Procedure Act.

(e) Effective Date. The selected effective date must balance the safety concerns with the logistical concerns. Will the effective date chosen allow sufficient time for distribution before the AD becomes effective? Does the effective date chosen result in a compliance time that matches the desired outcome?

(f) Cost/Controversy Assessment. The initiating office must ensure that sufficient data on each NPRM and final rule AD have been developed and evaluated. (See paragraph 2 of this Manual for an explanation of economic evaluations.) A determination must be made as to whether the proposed action:

1 Will have a "significant impact on a substantial number of small entities" under the Regulatory Flexibility Act;

2 Is a "significant regulatory action," as discussed in paragraph 2.a. of this Manual, under Executive Order 12866; and

3 Is a "significant rule" under DOT Regulatory Policies and Procedures.

(4) For final rules after notice, the project engineer evaluates the comments received in response to the NPRM and any other relevant information obtained since issuance of the NPRM. In developing the agency's position with respect to comments, it may be necessary for the engineer to obtain other information or consult with other technical personnel. The engineer makes a record of this evaluation on the AD Worksheet Attachment. If changes to the rule are necessary, the engineer should complete relevant portions of the AD worksheet and should make a preliminary determination of whether the changes are "within the scope of the notice." This process should begin as soon as the comment period closes and should be given top priority.

(5) Comments received in response to rulemaking actions. (See Section 11 of this Manual for a full discussion of responding to comments.)

(a) Comments received in response to an NPRM. All relevant comments that are received in response to comment solicitation in an NPRM must be discussed in full in the preamble to the final rule.

(b) Comments received in response to an immediately adopted rule (including follow-up publication of an Emergency AD).

1 If the comments provide no new data or data that would influence the FAA's reconsideration of the published AD in any way, no further publication action is necessary to dispose of these comments. However, to assure the public that these comments after a final rule have been considered fairly, the following statement should be inserted in the docket after the comment period has closed and the comments have been analyzed:

"The comments contained in this docket, No. XX-XX-XX, have been reviewed by the FAA and have not been found to contain any information to warrant reconsideration or revision of this airworthiness directive."

This statement should be signed and dated by the project engineer.

2 If a comment forms the basis for reconsideration of or a change to a final rule AD, that comment should be discussed fully in the preamble to the subsequent rulemaking action. The preamble also may be used to dispose of other comments received.

3 If a comment raises a significant issue that may have wide or continuing interest among members of the affected public, but does not cause the FAA to consider changing the final rule AD, a disposition of the comment should be published in the Federal Register. The disposition of these comments is published as a "Final Rule, Disposition of Comments."

4 If a comment is received that would not have wide or continuing interest among members of the affected public, and does not form the basis for consideration of a change to the final rule AD, but nevertheless is deserving of a response, the issuing FAA office may respond directly to the commenter in writing (instead of preparing a signed statement for the docket file, as described in paragraph 70.a.5.(b)1). A copy of the comment and the FAA's response to it must be retained in the docket file.

b. **Step 2** - Document Drafting. After the engineering decisions have been made, the engineer provides the completed AD Proposal Worksheet and other relevant documents, such as supporting service information, economic information, etc., to the AD Coordinator or technical writer, as applicable, for the Directorate that will issue the AD. Based on this information, the technical writer will prepare a draft, consulting with the engineer as necessary. During this step, it is essential that the engineer and technical writer work together. The engineer ensures technical accuracy, and the technical writer ensures compliance with technical writing and legal drafting standards, as well as the standards of the OFR.

c. **Step 3** - Technical Review. Review is done by ACO branches, AEG, MIDO, and Directorate staff engineers (Project Officers), as appropriate. Since this is the only opportunity for review by these offices, it is essential that the reviewers identify and resolve all possible issues. Any technical concerns identified by reviewers should be raised directly with the project engineer and resolved. Any issues that cannot be resolved should be raised immediately to a high enough level to obtain resolution.

d. **Step 4** - ACO Manager Signoff. By this step, all technical problems should have been resolved. Therefore, the ACO Manager's review should be quite cursory, looking for "big picture" problems.

e. **Step 5** - Directorate Review. The Directorate staff should conduct a cursory review to verify compliance with applicable drafting standards and other policies.

f. **Step 6** - Legal Review. Directorate Counsel reviews the document to ensure that it complies with all legal standards, that the AD will be enforceable, and that the document is reasonable and understandable.

g. **Step 7** - Final Draft. Any changes made by the Directorate or legal staff are reviewed by the technical writer and engineer. If any changes are substantive, the engineer will coordinate with other appropriate technical personnel (e.g., AEG or other ACO branch engineers). If the changes are acceptable, they are incorporated into the final draft. If there are objections, the technical writer, the engineer, and legal

staff will discuss and resolve the issues before the final document is prepared. If necessary to resolve issues, a formal AD board may be held at this step. Preparation of the final draft is then performed either by the technical writer or by the Directorate staff, at the option of the Directorate.

h. **Step 8** - Issuance. At this stage, all issues normally will have been resolved, and the Directorate Manager's review should be cursory and limited to "big picture" issues. If appropriate, an Administrator's Airworthiness Directive Alert ("AOA Alert") is part of this review package.

i. **Step 9** - Post-signature Process. For NPRMs and final rules, the post-signature process varies, depending on whether the Directorate has identified the AD as "sensitive" or "other" (nonsensitive). For distribution of sensitive and Emergency ADs, see Section 15 of this Manual.

71. - 79. RESERVED.

FIGURE 4
AD REVIEW PROCESS

<u>STEP/ACTION</u>	<u>ACTOR</u>
1. Technical Decision-Making	ACO/Directorate/AEG/Other Technical Elements
2. Document Drafting	Tech Writer/Project Engineer
3. Technical Review	ACO/AEG/MIDO
4. ACO Manager Sign-Off	ACO Manager
5. Directorate Review	AD Coordinator
6. Legal Review	Directorate Counsel
7. Final Draft	Tech Writer/Project Engineer
8. Issuance	Directorate Manager Signs
9: Post Signature:	
All ADs	Direct to the Office of the Federal Register immediately after the Directorate Manager signs.
Final Rules	Copies to FAA/Oklahoma City (AIR-140) for distribution.
“Sensitive ADs”	Notification to FAA Headquarters (via copy of an AD or unsigned draft and Administrator’s AD Alert).

SECTION 8. AD PROCESS MEASUREMENT

80. PROCESS MEASUREMENT RECORD. In order to achieve improvement in the AD process, a means for measuring the AD process may be necessary so that problem areas and need for improvement can be identified. A process measurement tool is available that will provide feedback data to assist Directorate management in identifying and eliminating undue delays in the process. The AD Process Measurement Record, Figure 5, may be used to record the "raw data" for each AD. This Record is designed to accompany the AD document throughout the Directorate review process.

81. HEADER. The top (header) of the Process Measurement Record provides the "administrative data" for each AD. This portion contains the appropriate information regarding the AD docket number, type of AD, project engineer and branch, and the technical writer.

82. TIMELINESS. The left side of the Record breaks out the AD process into the nine steps described in paragraph 70 of this Manual and leaves a space for the timeliness standard assigned for each step. This timeliness standard is the "time value" representing the number of days that is considered adequate for completing this step for a "normal" AD. These values are to be determined by each Directorate. The "steps" may be changed as needed to match the particular Directorate's AD process.

a. Each reviewer enters in the appropriate space on the Record the date that the reviewer's portion of the review begins and the date that review is completed. The number of days taken for each step is recorded and compared to the timeliness standard for that step. Each time the number of days taken exceeds the standard, the person responsible for that step writes a comment at the bottom of the Record where space is provided for comment, explaining the reason.

b. While no timeliness standard is identified for Step 1, it still may be useful to have the time recorded. Generally, the "start" date is when the applicable service information is issued, upon occurrence of a field event or accident/incident, or when the Aircraft Certification Office otherwise becomes aware of the problem. The "end" date is when the engineer submits the AD Proposal Worksheet to the AD Coordinator or the technical writer.

c. The "start" date for Step 9, Post Signature, is the date of issuance; the "end" date is the date of publication in the Federal Register. As with the other steps, if problems arise that delay publication, they should be noted under "Comments."

83. INFORMATION GATHERED. Once the AD document is published, the Record is routed to the appropriate individual or location where the process information is collected and entered into a data system. On a periodic basis, these data can then be sorted to identify trends and needs for improvement. Directorate management can then get information to help answer the following types of questions: What steps are slowest or have the greatest delays? Are there common reasons? Are the time values established by the Directorate realistic (i.e., too short or too long)? Is additional staffing needed? Managers then have objective data identifying where timeliness can be improved.

84. - 89. RESERVED.

**FIGURE 5
AD PROCESS MEASUREMENT RECORD**

AD Docket No.: _____ Type of AD: _____

Engineer: _____ Branch: _____

Technical Writer: _____

TIMELINESS

<u>Step</u>	<u>Norm</u>	<u>Start</u>	<u>End</u>	<u>Days</u>
1 Tech Decision		_____	_____	<i>Top Priority</i>
2 Drafting	5	_____	_____	_____
3 Technical Review	1/5	_____	_____	_____
4 ACO Manager	1	_____	_____	_____
5 Directorate Rvw	1/5	_____	_____	_____
6 Legal Review	1/5	_____	_____	_____
7 Final Draft	1/5	_____	_____	_____
8 Directorate Mgr	½	_____	_____	_____
9 Post-signature	1	_____	_____	_____

QUALITY

A – Summary	_____	_____
B – Unsafe Condition	_____	_____
C – Service Information	_____	_____
D – AD Explanation	_____	_____
E – Econ. Evaluation	_____	_____
F – Comment Disp.	_____	_____
G – Boilerplate	_____	_____
H – Applicability	_____	_____
I – Compliance Time	_____	_____
J – Compliance Terms	_____	_____
K – Spelling	_____	_____
L – Grammar	_____	_____
M – Policy	_____	_____
N – IBR	_____	_____

Comments:

SECTION 9. CONTINUOUS AD PROCESS IMPROVEMENT

90. GENERAL. Several mechanisms are available that can serve as vehicles for monitoring and improving the effectiveness of the AD program:

91. INTRA-DIRECTORATE AIRWORTHINESS DIRECTIVE PROGRAM TEAM (IDAPT).

a. This optional team may be established within a Directorate to handle working level, day-to-day problems; and to identify opportunities for improvement. Team members may include:

(1) The Directorate AD Coordinator (team leader, also a member of the national AD Action Program Team);

(2) Working level engineers;

(3) Flight Standards representatives (Aircraft Evaluation Group members);

(4) Technical writer(s);

(5) Directorate Counsel;

(6) Management representative [i.e., the Directorate Management Team (DMT)].

b. If implemented, each team should establish a charter outlining the expectations of what it will do to help maintain the health of the AD process in the Directorate. In doing so, the team should keep in mind that it serves as a bottom-up means for input not only to the national AD Action Program Team (see below), but to the DMT as well.

c. Each team should meet at regular intervals. A call for agenda items should be issued prior to each meeting. Team members can solicit agenda items from co-workers, with particular emphasis on problems with the AD program in that Directorate and suggestions for improvement.

d. The team may review findings and trends presented by process measurement data to identify where improvement is needed and ideas as to how improvement can be accomplished. Improvement ideas may address such matters as procedural changes, needs for training, and changes to standards. New national process improvement projects may also be developed for consideration by the national team (ADAPT).

e. When the team formulates any suggestions for change, the AD Coordinator is responsible for relaying the suggestion(s) to the national AD Action Program Team, discussed below.

92. AIRWORTHINESS DIRECTIVE ACTION PROGRAM TEAM (ADAPT).

a. This team is chartered by the Standards Management Team (SMT) to monitor the AD process on a national basis. Members include:

(1) Aircraft Certification Service (AIR) representative;

(2) The four Directorate AD coordinators;

- (3) A representative from the Airworthiness Law Branch (AGC-210);
- (4) Directorate Counsel representative;
- (5) A representative from AIR-140;
- (6) A representative from the Flight Standards Service (AFS);
- (7) A representative from the Aircraft Evaluation Groups (AEG);
- (8) A representative Directorate engineering staff;
- (9) An AD Technical Writer representative from each Directorate.

(10) In addition, the managers of AGC-200, AIR-100, and AFS-300 are ex-officio members. Top management representation is critical to the team's effectiveness.

b. The purpose of the ADAPT is to keep the AD process functioning effectively over the long term and to serve as the mechanism to identify and implement any necessary changes.

c. The ADAPT is uniquely suited to carry out this function. Its members represent all of the elements of the agency who know best what must be done to implement continuous improvement in the AD process. The ADAPT team members are assisted in identifying the need for improvement by input obtained from:

- (1) Collected process measurement data;
- (2) Feedback from any Intra-Directorate AD Program Teams;
- (3) Feedback from management (i.e., the Directorates, the SMT, and the Aircraft Certification Management Team (ACMT));
- (4) Any post-publication audits conducted by AGC;
- (5) Internal/external customer surveys;
- (6) Attending meetings involving affected internal/external customers.

d. From this input, the ADAPT recommends changes or refinements to the AD process, such as improvements in training or changes in standards:

(1) Training: Individual team members can identify weaknesses and needs and help develop changes to satisfy those needs.

(2) Standards: The AD Manual will be changed or updated as needs are identified. The ADAPT functions as the mechanism to develop new provisions that address problems and to effect those changes in the form of "AD Manual Bulletin Changes," issued jointly by AIR-100 and AGC-200.

e. In its role as monitor of the AD process, the ADAPT may recommend new PIAT projects as needs are identified.

f. Based on input obtained, the ADAPT will provide continuing timely advice and recommendations to the ACMT, the SMT, AGC, and other top agency management concerning the full range of the FAA's activity with respect to the AD process. This will afford management additional opportunities to obtain direct, firsthand information and insight from the substantially affected customers and elements of the Directorate with respect to the AD process.

g. The process for obtaining initial approval of a change to the AD Manual and, subsequently, for revising the Manual is described in Steps 1 through 7 below and in Figure 6. This process places the primary responsibility for coordinating consideration of the proposed change on the ADAPT member who is sponsoring the change. In order to expedite the process, except as described below, all steps are completed using e-mail.

Step 1: At an ADAPT meeting or telecon, the sponsor of the change presents a proposal. This presentation can take the form of a draft manual change, a memorandum, or simply a verbal description. At that time, ADAPT will discuss the proposal and agree to one of the following:

- not to pursue the matter as an ADAPT activity (no change to the Manual);
- to concur with a change concept, either as proposed or as modified; or
- to identify additional actions (e.g., research, coordination, etc.) and assign action items that must be completed before concurrence is possible.

