

34 CFR parts 74, 75, 77, 80, 81, and 85; and (b) The regulations governing the Rehabilitation Short-Term Training Program in 34 CFR part 390, except that educational services are added to the types of authorized projects and revised selection criteria will be used, as described in the notice of applicability of regulations as published in this issue of the Federal Register.

The Education Department General Administrative Regulations in 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities) do not apply because these funds are from a private bequest and are not funds appropriated for Federal financial assistance.

For Applications or Information
Contact: Eileen Lehman, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3318, Switzer Building, Washington, DC 20202-2649. Telephone: (202) 732-4281.

Program Authority: 20 U.S.C. 3481

Dated: September 1, 1989.

Robert R. Davila

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 89-21106 Filed 9-7-89; 8:45 am]

BILLING CODE 4000-01-M

Federal Register

Friday
September 8, 1989

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

24 CFR Part 570

Community Development Block Grants-
Fair Housing Requirements; Rule

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Assistant Secretary for
Community Planning and
Development

24 CFR Part 570

[Docket No. R-89-1450; FR-2658]

RIN: CPD-5-89

**Community Development Block
Grants—Fair Housing Requirements**

AGENCY: Office of the Assistant
Secretary for Community Planning and
Development, HUD.

ACTION: Final Rule.

SUMMARY: The Fair Housing
Amendments Act of 1988 (Pub. L. 100-
430, approved September 13, 1988)
became effective on March 12, 1989.
This Act expanded the coverage of the
Fair Housing Act (42 U.S.C. 3601-20) to
prohibit discriminatory housing
practices based on handicap and
familial status. This final rule makes
technical changes to HUD's Community
Development Block Grant (CDBG)
regulations at 24 CFR Part 570 to reflect
the amendments.

DATE: Effective date: October 11, 1989.

FOR FURTHER INFORMATION CONTACT:
Laurence Pearl, Director, Office of
Program Standards and Evaluation, Fair
Housing and Equal Opportunity,
Department of Housing and Urban
Development, 451 Seventh Street SW.,
Washington, DC 20410-5000, (202) 755-
5288. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Fair
Housing Amendments Act of 1988 (Pub.
L. 100-430, approved September 13,
1988) expanded the coverage of the Fair
Housing Act (42 U.S.C. 3601-20) to
prohibit discriminatory housing
practices based on two new protected
classes (handicap and familial status).
Classes protected before the
amendments included race, color,
religion, sex or national origin. The
amendments became effective on March
12, 1989. Following notice and public
comment, final regulations implementing
the amendments to the Fair Housing Act
were published on January 23, 1989 (54
FR 3231).

On September 6, 1988 (53 FR 34415),
the Department published a final rule
amending substantial portions of its
regulations governing the Community
Development Block Grant Program
(CDBG Program) (24 CFR part 570). The
final rule included revisions addressing
the Fair Housing Act and requirements
for affirmatively furthering fair housing
in the CDBG program. That final rule

stated that technical amendments to the
CDBG regulations reflecting the
expanded coverage of the Fair Housing
Act would be made following the
issuance of final regulations
implementing the substantive provisions
of that Act. Today's final rule makes
these promised revisions.

The following sections have been
revised to reflect the expanded coverage
under the Fair Housing Act: (1) Section
570.206, which governs program
administration costs for fair housing
activities; (2) § 570.601(b), which
contains a description of the coverage of
the Fair Housing Act; and (3) § 570.904,
which addresses the fair housing review
criteria. Statutory citations have been
revised in § 570.303, which governs
grantee certification requirements.

HUD has determined that notice and
prior public comment on this rule is
unnecessary and that good cause exists
for making this rule effective as soon as
possible after publication. The
substantive changes made by the recent
amendments to the Fair Housing Act
were fully addressed in another rule that
was subject to public notice and
comment. Since the changes made in
today's final rule are technical
corrections, further notice and public
comment is not required.

Findings and certifications

A Finding of No Significant Impact
with respect to the environment has
been made in accordance with HUD
regulations at 24 CFR part 50, which
implement section 102(2)(C) of the
National Environment Policy Act of
1969. The Finding of No Significant
Impact is available for public inspection
during regular business hours (7:30 a.m.
to 5:30 p.m. weekdays) in the Office of
the Rules Docket Clerk, Office of the
General Counsel, Department of
Housing and Urban Development, Room
10276, 451 Seventh Street SW.,
Washington, DC 20410-0500.

The rule does not constitute a "major
rule" as that term is defined in section
1(d) of the Executive Order on Federal
Regulations issued by the President on
February 17, 1981. An analysis of the
rule indicates that it does not (1) have
an annual effect on the economy of \$100
million or more (2) cause a major
increase in costs or prices for
consumers, individual industries,
Federal, State, or local government
agencies, or geographic regions; or (3)
have a significant adverse effect on
competition, employment, investment,
productivity, innovation, or on the
ability of United States-based
enterprises to compete with foreign-
based enterprises in domestic or export
markets.

In accordance with 5 U.S.C. 605(b)
(the Regulatory Flexibility Act), the
undersigned hereby certifies that this
rule does not have a significant
economic impact on a substantial
number of small entities. The rule does
not affect the amount of funds provided
in the CDBG program. Rather the rule
modifies and updates program
administrative and procedural
requirements to comport with recently
enacted legislation.

The General Counsel, as the
Designated Official under Executive
Order No. 12606—The Family, has
determined that the rule will not have a
significant impact on family formation,
maintenance, or well-being. The rule
merely makes technical changes to
administrative and procedural CDBG
requirements to comport with recently
enacted legislation. The impact on the
family of rules implementing the
legislation was fully addressed in a final
rule issued January 23, 1989 (54 FR 3232,
3282).

The General Counsel, as the
Designated Official under section 6(a) of
Executive Order No. 12611—Federalism,
has determined that the final rule does
not involve the preemption of State law
by Federal statute or regulation and
does not have Federalism implications.
The rule makes only minor changes to
administrative and procedural rules to
reflect recent statutory changes.
Federalism issues related to the
implementation of the substantive
amendments to the Fair Housing Act
were discussed in the final rule issued
January 23, 1989 (54 FR 3232, 3282).

The rule was not listed on the
Department's Semiannual Agenda of
Regulations published April 24, 1989 (54
FR 16708) under Executive Order No.
12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic
Assistance program numbers are:

- 14.218 Community Development Block
Grant—Entitlement
- 14.219 Community Development Block
Grant—Small Cities
- 14.221 Urban Development Action Grant
- 14.225 Secretary's Discretionary Fund/
Territories Program
- 14.227 Secretary's Discretionary Fund/
Community Development Technical
Assistance Grants
- 14.232 