Step 2: Once concept concurrence is reached, the sponsor will prepare a description of the concept, in the form of an AD Manual change and an explanatory memorandum, if necessary, and provide them to ADAPT members. ADAPT will discuss the proposal and agree to one of the following:

- not to pursue the matter as an ADAPT activity (no change to the Manual);
- to identify additional actions (e.g., revision of Manual change or explanatory memorandum) and assign action items that must be completed before concurrence is possible; or
- to concur with a change concept, either as proposed or as modified. At this time, ADAPT will determine if the proposed change to the Manual is non-substantive (i.e., in general, a change that reflects existing policy) or substantive (i.e., a change that revises existing policy). If the change is non-substantive, go to Step 6. If the change is substantive, steps 3 through 5 must be done before going to Step 6.

Step 3: Once the Manual change is approved by ADAPT, the sponsor of the change will forward the change and any explanatory memo to AIR-100 and AGC-200 for their concurrence, with a copy to ADAPT.

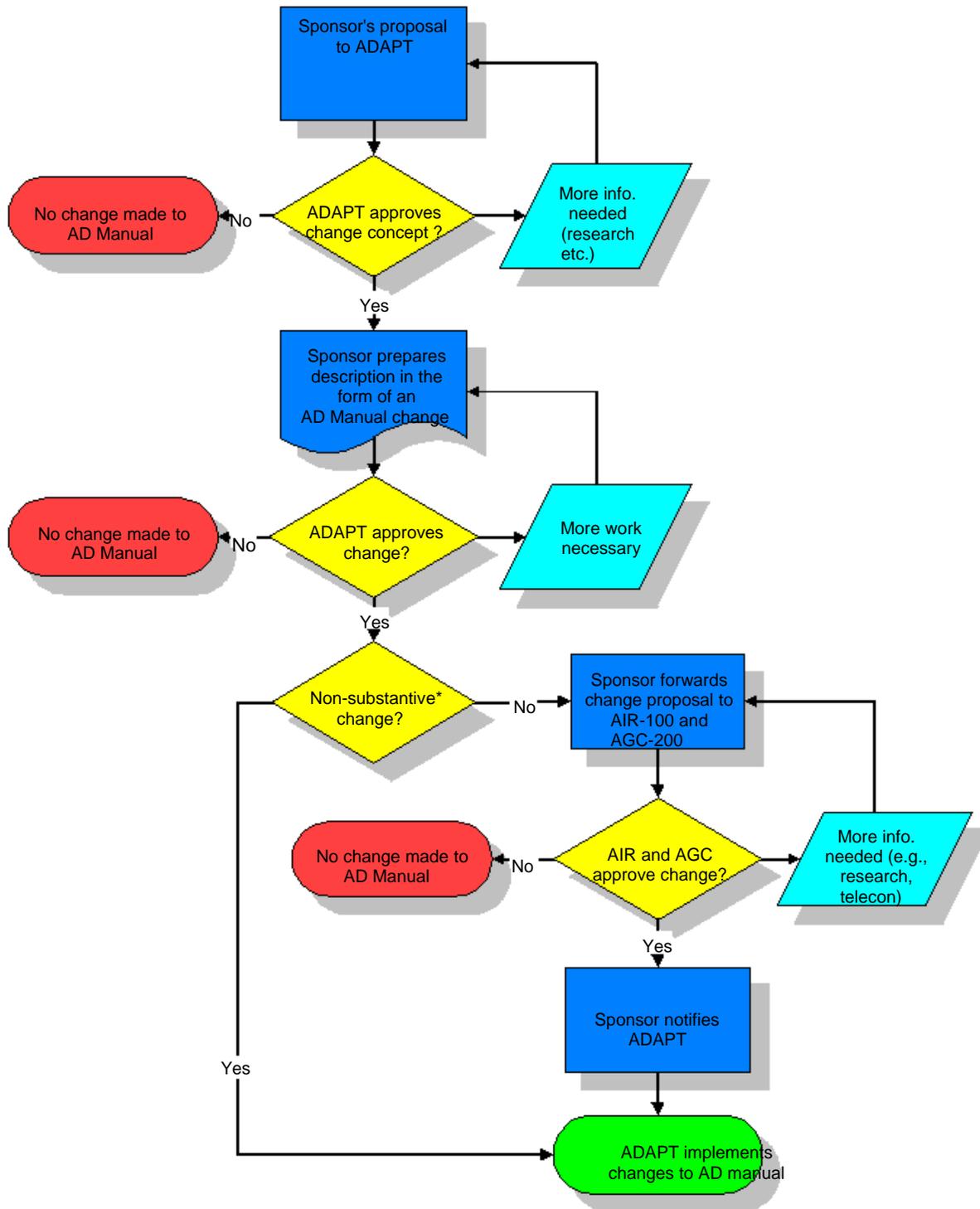
Step 4: AIR-100 and AGC-200 will provide feed-back to the sponsor, concurring with the change, seeking additional information, or non-concurring based on identified reasons. If AIR-100 or AGC-200 determines that an ADAPT telecon is appropriate to address their issues, either they will attend the next ADAPT telecon or the sponsor will arrange a special telecon for AIR-100, AGC-200, and interested ADAPT members.

Step 5: If AIR-100 and AGC-200 concur with the change, the sponsor will inform ADAPT that the change has been approved.

Step 6: The Directorate AD Coordinators will take appropriate actions to implement the change in their directorates. This may consist of distribution of the Manual change to affected personnel, changing boilerplates, or other actions.

Step 7: AIR-140 will take appropriate action to revise the AD Manual to incorporate the approved change.

Figure 6 AD Manual Change Process



*A non-substantive change reflects existing policy. Any change to existing policy by this process must be coordinated with AIR-100 and AGC-200.

h. The ADAPT will obtain continued support and commitment from the SMT and other top agency management as the agency's necessary focal point for making changes to the AD process. Moreover, the ADAPT will be the tool for the SMT and the ACMT and other top agency management to use in formulating and realizing policy changes related to the AD process.

93. OPTIONAL POST-PUBLICATION AUDITS CONDUCTED BY AGC. The Airworthiness Law Branch, AGC-210, may perform audits of the legality and enforceability of ADs released to the OFR by each Directorate as follows:

a. The branch may accomplish a complete review of an AD action from any Directorate at any time. The branch reviews each AD to ensure compliance with:

(1) All pertinent statutes (Federal Aviation Act, Administrative Procedure Act, Federal Register Act, etc.);

(2) All pertinent regulations, Executive Orders, and Department of Transportation policies and guidelines;

(3) All standards set forth in the Federal Register Document Drafting Handbook, this AD Manual, and established FAA internal procedures and guidance.

b. The results of any such review will be presented to AGC-200. AGC-200 will communicate the results of the review to the Assistant Chief Counsel and the Directorate Counsel for the applicable Directorate, and to the Manager, Aircraft Engineering Division, AIR-100.

c. If significant problems are noted, AGC-200 will provide the results of the review to the Chief Counsel, AGC-1, immediately. If no significant problems are noted, AGC-200 will brief AGC-1 as requested.

94. - 99. RESERVED.

SECTION 10. AD DOCUMENT FORMAT, TEXT, AND STYLE

100. GENERAL INFORMATION.

a. It is important that ADs are similar in format, style, and quality, except where individual Directorate needs dictate otherwise. Adherence to the procedures specified in this Manual will ensure that the AD system can be administered fairly and consistently and understood by all affected persons.

b. ADs are distributed to owners and operators of subject aircraft by AIR-140. All current ADs are also compiled in a searchable database and posted on the FAA website through the RGL. The website address is <http://www.rgl.faa.gov>.

101. TYPED DOCUMENT REQUIREMENTS. The Federal Register Document Drafting Handbook (DDH) provides instructions for drafting regulations. These instructions are not optional. Failure to follow these instructions may result in the rejection of an AD by the OFR.

a. Preamble Identification. Preamble material does not need to be designated with lettered or numbered paragraphs, but must use the captions listed in the DDH and detailed below. Under the SUPPLEMENTARY INFORMATION caption, descriptive headings may be used to highlight topics or organize text. You may find information on this subject in Sections 1.5 and 2.5 of the DDH.

b. AD Body Identification. Within the body of an AD, each separate instruction, paragraph, and subparagraph must be designated using letters and numbers, as shown below. Such designations facilitate reference to individual instructions both for compliance record keeping and for revision purposes. Designation is not necessary if the body of the AD comprises only one brief paragraph. The following text designations must be used:

- Level 1: (a), (b), (c), etc.
- Level 2: (1), (2), (3), etc.
- Level 3: (i), (ii), (iii), etc.
- Level 4: (A), (B), (C), etc.

NOTE: These paragraph designators should NOT be used in the preamble of an AD.

Example 38 in Section 1.12 and Example 48 of Section 2.12 of the DDH contain information that relates to this subject.

c. Physical Appearance. The following instructions are required by the DDH:

- (1) Use bond paper, 8.5 by 11 inches.
- (2) Provide a margin of 1 inch on the top, bottom, and right side; provide a 1.5-inch margin on the left side.
- (3) Type on one side only. Double-space all material. Indent paragraphs once; do not double indent.
- (4) Number all pages consecutively (including any appendix documents) at the bottom of the page. The first page does not need to be numbered.

(5) Do not use underscoring for emphasis; underscore indicates to the OFR that the material is to be set in italics -- it will not appear underscored in the Federal Register.

(6) Punctuation, capitalization, and compounding of words must follow the U.S. GPO Style Manual. Use the § symbol only for a CFR section and §§ symbol only for multiple sections. However, do not use a § symbol to begin a sentence; instead, spell out the word.

(7) Pictures or drawings may be included to clarify or explain AD instructions. Remember that pictures or drawings must appear alone on a separate page in order to be reproduced and must also appear at the point in the text where they belong, not at the end of the textual material. Pictures or drawings may also be included in an appendix. In any case, an original or first reproduction of original quality is required by the OFR and AIR-140. For incorporation by reference requirements, see Section 13 of this Manual.

You may find information on this subject in Sections 1.18 and 2.18 of the DDH.

102. LEGAL DRAFTING.

a. General. The most important concept in drafting a legal document is to say exactly what is meant and to say it clearly, concisely, and accurately. Start out by making sure that the terms used are consistent with the definitions of those terms in Title 14 of the Code of Federal Regulations (14 CFR). Give instructions in logical order. Use short sentences. Use technical terms when they are necessary, but do not complicate simple instructions by overusing them. Do not repeat instructions for emphasis. Have someone else unfamiliar with the subject matter read the draft to see whether the message is getting across clearly.

b. Active Voice. Write regulations using the active voice. Airworthiness Directives should "speak" to the person doing the work, telling them what to do. In general, the strongest writing uses verbs, and the strongest verbs use the active voice. Avoid using passive voice (but do not change it if found in boilerplate language of the AD formats). Examples:

Do not use the passive:

"The attach bolts shall be inspected every...."

"The seals are to be replaced with...."

Use the active:

"Inspect the attach bolts every...."

"Replace the seals with...."

c. Word Selection.

(1) Consistency. Use the same word each time to refer to the same item or action. Do not use synonymous terms for the sake of variety; such use only leads to unnecessary confusion. Conversely, never use the same term to refer to two different things.

(2) Specificity. Use specific terms -- do not use "aircraft" (unless it is in the name of something) when a more specific term, such as "airplane," "gyroplane," or "helicopter," is more accurate.

(3) Positive Slant. When the same idea can be expressed positively or negatively, express it positively. Example:

Do not use the negative:

“Does not apply to airplanes with modification {3456}....”

Use the positive:

“Applies to all airplanes that have not been modified”

(4) Precision. Use adjectives that are precise. Terms such as "excessive," "adequate," and "sufficient" are unenforceable because they call for value judgments. Instead, define how excessive wear can be measured or what is included in an adequate inspection. Do not use terms such as "prevent", "correct," "preclude," "ensure," "will," or "could" unless they are properly qualified. As an example, do not say that a modification "will prevent engine stall" when what is meant is that the modification "will prevent engine stall caused by ice ingestion." The modification may not prevent engine stall caused by other problems, and imprecise wording may imply that it does.

d. Notes. You may use notes in the AD to include information that is explanatory or informational but is not mandatory. Such information should be placed in a note immediately following the instruction it seeks to enhance. Never place mandatory instructions or acceptable alternatives in notes; note language is not enforceable as part of the AD. The OFR discourages the excessive use of notes.

(1) Examples of **acceptable** notes:

NOTE 1: The date code stamp is steel-stamped into the lower side of the flap actuator housing. Disregard ink-stamped numbers.

NOTE 2: During the inspection required by paragraph (a), pay particular attention to the area surrounding BS 920.

(2) Example of **unacceptable** note:

NOTE: The provisions of AD 88-75-23 must be completed before accomplishing any work under this paragraph.

(3) If an AD contains more than one note, number them sequentially in the order they appear, i.e., NOTE 1, NOTE 2, etc.

103. - 109. RESERVED.

SECTION 11. ITEMS FOR INCLUSION IN ADs

110. INFORMATION HEADINGS: PROPOSED AND FINAL RULES.

a. All documents submitted to the OFR must include the same information headings; additional information on these headings can be found in the Federal Register Document Drafting Handbook (DDH) (<http://www.nara.gov/fedreg/ddhhome.html>). The first four lines shown below never change. The headings are always typed flush left:

[4910-13-U]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 39

[Docket No. 200x-xx *[insert region, e.g. CE, NE, NM, or SW]*-xxx-AD; Amendment No. 39-xxxxx; AD 200x-xx-xx]

RIN 2120-AA64

Airworthiness Directives; [insert name of affected type certificate (TC) holder or product manufacturer and the model number]

b. For the last heading shown above, be sure that for type certificated products, the TC holder's correct legal name from the type certificate data sheet is used, not a common-use name of a manufacturer.

(1) When issuing ADs on products for which no TC was issued, use the product manufacturer's name.

(2) If the AD is on a component of a type certificated product, list both the TC holder's name and the subject component.

(3) If appropriate, list any special equipment installed on the aircraft referenced (e.g., Boeing Model 747 Series Airplanes Equipped with Pratt & Whitney Model JT9D Series Engines).

(4) The OFR has requested that this product identification statement be kept to a minimal length. It is not necessary, for instance, to list every possible permutation of model numbers here; a full list of the aircraft affected by this AD should be presented in the applicability statement of the AD itself.

111. PREAMBLE FORMAT AND HEADINGS: PROPOSED AND FINAL RULES. The following headings and information belong in the preamble section of both proposed and final rules. The preamble is designed to inform the average reader of the basis and purpose of the rule. The average reader is not considered to be an aviation expert. Although the preamble is used to explain the rule and its effects, the AD itself must be able to stand alone, that is, be understood by those required to use it when separated from the preamble. While material that aids in understanding the rule may be in the preamble, it also must appear in the text of the rule. The preamble must contain the following information:

- a. Issuing Agency. The agency issuing the rule must be identified as follows:

AGENCY: Federal Aviation Administration, DOT.

- b. Action Type. Describe the action being taken. Use one of the examples listed here, or see the DDH for a more extensive list:

**ACTION: Advance notice of proposed rulemaking.
Notice of proposed rulemaking
Proposed rule; withdrawal.
Proposed rule; extension of comment period.
Final rule.
Final rule; request for comments.
Final rule; correction.**

- c. Summary. The Summary paragraph is designed to provide a brief description of the action being taken or proposed. Do not use numerical references to CFR sections being affected. The summary must answer the following questions:

(1) What does this AD do? (What action is being taken? All major actions should be identified.)

(2) Why is this AD necessary? (What is the unsafe condition, and what prompted the need for AD action?)

(3) What is the intended effect of this AD? (What is the end-level effect on the aircraft?)

- d. Dates. List all dates that affect action under the rule or proposal. If an NPRM is being withdrawn, no "dates" caption is used. In general, it is preferable to have the effective date calculated by the OFR, especially where incorporation by reference (IBR) approval must be obtained. The OFR computes and inserts dates tied to Federal Register publication or OFR filing.

- (1) NPRMs. The caption heading is always "DATES". Examples of the most common caption lines used in an NPRM are:

DATES: Comments must be received on or before [date].

DATES: Comments must be received by [insert date ** days after date of publication in the Federal Register].

DATES: A public hearing is scheduled for [date].

- (2) Final Rules. The caption heading is always "DATES." Examples of the most common caption lines used in a final rule are:

DATES: Effective [date].

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of [date].

DATES: Effective *[Insert date ** days after the date of publication in the Federal Register]*.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of *[Insert date ** days after the date of publication in the Federal Register]*.

(a) Note that the date of IBR approval is ALWAYS the same as the effective date of the rule. Logically, the incorporation cannot be approved for a rule until the rule itself is effective. There can be no incorporation of anything for a rule that does not legally exist.

(b) Do not put compliance times into the DATES heading. There is no separate heading for compliance times; the compliance time should be detailed only in the AD itself.

(c) The “DATES” caption must appear on page 1 of the AD. The Summary should be edited (shortened) so that the DATES section appears on page 1.

e. Addresses. Indicate all relevant addresses for the document, such as the office to which comments should be sent, where service bulletins may be obtained (e.g., from the original equipment manufacturer that developed the service bulletins), and the location of the rules docket office. If no addresses are required, such as in a withdrawal, the heading may be omitted.

f. For Further Information Contact. Use this heading to list the name, address, and telephone number of the individual(s) who may be contacted for further information. This person may be a project manager, project engineer, program officer, or technical writer-editor (for non-technical questions).

g. Supplementary Information. This heading is required by the OFR. The information in this section is used to inform the reader of the basis and purpose of the rule. Explanations should be written for persons who are not experts in the area of aircraft airworthiness. You should present the background information and detail necessary to give adequate notice of the issues to be commented on as required by the Administrative Procedure Act.

(1) Include the following information in the supplementary information section of proposed rules:

(a) Comment solicitation. Include the fact that comments are solicited, the procedure for submission, and the fact that contacts with FAA personnel regarding the rule will be recorded and placed in the docket.

(b) History. Discuss the regulatory history of the proposed rule, if appropriate.

(c) Purpose and Basis. Provide a general description of the purpose and basis of the proposed rule, including differences between the proposed rule and current rules, current industry practice, etc.

(d) Background. Discuss in full the unsafe condition and the circumstances that created a need for the proposed rule, the substance of the rule, and any significant issues being addressed in the proposed rule.

(e) Public input. Discuss whether the rule was prompted by petitions for rulemaking or comments on prior proposals, and respond to any other public input that prompted the proposed rule.

(f) Regulatory requirements. Include all statements, findings and discussions required by applicable laws, Executive Orders, and DOT and FAA Orders and Policies.

(2) Include the following information in final rules:

(a) Comment Solicitation. If the final rule is an immediately adopted rule on which comment has not previously been solicited, DOT and FAA policy requires that such comment be solicited in the final rule.

(b) History. Cite the previous publication of proposed rules or other actions that affect the promulgation of the rule as stated.

(c) Purpose and Basis. Provide a general description of the purpose and basis of the rule, similar to that provided in the NPRM.

(d) Background. Discuss in full the unsafe condition and the circumstances that created a need for the rule, the substance of the rule, and any significant issues being addressed in the final rule.

(e) Changes. Fully discuss and explain any significant changes between the proposed and final rule.

(f) Response. If comments were solicited in an NPRM, all relevant comments must be addressed in the final rule. Substantive comments, contacts, or alternative proposals received must be responded to in the preamble. See paragraph 113 of this Manual for a full discussion of how to respond to public comments; see paragraph 21 of this Manual regarding responses to comments solicited in immediately adopted rules.

(g) Regulatory requirements. Include all statements, findings, and discussions required by applicable laws, Executive Orders, and DOT and FAA Orders and Policies.

(3) Subheadings. Subheadings may be used in the supplementary information section to organize and separate discussions of particular topics. Subheadings are especially helpful to the reader when the supplementary information section is long. The following are some of the most common subheadings; any subheading that is useful may be used:

- | | |
|--|---|
| Comments invited. | Availability of NPRMs. |
| Comments received. | Regulatory impact. |
| Cost impact. | Discussion. |
| Explanation of relevant service information. | Explanation of requirements of proposed rule. |

(4) Regulatory Impact Statements. Several findings are necessary in conjunction with statements of regulatory impact. Every AD must include language indicating that the economic and other impact of the rule on the public has been considered, or a statement indicating why it was impracticable for the agency to do so:

(a) Federalism Assessment. An assessment must be made of the regulation's impact upon the states and their relationship with the federal government. As discussed in Section 1 of this manual, the federalism statement to be made is usually boilerplate.

(b) "Significant Regulatory Action" and "Significant Rule." Statements must be contained in the preamble to the rule indicating that the agency has considered the economic impact of the rule with regard to the criteria laid out in Executive Order 12866 and DOT Regulatory Policies and Procedures. (See Section 1 of this Manual for more information concerning these documents.)

(c) Emergency regulation. The DOT Regulatory Policies and Procedures (DOT Order) defines an emergency regulation as one that requires that it be issued without notice and opportunity for comment, or is made effective in less than 30 days from publication. If a rule is neither significant nor an emergency under the criteria of the DOT Order, it is considered a "nonsignificant regulation."

(d) Regulatory Flexibility Act.

1 For proposed rules, an agency must prepare and publish an Initial Regulatory Flexibility Analysis (IRFA) as part of the preamble unless the agency certifies in the preamble of the NPRM that the rule will not have "a significant economic impact, positive or negative, on a substantial number of small entities."

2 For final rules for which an IRFA has been prepared, an agency must prepare and publish a Final Regulatory Flexibility Analysis as part of the preamble that also responds to issues raised by public comments on the IRFA. Generally, if the FAA is satisfied after a review of the comments that its initial finding of no significant impact is correct, a separate certification to that effect must be published in the final rule.

(5) List of Subjects in 14 CFR part 39. The subjects included in an AD are listed alphabetically for use by the OFR in indexing the regulation. Any or all of the following terms may be used: "Air transportation," "Aircraft," "Aviation safety," "Incorporation by reference," and "Safety." If material is NOT being submitted for IBR, remove "Incorporation by reference." Remember that the FAA is not at liberty to add terms to this list.

(6) Authority Citation. The authority citation language for ADs should always be given as follows:

**The authority citation for part 39 continues to read as follows:
Authority: 49 U.S.C. 106(g), 40113, 44701.**

112. PREAMBLE FORMAT: EMERGENCY ADs. The preamble for this type of AD action is not the same as for actions published in the Federal Register. However, much of the same information will be contained in the preamble.

113. DISPOSITION OF COMMENTS. The Administrative Procedure Act (APA) requires that agencies fully consider all comments received in response to NPRMs. It is not necessary to address a comment that is not relevant to the NPRM or the unsafe condition addressed by it. However, whether a

comment is relevant is ultimately a legal question and is not always obvious. The disposition of comments in the preamble to a final rule is the means that the FAA uses to demonstrate compliance with this requirement and to show that the FAA's decision to promulgate the rule is not "arbitrary and capricious" and therefore subject to invalidation by a court. Comments are usually directed at the most controversial aspects of rules, and the disposition provides the FAA the opportunity to protect the rule from future legal or political challenge. Consider the following when discussing comments in a disposition:

a. Organize the comments by issue, not by commenter. All comments relating to the same issue should be discussed together. Do not list all of the comments of one commenter together.

b. Commenters have no gender, and need not be referred to by name unless the status of the commenter is important. Comments are always addressed in the present tense ("One commenter requests that the proposed rule be modified to include ...").

c. Each disposition should answer the following questions:

What change in the proposal does the commenter want?

Why does the commenter want the change?

Does the FAA agree?

-If so, why and what changes have been made in response to the comment?

-If not, why not? Be specific. The FAA's conclusion must be supported with stated

reasons.

d. If a commenter simply states an observation and does not propose a change, the FAA may infer the desired change. For example, if the commenter states, "The proposal would not be cost-effective," the FAA may infer that the commenter would like to see the proposal withdrawn. If a commenter proposes a change but does not provide any reasons for it, state simply that the commenter did not provide any justification for the requested change.

e. If the FAA agrees with a comment, the reason need not be restated if it is the same as that stated by the commenter. If the FAA agrees for additional reasons, these reasons should be stated.

f. If a change is adopted in response to a comment, and the change is evident from the discussion of the comment, it is sufficient to state that the final rule "has been revised accordingly." Otherwise, include a statement to the effect that the final rule "has been revised to..."

g. Avoid reliance on a disposition that states that a comment is "beyond the scope of the notice." "Scope" is a legal determination that involves the APA requirement that agencies provide the public with an opportunity to comment. The FAA is generally prohibited from adopting rules that are "beyond the scope" of the notice, but the public is not prohibited from submitting comments that are beyond the scope. If a comment has merit and is relevant to the NPRM, the FAA is always open to consider it in a supplemental or separate notice. Usually there are substantive reasons for disagreeing with comments, and these reasons should be stated rather than simply labeling the comment "beyond the scope." Beyond the scope may be added as a secondary reason. If the comment has merit but it is impracticable to delay the present final rule, the preamble should indicate that the FAA may consider further rulemaking based on the comment.

h. Consideration of comments received to "Final rule; request for comment." (See Section 2, paragraph 21, of this Manual for more information.) While it is the general practice of the FAA to publish in the Federal Register a disposition of comments submitted in response to a solicitation contained in a final rule, a special policy exists for ADs issued without an NPRM (that is, for immediately adopted rules,

entitled "Final rule; request for comment"). Because of the quantity of ADs issued, a disposition of comments requested in a final rule is published ONLY:

(1) If a comment is received that raises a significant issue that may have wide or continuing interest among members of the affected public, but does not cause the FAA to consider changing the final rule AD. For example, the comment may provide substantive information not available to the FAA before publication of the AD and not referred to at least generally in the preamble to the final rule. The disposition of the comment is issued as a "Final rule; disposition of comments."

(2) If the comments form the basis for reconsideration of or a change to a final rule AD, which leads to subsequent rulemaking; that comment should be discussed fully in the preamble to the subsequent rulemaking action. (The preamble may also be used to dispose of other comments received.)

i. If at any time there is trouble deciding how a comment should be addressed, consult Directorate Counsel or AGC-210.

114. AMENDATORY LANGUAGE TERMS. Every AD action represents a change to Title 14 of the Code of Federal Regulations (14CFR) part 39. The OFR prescribes the terms by which those changes can be effected. A list of the terms applicable to ADs and the action each describes is included below. The FAA is not at liberty to add to this list. The terms "superseded" and "revoked" are NOT recognized by the OFR and may not be used as amendatory language instructions; the term "superseded" may be used within an AD preamble or text to indicate its effect on the FAA AD system, but cannot be used in the amendatory language. Amendatory language is the numbered instruction that immediately precedes the text of the AD.

a. AMEND means an existing "14 CFR unit" (14 CFR part 39 or 14 CFR § 39.13) is being changed. The term cannot stand alone; it must be used in combination with another amendatory term. See the examples following the specific amendatory terms below.

b. ADD means that a new CFR unit is inserted in the CFR. All new ADs are added. Example:

14 CFR § 39.13 is amended by adding a new airworthiness directive, amendment 39-00001, to read as follows:

c. REMOVE means an existing CFR unit is being taken out of the CFR. Used alone, "removed" does not include replacement with another AD. When an AD is superseded by another, the correct amendatory statement is ". . . is amended by removing . . . and adding a new AD. . . ." Example:

14 CFR § 39.13 is amended by removing amendment number 39-00001 (95 FR 12345, February 29, 2002).

An AD cannot be "removed" if it has never been published. For example, an Emergency AD that has been sent by the FAA to known aircraft owners and operators, but has not yet been published in the Federal Register, cannot be revoked by "removal." Consult with Directorate Counsel or AGC-210 if this situation arises.

d. REVISE means that an existing CFR unit is replaced in its entirety; any changes from a previous version are to be discussed in the preamble. See paragraph 33.

REVISE is the term to use when the whole AD is being sent out again after revision, which is sometimes referred to within the FAA as "reissuing" an AD. Example:

Section 39.13 is amended by removing amendment number 39-00001 (954 FR 12345, February 30,2002), and by adding a new airworthiness directive, amendment 39-00002, to read as follows:

e. REPUBLISH means that an unchanged CFR unit is being set out for the convenience of the reader, often to provide context for an amendment. This will be a rare occurrence in the AD context.

f. WITHDRAW means that a previously published NPRM will not be issued as a final rule and will not become effective or enforceable.

115. ADs AS INTERIM ACTION TO ADDITIONAL RULEMAKING. There are many situations where the requirements of an AD are considered to be interim action until another, more effective action or modification is developed. In these cases, the preamble to the AD should contain a statement specifying this. By including this information, the affected operators will be alerted to the fact that additional AD rulemaking may be forthcoming. Specific examples of situations and necessary language are iterated below:

a. **Example #1:** If an AD is being issued that requires, say, repetitive inspections, and the FAA is aware that the manufacturer is developing an action/modification that will terminate the need for those inspections, include one of the following statements, as appropriate, in the preamble to the rule:

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

OR

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once that modification is developed, approved, and available, the FAA may consider additional rulemaking.

b. **Example #2:** In many situations, the FAA may issue an AD as an immediately adopted rule or an immediate safety-of-flight rule to require that, say, repetitive inspections be initiated within a short period of time. A modification may exist at the time the AD is issued that, once installed on the aircraft, will terminate the need for the inspections. The FAA plans to require the installation of the terminating modification, but has developed an appropriate compliance time for its installation that extends to some time in the future -- a time beyond the “immediacy” of the compliance time criteria for an “immediate” rule (refer to Section 2, paragraphs 21 and 22 of this Manual), and which would allow ample time to provide the public with notice and obtain public comments on the action. In cases such as these, include the following statement in the preamble to the AD:

This is considered to be interim action. The FAA is currently considering requiring [the installation of], which will constitute terminating action for the repetitive inspections required by this AD action. However, the planned compliance time for the [installation of the modification] is sufficiently long so that prior notice and public comment will be practicable.

c. **Example #3.** Some ADs require that operators submit to the FAA (or to the manufacturer) the results of inspections that are mandated by the AD. From the information contained in the results

submitted, the FAA and manufacturer will determine if additional or final action is warranted. In these types of ADs, include a statement such as the following:

This is considered to be interim action. The inspection reports that are required by this AD will enable the manufacturer to obtain better insight into [the nature, cause, and extent of the cracking,] and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA may consider further rulemaking.

116. - 119. RESERVED.

SECTION 12. TEXT OF ADS

120. SUBJECTS ADDRESSED. While the actual content of each AD will vary, the following items must be included in the rule portion of every AD:

- a. Product identification.
- b. A statement of applicability.
- c. The compliance time or period.
- d. A description of the problem.
- e. The corrective action required.

121. PRODUCT IDENTIFICATION. The text of every AD begins with a complete and specific identification of the product manufacturer to which the AD applies. This statement also includes the amendment and docket numbers, as indicated in the examples below.

a. Type-certificated Products. Type-certificated products must be identified by the name of the current type certificate (TC) holder followed by the name of any previous TC holders that manufactured the product. The manufacturer's name should be followed by the amendment number and docket number. Examples:

ISRAEL AIRCRAFT INDUSTRIES (Formerly Aero Commander, North American Rockwell Corporation): Amendment 39-XXXXX. Docket No. 200X-NN-XX-AD.

RAYTHEON AIRCRAFT COMPANY (Type Certificate No. A24CE formerly held by Beech Aircraft Corporation): Amendment 39-XXXXX; Docket No. 200X-NN-XX-AD.

- b. Previous ADs affected.

(1) If an AD revises or supersedes an AD issued previously, include information to fully identify the earlier AD by including the amendment and AD numbers. Examples:

ISRAEL AIRCRAFT INDUSTRIES (Formerly Aero Commander, North American Rockwell Corporation): Amendment 39-[insert new amendment number]. Docket No. 200X-NN-XX-AD. Supersedes AD [insert old AD number], Amendment 39-[insert old amendment number].

ISRAEL AIRCRAFT INDUSTRIES (Formerly Aero Commander, North American Rockwell Corporation): Amendment 39-[insert new amendment number]. Docket No. 200X-NN-XX-AD. Revises AD [insert old AD number], Amendment 39-[insert old amendment number].

RAYTHEON AIRCRAFT COMPANY (Type Certificate No. A24CE formerly held by Beech Aircraft Corporation): Amendment 39-[insert new amendment number];

Docket No. 200X-NN-XX-AD; Supersedes AD [insert old AD number], Amendment 39-[insert old amendment number].

(2) Note that the term "supersede" is not acceptable as an "amendatory language" instruction to the OFR. The term is acceptable within the agency for use in the preamble to an AD and in the body of the AD text itself. However, in the amendatory language used in the preamble to the AD, the correct term to be used is "removal" (see Section 11 of this Manual for a full explanation of amendatory language).

122. APPLICABILITY STATEMENT.

a. **Applicability.** A statement must be included to identify the affected applicable model designations as published on the type certificate data sheet (TCDS). As indicated in paragraph 110.b.(3) of this Manual, this is the place for the full statement, not the abbreviated one that may have been used in the published document heading. Serial numbers may be added if appropriate and useful. Examples:

Applicability: Models 1121, 1121A, 1121B, 1123, and 1124 series airplanes, certificated in any category.

Applicability: Model 747-100 series airplanes; serial numbers 122 through 189 inclusive; certificated in any category.

Applicability: Model LTS101-600A-2 engines, installed on but not limited to...

b. **Series.** The term "series" may be used to denote similar models of a product. Remember that using the term will make the AD applicable to future-production products unless limited by product serial number. The term should be used with caution because it directly affects AD distribution and applicability; inconsistent usage is a constant source of problems. Also, unless defined in the TCDS, referencing aircraft by series leaves the AD open to interpretation. The best practice is to list each model in the TCDS that applies to the AD. Examples:

(1) "Beech Model 99" identifies a specific aircraft model. The AD will be applicable only to owners and operators of Beech Model 99 airplanes.

(2) "Beech 99 Series" identifies a group of similar models. The AD will be applicable to owners and operators of Beech Models 99, 99A, A99A, and B99 airplanes, and will apply to all future Beech Model 99 airplanes, regardless of additional designators.

c. **Supplemental Type-Certificated Products.** An AD issued to correct a condition resulting from supplemental type certificate (STC) alteration of one or more different models of aircraft, engines, or propellers must identify the STC holder in the AD heading. Identify the type-certificated products that incorporate the STC in the applicability paragraph of the AD text. Supplemental type-certificated products must be identified by the name of the current STC holder followed by the name(s) of previous holders of that STC. (An alternative is to issue a separate AD for each type-certificated product series affected by the STC alteration. An AD heading may identify only one aeronautical product.) Examples:

BERYL D'SHANNON AVIATION SPECIALTIES, INC. (Formerly Smith and Jones Industries): Amendment 39-0000. Docket No. 00-00-00.

Applicability: Beech Model 35 series airplanes, Cessna Model 182 series airplanes, and Piper Model PA-24 series airplanes, certificated in any category, that have been modified in accordance with STC No. SA2653WE.

AVCON INDUSTRIES, INC. Amendment 39-0000. Docket No. 00-00-00.

Applicability: Cessna Models 150, 170, 172, and 175 series airplanes and Piper Model PA-28-140 airplanes, certificated in any category, that have been modified in accordance with STC Nos. SA750CE, SA777CE, SA793CE, SA806CE, or SA807CE, using AVCON Industries, Inc., muffler kits.

d. Products Approved by Technical Standard Order or Parts Manufacturer Approval. Technical Standard Order (TSO) authorizations or Parts Manufacturer Approval (PMA) products must be identified by the manufacturer's name and model or part number. Example:

LEIGH SYSTEMS: Applies to Emergency Locator Transmitter Leigh Systems Sharc 7 series installed in but not limited to...

e. Use of Product Serial Numbers. In addition to model numbers, product serial numbers may be used to further identify products affected by an AD. Extreme caution should be used when this procedure is initiated. Errors can occur during the original selection of aircraft affected, the manner in which the serial numbers are listed, and in the typing of documents. The following should also be considered:

(1) Avoid, whenever possible, using the phrases "serial number 1234 and up" or "all serial numbers" since these phrases will render the AD applicable to future production aircraft. When the product currently is in production, work with the manufacturer to determine when that production run will end or when a product improvement will eliminate the unsafe condition cited by the AD, then state the complete serial number range. Care must be exercised to ensure that the production run ends as represented by the manufacturer.

(2) When citing several serial numbers in sequence, e.g., "S/N 12340 through S/N 12345," be certain that a true sequence exists. Be certain that any serial numbers excluded from applicability are clearly stated. The basic structure of the serial numbers for a product may vary such that a reference to a number sequence is confusing to the reader, e.g., "S/N 123 through XYZ-1357."

f. Certification Category and Applicability. The type and airworthiness certification categories may be used to identify those aircraft affected by an AD. Examples:

(1) The following statement incorporates all airplanes of the model listed without regard to the type or airworthiness certification. It also includes those with experimental certificates where the experimental certificate and associated limitations are dependent upon the product type certificate design for approval. When necessary, the phrase "except experimental airplanes used for the purpose of developing additional AD corrective action" may be made part of the original AD.

Applicability: Cessna Model 150 airplanes, certificated in any category.

(2) The following statement incorporates all helicopters of the model listed except those that have been issued restricted type and airworthiness certificates.

Applicability: Sikorsky S-61 series helicopters, certificated in any category except restricted.

g. Military Aircraft. Military aircraft that are eligible for certification under a civilian type certificate must be listed in the applicability paragraph of ADs affecting the civil counterpart if the AD also applies to the military model. The term "series" may be used when the AD applies to all models. Keep in mind that the use of "series" may be misinterpreted. Example:

Applicability: DC-9 series airplanes, certificated in any category, including military type C9-A and C9-B airplanes.

h. Applicability to products that have been modified, altered, or repaired. All products identified in the applicability statement of an AD are subject to the AD. If a product has been modified, altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain approval of an alternative method of compliance (AMOC) with the AD. Note that 14 CFR Part 39 includes this provision. In some cases, it may be necessary to provide specific direction for operators that have previously modified, altered, or repaired a product in areas of the aircraft that are addressed in a specific AD. One such example would be an AD that addresses changes to the airworthiness limitations. In this situation, a paragraph such as the following could be included as a note in the AD:

NOTE **: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR § 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR § 91.403(c), the operator must request approval for an alternative method of compliance in accordance with paragraph () of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25-1529.**

i. When the FAA is aware that a service bulletin's effectivity is overly broad, it is desirable to limit the applicability of the AD to address only those products on which the unsafe condition is likely to exist or develop. This could be accomplished by referencing the service bulletin effectivity and adding a qualifier, such as: "that are equipped for carrying passengers." In other cases, it might be appropriate to cite the affected appliance by manufacturer and part number. In those cases, if the particular appliance is not installed, then an AMOC would not be required.

123. COMPLIANCE TIME OR PERIOD.

a. General. In determining compliance times for ADs, usually two types of analyses are necessary:

☐ First, a compliance "threshold" must be established, based on an engineering assessment of when action should be taken to detect or prevent the unsafe condition. For example, if service experience indicates that fatigue cracking has been detected on airplanes with 10,000 landings, the engineer might determine that repetitive inspections should be initiated prior to the accumulation of 5,000 landings. For

some types of unsafe conditions, such as computer software errors or certain manufacturing defects, the unsafe condition may exist on new products. In these cases, the threshold would be zero.

☒ Second, for those products that have already exceeded the threshold, a "grace period" must be established to preclude products from being grounded unnecessarily. In determining the appropriate grace period, the degree of urgency of the unsafe condition must be balanced against the amount of time necessary to accomplish the required actions, the availability of necessary replacement parts, operators' regular maintenance schedules, and other factors affecting the ability of operators to comply. In some cases it may be necessary to ground aircraft, but in most cases the grace period can be selected to avoid grounding and interference with normal maintenance schedules, while still obtaining expeditious compliance.

(1) Similarly, in selecting repetitive inspection intervals, compliance times should be chosen to ensure that the unsafe condition can be detected before it can become critical, but without imposing unnecessary burdens on operators.

(2) Combining these factors, a typical compliance time provision might state:

Prior to accumulating 5,000 landings or within the next 1,000 landings after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 2,000 landings, inspect...

b. Time-in-Service.

(1) The simplest expression of compliance time is in terms of a specific number of hours of operation at which compliance is required for all affected products, that is, hours of time-in-service (TIS). Using the phrase "within the next [X] hours TIS" means up to and including [X] hours. The phrase "prior to the accumulation of [X] hours TIS" means up to but not including [X] hours. Examples:

Compliance: Required within the next [100 hours] time-in-service (TIS) after the effective date of this AD.

Compliance: Required within the next [300 hours] time-in-service (TIS) after the effective date of this AD or prior to the accumulation of [5,000 hours] TIS, whichever occurs [later].

(2) When the compliance times relate to hours of time-in-service and are complex, the statement "compliance is required as indicated" should be used and the actual compliance times given in the body of the AD. Avoid stating compliance times that create overlapping requirements. Example that avoids overlap:

Prior to the accumulation of [3,000] hours time-in-service (TIS) or within the next [300] hours TIS after the effective date of this AD, whichever occurs later, inspect in accordance with paragraph (x) of this AD.

c. Calendar Times and Dates.

(1) Calendar times (e.g., "within six months after the effective date of this AD") may be used to express compliance times when a direct relationship between calendar time and airworthiness (including corrosion) can be established; an aircraft's utilization rate varies greatly throughout the fleet; or logistical support considerations (parts availability, repair facility availability) dictate that compliance be

done on an attrition basis with a calendar deadline established to minimize impact on operators (that is, avoid unnecessary grounding of aircraft).

(2) Where compliance times are specified as a period of time after the effective date, the time is measured from the effective date. For example, if the compliance time is "within 12 months after the effective date" and the effective date is January 15, 1991, the deadline for compliance is January 15, 1992. Where compliance times are specified as a number of calendar months after the effective date, the time is measured from the end of the month during which the AD becomes effective. For example, if the compliance time is "within 12 calendar months after the effective date" and the effective date is January 15, 1991, the deadline for compliance is January 31, 1992.

(3) Do not use calendar time just because it ensures that the AD is complied with at a certain time.

(4) Calendar dates (e.g., "before January 1, 1993") should be used to express compliance times only when engineering analysis establishes a direct relationship between the date and either the compliance "threshold" or the "grace period." In most cases, this relationship does not exist. Compliance thresholds are usually a function of utilization, which is unrelated to calendar dates. Grace periods are a function of the amount of time necessary after the effective date to accomplish the required actions. During the period of time that an AD is developed, effective dates cannot usually be determined with any precision, especially at the NPRM stage. Therefore, citing a calendar date is not usually an appropriate method of specifying a grace period.

(5) In some cases, however, a direct analytical relationship can be established and it is appropriate to use calendar dates. In these cases, the relationship should be explained briefly in the preamble. The mere fact that a manufacturer's service document or an international civil aviation authority's AD references a calendar date does not provide a justification for the use of a calendar date in a U.S. AD.

d. Number of Landings.

(1) The number of landings may be used to express compliance time if the problem is related to landing cycles such as in landing gear, flaps, or fatigue aggravated by landing, or if the problem is related to pressurization, such as fatigue cracking. Example:

Compliance: Required prior to the accumulation of [100 landings] after the effective date of this AD.

(2) For operators that do not keep landing records, use one of the following statements:

Subject to acceptance by [appropriate FAA official], operators that do not have landing records may determine the number of landings by dividing the number of hours of time-in-service of each airplane by the time of the average flight for the aircraft of that type in the operator's fleet. OR

The compliance times of this AD are presented in landings. If you do not keep a record of the total number of landings, then you may multiply the total number of aircraft hours time-in-service (TIS) by (whatever multiplier is appropriate for the affected aircraft.

e. Engine Cycles.

(1) For ADs affecting turbine engines, the compliance time may be expressed in cycles. The use of engine cycles in an AD compliance requirement shall be in accordance with the standard cycle definition and cycle counting methodology specified in the approved service document for the applicable engine model. For the purposes of an AD, when the cycle definition or counting methodology differs from that prescribed in the applicable approved service documents, the cycle definition or the cycle counting methodology shall be included in the body of the AD.

(2) In no case may the engine cycle compliance requirement prescribed in the AD cause or allow an approved cyclic retirement life (as specified in the applicable approved service document) to be exceeded.

f. Components.

(1) If compliance times relate to the hours time-in-service of a component, the following statement may be used:

Prior to the accumulation of [1,000] hours time-in-service on [torque links, P/N 13579], or within [100] hours time-in-service after the effective date of this AD, whichever occurs later...

(2) When this type of statement is used, a statement such as the following may be used, if appropriate, at the end of the AD to provide for components with unknown numbers of hours time-in-service:

Operators that do not have records of hours of time-in-service on individual [torque links] shall substitute airplane hours time-in-service in lieu thereof.

g. Inspection and Repair. When a required inspection may result in a required repair or replacement, the AD must clearly state the compliance time for both the inspection and the repair or replacement.

(1) Example of an inspection compliance time:

Within the next [100] hours time-in-service after the effective date of this AD, visually inspect the [internal structure at Wing Station 12] for [cracks] using [dye penetrant and a glass of at least 10 power] in accordance with the procedure specified in [paragraph (a) of Vega Service Bulletin No. 25, dated November 29, 1988].

(2) Example of repair or replacement that must be done at the time of inspection:
If a crack is found, repair [before further flight] in accordance with [paragraph (b) of Vega Service Bulletin No. 25, dated November 9, 1988].

(3) Example of repair or replacement that has a compliance time that is different from the inspection compliance time:

If a crack is found, repair [within the next 50 hours time-in-service after the inspection required by paragraph (a) of this AD] in accordance with [paragraph (b) of Vega Service Bulletin No. 25, dated November 29, 1988].

h. Interim Action. In the event an interim action is required before accomplishment of a repair or replacement (such as the installation of an operating limitations placard), statements such as the following may be used:

Within the next [10] hours time-in-service after the effective date of this AD, install a placard...

Within the next [500] hours time-in-service after the effective date of this AD, modify [the wing panel] in accordance with...

The modification required by paragraph (x) of this AD is considered terminating action for the placard requirement of paragraph (a). When the modification is incorporated, the placard may be removed.

i. Repetitive Compliance Time.

(1) When an initial inspection is followed by repetitive inspections at periodic intervals, the following statement may be used, but it should be included in the instruction itself, not as a separate compliance paragraph:

Within the next [25 hours] time-in-service (TIS) after the effective date of this AD, unless already done within the last [75 hours] TIS, and thereafter at intervals not to exceed [100 hours] TIS from the last inspection, inspect...

(2) The phrase "unless already done within the last 75 hours time-in-service" accounts for an operator that has made an inspection before the effective date of this AD. If the compliance time for the initial inspection is the same as that for the repetitive intervals, the following statement may be used:

Compliance: Required within the next [25 hours] time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed [25 hours] TIS from the last inspection.

(3) Again, the complexity of the statement will determine whether it is best issued as part of the compliance requirement or as part of the inspection instruction.

j. Credit for Maintenance Done.

(1) Whenever possible, allow credit for maintenance already done. If the AD requires a one-time inspection, modification, replacement, etc., a statement such as the following may be used:

Compliance: Required within the next [100] hours time-in-service after the effective date of this AD, unless done previously.

(2) Credit for previously done maintenance may also be limited if warranted by the circumstances of the unsafe condition, i.e., if a recent inspection would suffice, but not an inspection done one year ago. Example:

Compliance: Required within the next [100] hours time-in-service (TIS) after the effective date of this AD, unless already done within the last [50] hours TIS.

k. Compliance Before Further Flight and Special Flight Permits.

(1) When compliance with an AD is required before further flight (or if the compliance time is so short that further flight is not practical), and the aircraft may be flown safely to a location where the requirements of the AD can be done, include a provision for the issuance of a special flight permit. Example:

...before further flight, except that a special flight permit may be issued in accordance with 14 CFR § 21.197 and 14 CFR § 21.199 to operate the [airplane] to a location where the [inspection/repair/ modification] may be performed.

Or it may be issued as a separate designated paragraph:

Special flight permits may be issued in accordance with 14 CFR § 21.197 and 14 CFR § 21.199 to operate an airplane to a location where the requirements of this AD can be done.

(2) If the product to which an AD applies is not an aircraft (e.g., an engine, propeller, or appliance), and the aircraft itself may be operated safely with the product inoperable, a special flight permit may be issued with the limitation that the specific product not be operated during the ferry flight. Any limitations must be addressed in the AD itself; 14 CFR part 39 only accounts for special flight permits without limitations.

(3) It may be necessary to specify limitations in the AD to be observed during operations conducted under a special flight permit such as:

...repair before further flight, except that a special flight permit may be issued in accordance with 14 CFR § 21.197 and 14 CFR § 21.199 to operate the [airplane] to a location in order to comply with the requirements of this AD, if that [the airplane is flown unpressurized].

This limitation must be addressed in the AD itself; 14 CFR part 39 only accounts for special flight permits without limitations.

(4) In all cases, however, the "special flight permit" statement in an AD is not intended to override the authority given to the cognizant FAA Principal Inspector under 14 CFR § 21.197 to issue flight permits. The cognizant Aircraft Certification Office and the Principal Inspector should work together to determine in individual situations as to whether restrictions should be put upon the aircraft when applying the special flight permit.

l. Compliance Times that Coincide with Scheduled Maintenance.

(1) Compliance times should be selected to coincide with scheduled maintenance whenever the unsafe condition is not so urgent that a shorter compliance time is necessary. However, compliance times should not be based on indefinite or nonspecific intervals, such as "at the next 'C' check." Since maintenance schedules vary from operator to operator, there can be no assurance that the action will be done within the time frame for safe operation of the aircraft.

(2) It is permissible to specify compliance times in terms of maintenance intervals in conjunction with a specific operating time or calendar time requirement. For example:

Compliance: Required at the next shop visit, but no later than [60 days] after the effective date of this AD.

(3) When specifying compliance times to coincide with 100-hour inspections for 14 CFR part 91 operators, take into account the provisions of 14 CFR § 91.409(b), which allows the 100-hour inspection to be exceeded by up to 10 hours while enroute to reach a place where the inspection can be done.

m. Adjustments in Compliance Requirements. To provide flexibility in administering ADs that require repetitive inspections, a statement may be included in the AD to permit reasonable adjustments in the intervals specified to coincide with an operator's established inspection period. Initial compliance times can also be adjusted; however, this should not be permitted where the compliance time is short. In either event, substantiating data must be submitted to the FAA office specified in the AD. See paragraph 126 of this Section for the statement to be included in ADs to allow for such adjustments. If language allowing the adjustment of compliance times is not included in the AD, formal exemption procedures (petition for exemption) must be followed to gain such relief (see 14 CFR part 11).

124. DESCRIPTION OF PROBLEM. Every AD should contain an objective description of the difficulty experienced. This description is inserted before the statement describing the corrective action. The description should be a concise statement and may be drawn from the preamble description of the unsafe condition prompting the AD. Example:

To prevent [*the failure of the horizontal stabilizer caused by frayed cables*], which could result in [*reduced controllability of the airplane*], accomplish the following:

125. CORRECTIVE AND TERMINATING ACTION. Every AD should contain a clear and concise statement of corrective measures or limitations required, including the method of accomplishment. Every effort should be made to provide corrective action that will terminate the need for repetitive inspections or special operating procedures. The FAA has determined that long-term continued operational safety will be better assured by design changes that remove the source of the problem, rather than by repetitive inspections or other special procedures.

a. Areas or Parts to be Inspected. Where inspections are required, the area of the aircraft or the specific parts to be inspected must be defined and, if appropriate, the AD must state whether it is necessary to disassemble, remove bolts, etc., to accomplish the inspection. Example:

Perform an ultrasonic inspection of the MLG side brace lower arm....

b. Inspection Methods. The inspection method must be defined, i.e., dye-penetrant, x-ray, etc., and provisions must be made for an FAA-approved equivalent method, if acceptable. If specific procedures for accomplishment of the required action are contained in a service bulletin or document, the AD should refer to that bulletin or document for those procedures. It is not sufficient to refer to a service bulletin alone (i.e., "Do the service bulletin."); however, if required procedures are lengthy or complex, it is acceptable to refer to the portion of the service bulletin where the procedures can be found, rather than repeating the procedures in the text of the AD (i.e., "Accomplish the x-ray inspection to detect cracking in Body Station XYZ in accordance with the Accomplishment Instructions of the service bulletin.")

c. Replacement Parts. Except in the circumstances where an immediate grounding is required, the availability of replacement parts should be considered and the parts identified by part number. State which parts are acceptable equivalents, if any.

d. Other Information.

(1) If the text of an AD contains a requirement to comply with a service bulletin, the service bulletin must be contained in the AD text, attached as an appendix, or incorporated by reference (See Section 13 of this Manual).

(2) Notes used in the text of an AD must be limited to information and service bulletin citations not required by the AD itself but that may be helpful to the operator in complying with the AD.

(3) An informational reference to a service bulletin does not constitute a regulatory requirement or an incorporation by reference.

126. ALTERNATIVE METHODS OF COMPLIANCE.

a. General. Since more than one method of compliance may be acceptable to correct a particular difficulty, 14 CFR part 39 provides an alternative method of compliance provision for each AD unless the specific AD includes a statement that contradicts this. This is true even though the alternative may not be known at the time the AD is issued. Provision of an alternative method is desirable from the operator's point of view and eliminates the need for constant revision of ADs when equivalent methods are developed. If the AD includes a statement that alternative methods of compliance cannot be approved, then the AD must be revised before compliance by any other method can be approved.

b. Service Bulletins. If a service bulletin has been incorporated by reference into an AD, use of the term "or later FAA-approved revision" with reference to the service bulletin violates OFR regulations and is not acceptable because it has not been approved as an incorporated document.

(1) Later revisions of a service bulletin referenced in an AD may be approved as an alternative method of compliance using the following procedure:

(a) The manufacturer must formally request approval of the service bulletin revision as an alternative method of compliance and submit it for FAA approval. If the FAA agrees, a formal approval letter is sent to the manufacturer.

(b) The manufacturer may then place the following statement (or an equivalent) in the "Approval" section of the service bulletin:

Revision xxxx to this service bulletin is approved by the *[Manager, Engine Certification Office, ANE-140,*] by letter dated xxxx xx, xxxx, as an alternative method of compliance with AD xx-xx-xx, paragraph xxx."

(c) Any service bulletin containing this statement is considered an approved alternative method of compliance, and requests for approval from individual operators are not required.

c. Even when a manufacturer's service bulletin is incorporated by reference, the following statement, or an equivalent, concerning alternative methods of compliance should be used in each AD:

An alternative method of compliance or adjustment of the *[initial]* compliance time that provides an acceptable level of safety may be used if approved by the Manager, *[name of appropriate ACO]*. Operators shall submit their requests through an appropriate FAA Principal *[choose one of the following: Maintenance/Avionics/ Operations]* Inspector, who may add comments and then send it to the Manager, *[name of appropriate ACO]*.

d. When the submitting party is not an operator that has cognizant inspection personnel [i.e., no Principal Maintenance Inspector (PMI)], the request will be submitted directly to the appropriate ACO. It is the responsibility of ACO personnel to coordinate the request for such alternative method with the Aircraft Evaluation Group (AEG).

e. The following note should also be included after the paragraph concerning application for an alternative method of compliance:

NOTE: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from [name of appropriate ACO].

This note may assist operators wishing to take advantage of an alternative method of compliance that has already been approved by the FAA. An ACO Manager is expected to provide only the identity of any organization or person who has received approval for an alternative method. No ACO Manager should provide any material that may be considered proprietary by the approval holder.

f. For proposed ADs that are to be issued as revisions or supersedures of existing ADs (see par. 32-34), questions frequently arise as to the continued validity of previously approved alternative methods of compliance. In most cases, previously approved methods will continue to be valid for revisions (i.e., new ADs that would not impose any additional burden on the operator). For supersedures, the continued validity of previously approved methods must be evaluated on a case-by-case basis.

(1) For example, if the existing AD requires a repetitive inspection; an operator obtained approval to perform a different type of inspection; and the superseding AD would continue to require the same inspections until a required terminating modification is done, the alternative inspection method may continue to be valid until the modification is done.

(2) On the other hand, if the superseding AD is issued to expand the area required to be inspected, the alternative inspection method would not be valid unless it already covered the expanded area.

(3) In all proposed revision and supersedure ADs, it is helpful to operators, and may eliminate unnecessary applications for approvals, to include provision in the alternative method paragraph that explains the status of alternative methods approved under the existing AD. The following are examples of this type of provision:

Alternative methods of compliance, approved in accordance with AD XX-XX-XX, are approved as alternative methods of compliance with this AD.

Alternative methods of compliance, approved in accordance with AD XX-XX-XX, are approved as alternative methods of compliance with paragraph () of this AD.**

Alternative methods of compliance, approved in accordance with AD XX-XX-XX, are not considered to be approved as alternative methods of compliance with this AD.

127. AUTHORIZATION TO PERFORM WORK REQUIRED BY ADs.

a. The persons authorized to perform the work required in an AD should not be prescribed by the AD as long as the actions are to be accomplished by persons prescribed in 14 CFR § 43.3. However, when compliance is allowed by persons other than those prescribed in that section, a statement such as the following must be included to ensure a maintenance record entry is made:

The actions required by paragraph () of this AD may be performed by the owner/operator holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR § 43.9 and 14 CFR § 91.417(a)(2)(v).**

b. ADs should not authorize the pilot to conduct other than routine checks and specify that, if a defect is found, any further action must be taken only by an authorized person. Pilots should not be authorized to do any task that requires the expertise of a mechanic, such as the use of uncommon tools, test instruments or technical procedures that require training. In addition, if a required check requires maintenance knowledge to interpret what is observed, that check becomes maintenance and must be performed by a person certificated to perform such maintenance. If there are any questions concerning this policy, contact General Aviation and Commercial Branch, AFS-340.

128. REPORTING REQUIREMENTS.

a. For those ADs for which it is necessary to know the results of an inspection in order to determine whether additional action by the FAA is required, include a statement requiring that the results of the findings be reported to the controlling FAA office. In some instances, collection of inspection result data may be the only means by which the FAA can effect quality control on a manufacturer or repair station. When an unsafe condition addressed by an AD appears to be attributable to a manufacturer's quality control (QC) problem, a reporting requirement is instrumental in ensuring that the FAA is able to gather as much information as possible as to the nature and extent of the QC problem. This information may not be available through other established means. In such a case, reporting is essential to ensure that the proper corrective action is implemented.

b. Approval of this information collection reporting procedure has been obtained from the Office of Management and Budget as required by the Paperwork Reduction Act of 1980 (44 USC 3501 et seq.). The reporting requirements should be specific as to the information required and must include the address to which information is to be sent. Example:

Report defects found to the Manager [*appropriate Aircraft Certification Office and address*] within [10] days of the inspection, or within [10] days after the effective date of this AD, whichever occurs later. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120-0056.

c. For reporting requirements in ADs that contain repetitive inspection requirements or other continuing requirements, the reporting requirement should be limited to the initial inspection findings unless later reports are determined to be necessary. If later reports are necessary and required in the AD, once the ACO has accumulated sufficient information, the ACO should propose a revision to the AD to delete the paragraph containing the reporting requirements.

129. REFERENCED MATERIAL. If a service document is referenced in the instructions of an AD, the OFR must approve the document for such reference. Section 13 of this Manual explains the approval process and the pertinent text that must be included in the AD relevant to this subject.

130. EFFECTIVE DATE.

a. General. The date on which an AD will become effective can be established before the AD is submitted for publication.

(1) However, if a specific calendar date cannot be chosen because of intervening time lags (such as waiting for approval for incorporation documents), a method of calculating the effective date should be chosen. In these cases, the following statement may be typed (in brackets) into the space left for the effective date.

[Insert date 30 days after date of publication in the Federal Register.]

(2) Do not use statements such as "**This amendment becomes effective upon publication in the Federal Register**" or "**This amendment becomes effective 10 days after publication in the Federal Register**," because unless someone is reading a copy of the Federal Register, there would be no way to calculate the date.

(3) Note that an AD may be made effective upon publication, but the correct way to do so is to enter the following bracketed statement in the space for the effective date:

[Insert date of publication in the Federal Register.]

b. Choosing a Date. The issuing office must choose a proposed effective date (or method of calculation) before the document is submitted for publication. The proposed date may change if intervening factors delay the publication of the document, but every effort should be made to choose a viable date. The following factors should be considered when choosing an effective date:

(1) By what means will the AD be sent to the distribution point (mail or fax) and how long will it take to get there?

(2) Is there an incorporation by reference that will require approval by the OFR?

(3) Is there sufficient time between the proposed publication and effective dates to allow for printing and distribution to owners and operators, including those in remote areas, through AIR-140?

(4) Are there holidays or a weekend involved that will affect the publication of the document and its distribution by mail?

(5) Does the effective date allow time for obtaining copies of referenced documents? Will the parts be available?

(6) Does the effective date allow sufficient time for operators to schedule their aircraft for maintenance without disrupting flight schedules?

(7) Does the effective date statement give credit for work that may have already been performed under an Emergency AD?

c. Notice to the public.

(1) Section 553(d) of the APA requires that rules be made effective no fewer than 30 days after publication in the Federal Register. If less than 30 days notice is given, the requirements of Section 553(d) must be met by making the appropriate findings and statements. See Section 1 of this Manual for a detailed explanation of this APA requirement.

(2) Remember that a document will not normally be published until three business days AFTER it reaches the OFR and is found to be acceptable. For example, if an effective date of April 1 is set, and the document reaches the OFR on March 1, 30 days notice will not have been given by the time it publishes on March 4. Provide extra time to account for mailing, possible late delivery, arrival at the OFR after 3 p.m., weekends, holidays, the three-day processing time, five days for congressional review, and any extra time necessary for the IBR approval process.

d. Placement in Final Rules. The effective date should be placed as the last designated paragraph of text in an AD before the issuing statement. Examples:

(x) This amendment becomes effective on [date].

(x) This amendment becomes effective on [date] to all persons except those to whom it was made immediately effective by Emergency AD [insert AD number] issued [date], which contained the requirements of this amendment.

e. The second example, above, can only be used when there has been no change to the document between its issuance as an Emergency AD and final publication. If changes have been made and this statement is used, then the recipients of the Emergency AD are legally released from compliance with the final rule, including any additional or changed provisions.

f. Placement in Emergency ADs. ADs issued as Emergency ADs are made effective upon receipt.

131. SIGNATURE BLOCK. *The last item on the last page of the AD is the signature block. It consists of two parts, both of which must be complete before the document has been legally issued:*

a. Issuing statement. Insert the city and state where the signing official is located and the date the document was issued:

Issued in [city/state], on [date].

b. Signature of Issuing Official. Airworthiness Directives must be signed by the Directorate Manager or acting Directorate Manager of the issuing office. No one may sign an AD "for" the Directorate manager. The OFR requires that the typed name and title of the signer appear below the signature. Signers should use blue or other non-black ink to eliminate the possibility that the original document would be confused with photocopies.

132. - 139. RESERVED.

SECTION 13. REFERENCED MATERIAL

140. RECOGNITION OF REFERENCED MATERIAL. It is essential that the drafter of an AD recognize that referring to a service bulletin or other service information in an AD may require that document to be "published" (i.e., incorporation by reference (IBR)) with the rule. Publication is required if the AD mandates a method of compliance that is contained only in the referenced service bulletin or service information. As an example, if an AD instruction says "Inspect the flap actuator housing in accordance with Boeing Service Bulletin 13579, dated February 30, 1990," then the AD is requiring a method of compliance available only in an outside document, and the document must be "published" with the rule.

141. TYPES OF MATERIAL. Referenced material may include a manufacturer's service bulletin or repair manual; compliance with which is required as part of the AD. If an AD states that a repair, modification, inspection, or other procedure must be accomplished in accordance with a specific service bulletin, the service bulletin instructions must either be included in the AD language (in which case it becomes part of the AD) or submitted for approval to the OFR as referenced material. Note that it is FAA policy that pages or sections of maintenance manuals are not submitted for IBR approval unless specifically warranted by the circumstances of the material.

142. PUBLICATION. Publication means either that the referenced parts of the document are attached to the AD (incorporated as part of the actual AD language or attached as an appendix and printed with the rule in the Federal Register), or that the entire outside document be approved for IBR by the Director of the Federal Register. Approval of the IBR means that an original of the referenced material is kept on file at the OFR as an official part of the rule and is available for inspection by any interested party. Once the IBR is approved, the AD may make reference to anything in it without further need for publication of any text of the referenced material. In addition, OFR regulations require that the IBR material must be reasonably available to the persons affected by it.

143. INCORPORATION BY REFERENCE APPROVAL.

a. The OFR has agreed to certain guidelines with the FAA concerning the submission of referenced material and material that will be placed in an appendix to the AD instead of being incorporated by reference. Referenced material must have OFR approval before it can be published in a final rule.

b. An original of the document for IBR approval is submitted to the Director of the Federal Register with a letter requesting such approval and a copy of the final rule that contains the proper references to the IBR document. The letter should give the affected aircraft/engine model, docket number of the AD, AD number, and amendment number. The letter should also fully identify the agency's intent for IBR approval. The AD submitted with the referenced document must contain the following items:

(1) A boilerplate statement in the DATES caption of the preamble (following the effective date of the final rule) that reads:

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of [date].

The date of approval will always be the same as the effective date of the rule. If no specific calendar date has been chosen for the effective date, insert the same bracketed statement that is used for calculation of the

effective date by the OFR. If a specific effective date has been chosen that allows for the time necessary to get incorporation approval, that date may be entered.

(2) The term "Incorporation by reference" in the List of Subjects.

(3) Proper references to the IBR document where applicable in the instructions of the AD.

(4) A designated boilerplate paragraph made just before the effective date paragraph at the end of the AD that reads:

The [procedure/inspection/modification/actions] shall be done in accordance with [title of document with all appropriate identifying publication numbers and dates]. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. Section 552(a) and 1 CFR part 51. Copies may be obtained from [insert name and address of publisher]. Copies may be inspected at [insert name and address of FAA office where docket is maintained] or at the Office of the Federal Register, 800 North Capitol Street, N.W., suite 700, Washington, DC.

NOTE: The language of this paragraph that is not in brackets is provided by the OFR; federal agencies are not free to change, add to, or delete any portions of it.

(5) The OFR will approve the IBR and then publish the final rule, unless they communicate differently. This entire process takes about 10 days.

144. WHAT CAN BE INCORPORATED BY REFERENCE. Not every supplemental document qualifies for incorporation approval. The Federal Register Document Drafting Handbook lists eligible documents as published data, criteria, standards, specifications, techniques, illustrations, or similar material that is reasonably available to and usable by the persons affected by the publication, the publication of which would substantially reduce the volume of material published in the Federal Register. There is no minimum or maximum length for eligible documents.

145. DOCUMENT PREPARATION.

a. The OFR accepts only original (or legible copies of) documents for incorporation to enable them to produce copies of acceptable quality when requested and paid for by a member of the public.

b. The document must be intact (i.e., a stapled, related set of pages), not a loose collection of assorted pages collected from one or more documents. The document should be clearly identified by the title, revision number, identification number, and the date on the cover or first page.

c. If the document is not easily identified, a cover page should be added to the referenced material that contains all of the information necessary to identify the document, including the manufacturer or source of the document, document title (if any), dates, and revision numbers.

(1) If all the pages of the document contain the same revision number and date, simply refer to the document using the exact title, revision number, date, and document number. Example:

McDonnell Douglas Corporation, DC-10 Cargo Door Service Bulletin No. 2367, Revision 1, January 31, 1991.

(2) If a document contains different dates and revision levels on some pages, a complete listing of the contents of the documents is required. This is necessary because if the document had to be re-created, it would be easy to identify the pages and revisions in effect when the document received IBR approval. Only the version given to the OFR for IBR is the legally enforceable one. Later revised service bulletin pages, for instance, would constitute a change to the document and an "alternative method of compliance" that has not been subject to public notice and comment. (Note: This full identification of the document is the same for the cover page and the AD boilerplate.) Example:

Boeing Aircraft Service Bulletin No. 2998, Revision C, October 24, 1990, which contains the following list of effective pages:

<u>Page Number</u>	<u>Revision Level Shown on Page</u>	<u>Date Shown on Page</u>
1	C	October 24, 1990
2 – 6	B	April 3, 1990
7 – 8	C	October 24, 1990
9 – 20	A	November 13, 1989
21	Original	May 1, 1987
22		(not used)
23	Original	May 1, 1987

(3) Each document must be listed separately. For example, if the AD allows either of two revisions of a service bulletin to be used and both are being incorporated, each must be listed separately.

<u>Boeing Service Bulletin Referenced and Date</u>	<u>Page Number</u>	<u>Revision Level Shown on Page</u>	<u>Date Shown on Page</u>
727-53-2998, Revision B, April 3, 1990	1-8	B	April 3, 1990
	9, 12-15	A	January 5, 1990
	10-11, 16	Original	December 1, 1989
727-53-2998, Revision C, October 24, 1991	1-5, 10	C	October 24, 1991
	6-8	B	April 3, 1990
	9, 12-15	A	January 5, 1990
	11	(not used)	

146. APPROVAL TIME.

a. Regular Approvals. An eligible, correctly prepared document will generally clear the OFR within approximately 10 working days.

b. Expedited Approvals. The FAA may request special handling for those IBR requests associated with immediately adopted rules ("expedited" IBR approval and publication). Approval is done at the discretion of the OFR and is subject to OFR staff workload. It generally results in an approval time of 48 hours from submission of a correct document.

c. Emergency Approvals. The FAA may request special handling for those IBR requests associated with an urgent safety issue. The OFR should be contacted in advance to coordinate such scheduling. Also, a letter must be submitted to the OFR that explains why the emergency publication is necessary and any special printing and processing instructions, such as date of publication and date of placement of the AD on public display.

d. Pre-approvals. The OFR also allows for the "pre-approval" of IBR documents if they are submitted with an unsigned draft version of a final rule that contains all of the proper IBR language and references. The OFR does not care if the preamble or rule material changes before the final rule is signed, as long as the IBR document approved does not change.

147. INCORPORATING MATERIAL AS APPENDICES. In the event that supplemental information is inappropriate for IBR (e.g., a single drawing), or if actual publication is preferable, it can be added to the AD as an appendix. Often, selected parts of a service bulletin are used as an appendix. The most important thing to remember is that for the purposes of the AD, the material in the appendix is material submitted by the FAA, not someone else's publication. For this reason, it is critical that everything that is NOT to be printed be marked out completely, including letterhead, stray lines or marks, and any information that is not referenced in the AD language. Also remember the following:

a. Appendix documents must be added to the AD after the last instruction and before the signature block. The easiest way to do this is to have the signature block alone on a final page, with the appendix material on the preceding page(s).

b. Appendix pages are numbered sequentially with the AD pages, including the cover page for each appendix.

c. Appendix documents must have a cover sheet that lists its appendix number (including the respective page number of the AD at the bottom). No other information should appear on the cover sheet. When using a printed document, do not identify the source of the appendix pages; remember, it no longer belongs to the original document.

d. Do not identify appendix documents by their original service bulletin number when referring to them in an AD, instead refer to the appendix (i.e., "in accordance with Appendix 1 of this AD..."). Since the whole service bulletin is not being reproduced, or parts of it may have been altered, it should not be given as an alternative to the appendix document.

e. Check that the proposed appendix does not begin with "Instruction 4" or the like, because extraneous material has been eliminated. If necessary, redesignate paragraphs so it does not appear that something is missing.

148. - 149. RESERVED.

SECTION 14. TEXT FOR SPECIALIZED AD SUBJECTS

150. ADs FOR SURPLUS AIRCRAFT OF THE U.S. ARMED FORCES. Airworthiness Directives issued against surplus military aircraft that have been issued civilian type certificates should be issued on the basis of civil operating experience or appropriate military experience that is similar to civil operations, insofar as practical.

151. ADs AFFECTING PRODUCTS IN PRODUCTION. When an AD that dictates a specific design change (or equivalent) is issued against products currently in production, the production-controlling region must ensure that the design changes referenced in the AD are incorporated on all products produced after the last product referenced in the applicability of the AD. If the applicability of the AD specifies “all,” then the region must ensure that all products delivered after the compliance time for the AD incorporate the design change (or equivalent). ADs that mandate a one-time or repetitive inspection (or replacement) may not necessarily require a production change, such as a failure in a quality control procedure or a search for bad parts.

152. ADs TO CHANGE LIFE LIMITS.

a. General. Airworthiness Directives that apply more restrictive life limits to products are issued when the current life limits contribute to an unsafe condition. Note that a change to a life limit appearing only in a manual or on type certificate data sheets, even if FAA-approved, does not require compliance by the pilot or operator (although the FAA encourages that known limits be taken into consideration). To be LEGALLY required, the change must be made through an AD. Typically, AD language concerning these parts reads as follows:

Remove the [part] and replace it with a new or serviceable part before the total accumulation of (#) [cycles, landings, etc.] on the [part], or within _____ hours TIS after the effective date of this AD, whichever occurs later. Thereafter, replace [part], P/N xxxxxxxx, with a serviceable part before the accumulation of (#) [cycles, landings, etc..]

b. Limitations Sections. For products that have Instructions for Continued Airworthiness containing an airworthiness limitations section, another way to impose or change life limits is to revise this limitations section to include the new life limit. See paragraph 158 of this Manual.

153. ADs REVISING FAA-APPROVED FLIGHT MANUALS.

a. Only an AD can change the Limitations Section of an FAA-approved Aircraft Flight Manual (AFM). A change to a manual other than by AD, in and of itself, does not require compliance by the pilot or operator. When the change is made through the AD process, compliance is complete when the manual revisions are made, any related required placards (if appropriate) are installed and a maintenance record entry is made. Service bulletins, even if FAA-approved, cannot mandate compliance for aircraft in service.

b. If it is intended that the added AFM provisions be mandatory, they must be added to the limitations section of the AFM, since that is the only section of the AFM that is mandatory (see 14 CFR 91.9). If it is intended that the added AFM provisions be advisory only (e.g., warnings), the provisions may be added to other appropriate sections of the AFM.

154. ADs FOR PRODUCTS ALTERED BY A SUPPLEMENTAL TYPE CERTIFICATE OR FIELD APPROVAL. When an aeronautical product has been altered by a supplemental type certificate (STC) or field approval, and it is determined later that an unsafe condition or design defect is a direct result of the product alteration, an AD should be issued against the basic type-certificated product and made applicable only to those products that incorporate the STC or field approval. Note that while an AD can be issued to correct the problem (as in removal of the modification), an AD cannot be used to "revoke" an STC or field approval; doing so constitutes a certificate action against the aircraft that cannot be done legally in an AD.

155. ADs FOR ARTICLES OTHER THAN PRODUCTS.

a. When an unsafe condition exists in an appliance or other item that is installed in so many different aircraft (or engines) that it is impractical to issue ADs against each aircraft or engine, the Directorate that has geographic jurisdiction over the manufacture of the appliance or item is responsible for issuing the AD. The AD should identify known type certificated products that incorporate the appliance or other item, as well as the fact that the appliance or item may be installed on other products.

b. If the unsafe condition results from the installation of the item in a particular make and model of aircraft, the AD should be issued by the Directorate that has certificate responsibility for that aircraft.

156. ADs FOR PRODUCTS MANUFACTURED OUTSIDE THE UNITED STATES. Airworthiness Directives are to be issued against products manufactured outside the United States that are type-certificated under 14 CFR § 21.29 (or its predecessor, CAR 10) under the same circumstances as they are issued against domestic products, i.e., when the FAA determines that an unsafe condition may exist or develop in other products of the same type design.

a. In accordance with various international agreements, the airworthiness authority of each exporting country (i.e., the country of manufacture) is required to advise the FAA when it determines that an unsafe condition exists in one of its products that has been type certificated in the United States. This is done by providing the FAA with copies of all of that country's ADs or AD equivalents, such as service documents that have been classified as mandatory.

b. Upon receipt of this information, the FAA evaluates the international civil aviation authority's action to determine whether a U.S. AD is appropriate. In general, this evaluation is similar to that which is conducted for potential unsafe conditions involving domestic products. In other words, the FAA must make an independent determination that an AD is necessary. If the AD issued by the international civil aviation authority or the manufacturer's service document does not provide sufficient information on which that determination can be made, the project engineer should contact the manufacturer or the international authority to obtain additional information. If it is determined that an AD is necessary, the FAA generally defers to the exporting country's determination as to the appropriate corrective action, unless the FAA is aware that action is inappropriate or that some other action is preferable. When deferring to the international civil aviation authority determination, the following limitations may be used in the preamble to the AD:

The [airworthiness authority], which is the airworthiness authority for [applicable country], recently notified the FAA that an unsafe condition may exist on [make/model/series airplanes]. The [airworthiness authority] advises that [describe the occurrences or the unsafe condition].

[The manufacturer] has issued [service bulletin name, number and date] that specifies [summary of procedure required]. The [airworthiness authority] classified this service

bulletin as mandatory [and issued (authority AD) in order to assure the continued airworthiness of these airplanes] in [applicable country].

This airplane model is manufactured in [applicable country] and is type certificated for operation in the United States under the provisions of 14 CFR § 21.29 (or its predecessor, CAR 10) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the [airworthiness authority] has kept the FAA totally informed of the situation described above. The FAA has examined the findings of the [airworthiness authority], reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

c. In some cases, the FAA may determine that an unsafe condition exists in a product manufactured outside the United States and issue an appropriate AD, even though the exporting country (country of manufacture) may disagree with the finding.

157. ADs CORRECTING MAINTENANCE-RELATED DEFECTS. If necessary to address an unsafe condition, an AD may be issued to specify maintenance procedures beyond the minimum of normal good maintenance practices. An AD may be issued when it has been determined that an unsafe condition is likely to occur if special or unique maintenance practices are not done in a timely manner. An AD should not be issued, however, to assure the use of normal maintenance practices on a product where individual cases of improper maintenance or lack of maintenance have contributed to an unsafe condition. Corrective action in those situations should be taken through normal Flight Standards maintenance communications channels, such as general aviation airworthiness alerts, maintenance bulletins, and notices. An AD may also be appropriate where, as a result of quality control failure, the product produced is nonconforming, and this nonconformance results in an unsafe condition. Such an AD is issued against the product to address the unsafe condition.

158. ADs TO CHANGE AIRWORTHINESS LIMITATIONS.

a. In accordance with airworthiness standards requiring "damage tolerance assessments" (current 14 CFR § 23; 25, 27, and 29.1529; 14 CFR § 33 and 35.4; and 14 CFR § 31.82; and the Appendixes referenced in those sections), all products certificated to comply with those sections must have Instructions for Continued Airworthiness (or, for some products, maintenance manuals), that include an airworthiness limitations section. This section must set forth mandatory replacement times for structural components, structural inspection intervals, and related approved structural inspection procedures necessary to show compliance with the damage-tolerance requirements. Compliance with the terms of airworthiness limitations sections is required by 14 CFR § 43.16 (for persons maintaining products) and 14 CFR § 91.403 (for operators).

b. Based on in-service data or post certification testing and evaluation, the manufacturer may revise the Airworthiness Limitations Section to include new or more restrictive life limits and inspections, or it may become necessary for the FAA to impose new or more restrictive life limits and structural inspections, in order to ensure continued structural integrity and continued compliance with damage tolerance requirements. In order to require compliance with these inspection requirements and life limits, the FAA must engage in rulemaking. Because loss of structural integrity would constitute an unsafe condition, it is appropriate to impose these requirements through the AD process.

c. For products certificated to comply with the referenced damage tolerance requirements, one method to reduce life limits or to impose new or different structural inspection requirements is to issue an AD requiring a revision to the airworthiness limitations section. Once that section is revised, as required,

the AD has been fully complied with, and the life limit or structural inspection change remains enforceable as a part of the airworthiness limitations section. (This is analogous to ADs requiring changes to the operating limitations section of the airplane flight manual.) It should be noted that, simultaneously with the issuance of the AD, the responsible ACO should revise the type certificate data sheet for the product to indicate the change in the airworthiness limitations.

d. Requiring revision of the airworthiness limitations, rather than requiring individual repetitive inspections, is advantageous for operators because it allows them to record AD compliance status only at the time that they make the revision, rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

e. The following is sample AD language to revise airworthiness limitations:

a. Revise the airworthiness limitations section of the Instructions for Continued Airworthiness, as follows: _____

b. Thereafter, except as provided in paragraph c. of this AD, no alternative replacement times or structural inspection intervals may be approved for this [part].

Paragraph b. is necessary because 14 CFR § 91.403 would otherwise permit operation in accordance with alternative inspection intervals set forth in approved operations specifications or inspection programs, which might conflict with the intervals referenced in the AD.

159. RESERVED.

SECTION 15. SPECIAL PROCESSING OF SENSITIVE OR EMERGENCY ADs

160. GENERAL INFORMATION.

a. An AD of an emergency nature that requires immediate action may be distributed either via fax or first-class mail, depending on the issuing Directorate's policy. If the distribution lists indicate that a large percentage of the recipients do not have the capability of receiving the information by fax, distribution by first-class letter is the appropriate alternative.

b. Airworthiness directives affecting small aircraft or products used in commuter operations (14 CFR part 135) may be distributed via fax if that method is compatible with the number and nature of the addresses on the list of affected owners. The issuing Directorate must contact AIR-140 as soon as possible to coordinate this special distribution.

161. "SENSITIVITY" CONSIDERATIONS.

a. Each AD action should be reviewed to determine if the subject matter may be of a "sensitive" nature. Following are some, but not all, of the criteria, that should be considered when determining whether an AD is considered "sensitive":

- Actions that are unusually burdensome.
- Actions that are controversial.
- Actions that are expected to generate a high level of congressional or public interest.
- Actions that ground aircraft.
- Actions that affect a large fleet of aircraft.
- Actions that will impose a significant cost impact upon compliance.
- Actions for which significant news media coverage is anticipated, especially if related to a well-publicized accident.
- Actions that may add a significant cost increase to previously issued ADs.

b. When a Directorate determines that an AD may be "sensitive," the Aircraft Certification Service (AIR-1/AIR-100) must be notified sufficiently in advance of the issuance of the AD to alert appropriate persons at FAA Headquarters to the proposed action. An Administrator's AD Alert must be prepared and transmitted to AIR-100 (electronically or by fax) as soon as possible. A copy of the (draft) AD should also be transmitted to AIR-100. The alert is distributed to upper level management at FAA Headquarters before publication/distribution of the AD.

162. CONTINUED AIRWORTHINESS NOTIFICATION TO THE INTERNATIONAL COMMUNITY (CANIC).

a. The CANIC form is used to notify civil airworthiness authorities of other countries of pending

significant safety actions. In accordance with International Policy Memo 02-01, dated January 2, 2002, a CANIC is issued in advance of a major AD or NPRM, including a Special Federal Aviation Regulation (SFAR), or following a significant safety action (as defined below). For AD purposes, advance notice should be provided to the civil airworthiness authorities of other countries when the project engineer has made the determination to issue an AD.

b. Each Directorate is responsible for establishing its specific process to create these notifications.

c. Notification is applicable only to actions involving commercial aircraft, and their engines and propellers (including large rotorcraft and commuter category). A “significant” safety action includes the following situations:

- Urgent safety situations;
- The pending issuance of an Emergency AD;
- Significant safety action that affects many people, operators, etc. (e.g., Level 3 or Level 4 engine, propeller or transport airplane event); and
- Other high interest event (e.g., a special certification review).

d. When such an issue arises, the CANIC process is initiated. The appropriate Directorate Manager or Assistant Manager must concur that a CANIC is necessary. A heads-up is provided to AIR-140 when a CANIC is being processed. The CANIC must be coordinated through the appropriate offices, including the directorate manager or assistant manager. The approved CANIC is e-mailed to AIR-140 for distribution to the civil airworthiness authorities of other countries.

163. EMERGENCY ADs.

a. Issuing Directorate Responsibility.

(1) As soon as the decision is made to issue an Emergency AD, the issuing Directorate must call AIR-140 and advise them of the pending action. AIR-140 requests a 24-hour minimum notice prior to Emergency AD issuance to coordinate emergency distribution lists. The Directorate will provide the make and model of the affected aircraft (trade or popular names are unacceptable) and an approximate time the AD is expected to be issued. AIR-140 will provide an Emergency AD number at that time, if feasible.

(2) Emergency ADs are usually of a sensitive nature. Therefore, the Directorates should follow the procedures specified in paragraph 161 of this manual.

(3) AIR-140 will prepare the appropriate address list, which may include the entities mentioned in paragraphs (a) through (e) below. For Emergency ADs that will be distributed by mail, AIR-140 will obtain address labels and schedule the printing and distribution via first-class mail. When AIR-140 receives the Emergency AD, they will transmit the AD and to the designated contractor for printing and mailing. In most cases, these Emergency ADs are placed in the mail on the next day after issuance from the Directorate.

(a) U.S. Owners/Operators. The names and addresses of U.S. owners and known U.S. operators of the product affected by the AD.

(b) **Bilateral Countries.** The names of the civil airworthiness authorities of all countries that have concluded bilateral airworthiness agreements with the United States.

(c) **International Civil Aviation Organization (ICAO) Member States.** The names of the civil airworthiness authorities of those ICAO member States that have notified the FAA of registration of the affected product.

(d) **Other List.** This list may include, as appropriate, FAA offices outside the United States, U.S. military offices, other U.S. Government offices, and special interest groups.

(e) **Special Lists.** The issuing Directorate, AIR-140, and AIR-100 may identify other organizations or individuals that are to receive the AD as necessary to promote aviation safety. The office identifying the organization to receive the AD must include in its request the name, address, and electronic communication contact (if applicable) of the recipient.

(4) Following signature of the Emergency AD, the issuing Directorate will transmit via e-mail a copy of the final AD text including signature block and date of issuance to AIR-140. The issuing Directorate must call AIR-140 to ensure that they received the AD.

b. Delegation & Airworthiness Programs Branch (AIR-140) Responsibility.

(1) AIR-140 will distribute the Emergency AD via the appropriate means of distribution (i.e., fax or first-class mail) to U.S. owners and operators; all FAA Regional Operations Centers; appropriate civil airworthiness authorities of other countries; and ICAO Member States.

(2) AIR-140 also will transmit the AD via e-mail to Flight Standards Divisions and District Offices; certain FAA offices (i.e., AIR-1, AFS-1, APA-1, OPSpecs Help Desk); FAA overseas representatives; and other offices considered necessary.

164. - 169. RESERVED.

SECTION 16. AD NUMBERING

170. DOCKET NUMBER. The issuing Directorate will assign a different docket number to each AD action. An AD that was initially issued as an NPRM should retain the same docket number for the subsequent final rule action. Revision and revocation actions should be assigned the same docket number as the original action. This will ensure that all material related to the AD will appear in the same docket. Each Directorate's docket numbering system will include the calendar year the action is initiated, the two or three letter designator for the region, and a sequential docket number, e.g., 2002-NM-01-AD. The issuing Directorate may assign a new docket number when, for reason of age, change in Directorate responsibility or other circumstances, it becomes impractical to continue using the docket number originally assigned.

171. AMENDMENT NUMBERS.

a. After a final rule is signed by the Directorate manager, the issuing Directorate will obtain a part 39 amendment number and an AD number from AIR-140. The issuing Directorate will provide AIR-140 with the Directorate docket number, date of issuance, the nature of the problem, whether it is related to a suspected unapproved part (i.e. design, no sups), whether it is a revising or superseding AD, and the make/model/series of the aircraft or product affected.

b. AIR-140 will assign an amendment number to every final rule AD. The amendment number consists of "39-xxxxx." This number indicates that the AD is the xxxxx-th amendment to 14 CFR part 39.

172. AD NUMBER. AIR-140 will assign an eight-digit identification number (the "AD number") to every final rule AD. This number is used for agency tracking, maintenance recordkeeping by operators, and filing purposes. The numbering system used consists of a series of numbers separated by dashes, e.g., 2002-16-03. The first group of digits indicates the calendar year of issuance. The second two digits indicate the biweekly period of the year in which the AD number was assigned after issuance. The last two digits are issued sequentially, beginning with -01 for each biweekly period and continuing in ascending order until the next biweekly period begins.

173. EMERGENCY AD NUMBERS. AIR-140 designated the "50 series" for all Emergency ADs, i.e. 2002-10-51 or 2001-14-52. The numbers follow the same system as described in Section 16, paragraph 172, of this Manual.

174. REVISION AD NUMBERS. Revisions to ADs are identified by the addition of a suffix to the basic AD number that indicates the level of revision, e.g., R1, R2, R3 (example: 2002-20-01 R1).

175. - 179. RESERVED.

SECTION 17. AD DISTRIBUTION

180. GENERAL. The AD distribution discussed in this section is separate from that resulting from Federal Register publication. AIR-140 mails all individual ADs to known aircraft owners and operators listed on the FAA Aircraft Registry as called out in the “applicability” of the AD. Trade or common names may not be part of the aircraft registry record and should not be used in the applicability of an AD. In addition, AIR-140 coordinates distribution of the "Summary of Airworthiness Directives" in a biweekly supplement publication to subscribers. AIR-140 also posts all current ADs, as well as the biweeklies and AD Index, on the Internet at: <http://www.airweb.faa.gov>.

181. METHODS OF AD DISTRIBUTION.

a. Distribution of Daily ADs.

(1) After an AD action has been signed by the Directorate Manager, the issuing Directorate will send the original document, two certified copies, service bulletin copies for incorporation by reference, and an uncoded diskette to the OFR for publication. The copies are to be certified by the designated Certifying Officer in the issuing Directorate.

(2) When the AD is published in the Federal Register, AIR-140 will download a copy of the AD and format for paper and electronic dissemination. AIR-140 mails the AD via first-class mail to registered aircraft owners and known operators within three working days. AIR-140 mails Emergency ADs within 24 hours of issuance.

b. Emergency ADs requiring electronic distribution (see paragraph 162 of this Manual).

(1) Distribution of Emergency ADs affecting transport category aircraft or engines installed on transport category aircraft: AIR-140 will post the Emergency AD on the Internet at www.airweb.faa.gov and <http://av-info.faa.gov> as soon as they receive the AD from the issuing Directorate. AIR-140 will then fax the Emergency AD to all known affected owners or operators within 10 hours after it is received from the Directorate, or as soon as possible thereafter. If fax numbers are unavailable, AIR-140 will mail the Emergency AD and may use e-mail to distribute the AD. AIR-140 will coordinate these efforts with the issuing Directorate.

(2) Distribution of Emergency ADs affecting small airplanes or rotorcraft: AIR-140 will post the Emergency AD on the Internet at: <http://www.airweb.faa.gov> as soon as they receive the AD from the issuing Directorate. AIR-140 will coordinate printing and distribution using first-class mail to all affected owners and operators appearing on the FAA Aircraft Registry within 24 hours of receipt of the Emergency AD from the Directorate.

c. Distribution of NPRMs. In some instances, distribution of an NPRM or Advance NPRM through the AIR-140 system may be desirable to facilitate the submission of comments and the development of the final rule. AIR-140 must receive approval from the Manager, Aircraft Engineering Division, AIR-100, before distributing an NPRM or ANPRM.

d. Distribution of ADs to Congress.

(1) Each directorate emails a copy of the AD and Congressional Notification form to AIR-140 the same day the AD is sent to the Office of the Federal Register.

(2) AIR-140 checks the AD and Congressional Notification form for matching title and numbers. If AIR-140 finds any discrepancy, the directorate is notified. The directorate then re-sends a new AD and Congressional Notification form.

(3) AIR-140 makes 4 copies of the AD and 1 copy of the Congressional Notification Form and FedEx's the package to AGC-200. This is done once a week (on Wednesday). However, this task can be done any day the directorate makes a request.

e. Deviation from Distribution Procedures. Each AD must be distributed according to the procedures contained in this section of this Manual unless prior approval from the Manager, Aircraft Engineering Division, AIR-100, is obtained by the issuing office. If there is any change to this procedure, AIR-100 will notify AIR-140.

182. DISTRIBUTION OF ADs AFFECTING ENGINES AND PROPELLERS.

a. The Aircraft Registry Data System, contains some engine make and model information. However, all engines are not registered and no propeller information is included in the Registry Data System. Thus, ADs affecting a particular engine or propeller model may only be distributed to specific owners when the aircraft models on which these products are known to be installed are designated by the issuing Directorate.

b. The issuing Directorate is responsible for providing the required aircraft and/or make/model/series identity in the AD.

183. DISTRIBUTION OF ADs AFFECTING APPLIANCES, PARTS, OR COMPONENTS.

a. Airworthiness Directives that affect appliances, parts, or components can only be distributed to specific owners when the aircraft or engine models on which these appliance parts, or components are known to be installed are provided by the issuing Directorate. The issuing Directorate is responsible for providing the required aircraft make/model/series identity in the AD or by separate notice to AIR-140.

b. For those ADs that do not or cannot identify a specific aircraft or engine make/model, it may be necessary in some situations to distribute the AD to the entire fleet or a large portion of the fleet. If it is apparent that such widespread distribution is necessary, you should contact AIR-140 as soon as possible to discuss the options.

184. SPECIAL NOTIFICATION FOR THE PRESIDENTIAL FLEET. When issuing an AD that affects aircraft in the Presidential fleet, the issuing Directorate will ensure the prompt notification of the United States military. Each affected Directorate will develop and maintain internal procedures to make appropriate notifications. AIR-100 will provide each Directorate with a list of the aircraft in the Presidential fleet, and will update the list each time there is a change in the fleet.

185. - 189. RESERVED.

SECTION 18. COMPILATION OF ADS

190. PUBLICATION - (PAPER) SUMMARY

a. AIR-140 compiles all current ADs into two publications-the Summary of Small Aircraft and Rotorcraft, and the Summary of Large Aircraft. ADs applicable to engines and propellers are contained in the respective summary for the aircraft on which they are used. Other aeronautical products are contained in both of the summary publications. Each summary consists of four books. Book 1 contains ADs issued from 1940 through 1979, Book 2 from 1980 through 1989, Book 3 from 1990 to 1999, and Book 4 from 2000 to the present. Book 4 summaries are reconsolidated biennially in even-numbered years. The summaries for Books 1, 2, and 3 are not updated as often. If an AD contained in Book 1, 2, or 3 is amended, it will appear in Book 4.

b. AIR-140 publishes biweekly supplements to keep Book 4 current. Each biweekly supplement contains all ADs issued by the FAA during the previous two-week period. AIR-140 also posts each biweekly supplement on FAA's website for ADs.

c. The summary and biweekly supplements are available for purchase in paper copy through the U.S. Government Printing Office. FAA Advisory Circular 39-6(X), Announcement of Availability - Summary of Airworthiness Directives, describes the Summary of ADs and provides information on the content, availability, and cost of a subscription. Contact AIR-140 for further information.

191. REGULATORY AND GUIDANCE LIBRARY (RGL). AIR-140 maintains all current ADs, copies of biweeklies, and the AD Index (AD numbers) in RGL. The FAA can view all AD NPRMs, Final Rule ADs, and revisions through Lotus Notes. The public can view all current ADs and AD NPRMs through RGL on the Internet at <http://www.rgl.faa.gov>.

192 - 199. RESERVED.

SECTION 19. OTHER AD ACTIONS

200. PETITIONS FOR EXEMPTION.

a. General. Airworthiness Directives are regulations promulgated using the procedures of 14 CFR part 11. A petition requesting relief (exemption) from the requirements of an AD must meet the requirements of 14 CFR § 11.81. A petition for exemption from an AD is processed using the same procedures as a petition for exemption from any other regulation. The grant or denial must contain a full explanation of the action taken.

b. Granting Petitions. An exemption may only be granted if granting the relief will benefit the public as a whole. Consult AGC if there is any question regarding what constitutes public interest for exemption. If a petition for exemption describes a situation that affects more than one operator, consideration should be given to amending the AD in order to provide relief to all operators. If the original AD is amended, the petition for exemption must be processed as a denial, since the requested relief has been given in another form.

c. Processing Petitions. A petition for exemption must be sent to the DOT's Docket Management System (DMS) at the address shown in 14 CFR § 11.63.

(1) Starting the petition process: DMS will accept either paper or electronic submissions. If an owner or operator sends a petition for exemption to an FAA office (e.g., an ACO), that office should either return the petition to the sender with a copy of 14 CFR part 11 and instructions on where to send the petition in order to start the process, or forward the petition to DMS. DMS will assign a docket number and send the petition to the responsible directorate for further processing.

(2) Granting or denying the petition: The Directorate Manager has authority to grant or deny petitions for exemption to ADs that their directorate has issued. Once the directorate receives the petition from DMS, a summary of the petition must be prepared and sent to the Office of the Federal Register for publication. We do not have to publish a summary, however, if the petition meets the requirements of 14 CFR § 11.87. If we publish a summary of the petition, we must allow at least 20 days to receive comments before we can make a final decision on the petition. We must send the final decision to the petitioner. We must publish in the *Federal Register* only whether we have granted or denied the petition, not the decision itself. Follow the format provided in 14 CFR § 11.91 when preparing the information about the final decision for publication in the *Federal Register*.

(3) Handling the petition within the directorate: Each directorate may have its own specific process for handling the petition. The following example is one method for processing a petition for exemption to an AD:

(a) The petitioner or the office of primary interest (OPI) sends the petition for exemption to the DMS. The OPI would be an ACO or ECO.

(b) The DMS assigns a docket number (the directorate can also assign its own docket number to the petition) and forwards the petition to the directorate.

(c) The directorate handles the petition the same as an AD.

(d) The AD Coordinator assigns the petition to a technical writer-editor.

(e) The technical writer-editor identifies and drafts an appropriate response, using one of the templates in Appendix D of the FAA Exemptions Procedures Manual, to send to the petitioner.

(f) After the response letter is drafted, it is routed through a review by the OPI or directorate staff. After the OPI has agreed with the draft, the letter is signed by the Directorate Manager.

(g) The AD Coordinator sends the summary of the petition to the Office of the Federal Register for publication.

(h) After publication of the summary of the petition, the AD Coordinator notifies the OPI that the summary has been published in the *Federal Register*.

(i) Copies of the signed response letter are distributed, and the OPI determines if the petition should be granted or denied. The OPI then provides the AD Coordinator with the decision and the analysis that led to the decision.

(j) The technical writer-editor drafts the decision document based on the OPI's analysis and coordinates a review grid.

(k) If corrections are needed, the technical writer-editor makes the corrections and coordinates the review again until no more corrections are needed. When no corrections are needed, the AD Coordinator sends the decision document to the Directorate Manager for signature.

(l) After the document is signed, the AD Coordinator contacts the rules docket to obtain an exemption number, makes copies of the documents, and mails the document to the petitioner. Copies are sent to the rules docket and the OPI.

201. AIRWORTHINESS CERTIFICATE SUSPENSION OR REVOCATION.

a. Airworthiness Directives are issued to provide notification of an unsafe condition in a certificated product and the conditions under which the affected product may continue to be operated. Airworthiness Directives are not generally issued for the purpose of "grounding" an aircraft any longer than necessary to complete the corrective action ordered.

b. In rare circumstances, a certificated product may experience serious safety problems of an as yet undetermined origin. Under such circumstances, it may be necessary to suspend the airworthiness certificate under Section 609 of the Federal Aviation Act. (The type certificate need not be suspended before an airworthiness certificate can be suspended.) Any action to suspend or revoke an airworthiness certificate is a legal action that must be initiated by the Office of the Chief Counsel or by the Assistant Chief Counsel in the appropriate Directorate.

202. DISTRIBUTION OF OTHER ACTIONS. Petitions for exemption, petitions for reconsideration, and certificate actions are not distributed in accordance with regular AD distribution procedures. Those actions should be distributed according to the following procedure:

a. The original disposition (grant or denial) of a petition for exemption or a petition for reconsideration is sent to the petitioner. A copy of a petition for exemption and its disposition are placed in the Rules Docket of the responsible Directorate. The original petition for reconsideration and a copy of the disposition are maintained in the headquarters Rules Docket (AGC-10); copies of each are maintained in the Rules Docket of the responsible Directorate.

b. Airworthiness certificate suspension or revocation orders are served on the parties involved in accordance with the procedures described in FAA Order 2150.3A, Compliance and Enforcement Program.

203. INFORMATION CURRENCY. Any deficiencies found, clarifications needed, or improvements to be suggested regarding the content of this manual should be forwarded to the Aircraft Certification Service, Planning and Financial Resources Management Branch, AIR-530, Attention: Directives Management Officer, for consideration. Your assistance is welcome. Federal Aviation Administration Form 1320-19, Directive Feedback Information, is located on the next page of this manual for your convenience. If an interpretation is urgently needed, you may contact the Aircraft Engineering Division, AIR-100, or the Delegation and Airworthiness Programs Branch, AIR-140, for guidance, but you should also use the FAA Form 1320-19 as a follow-up to verbal conversation.

204. - 209. RESERVED.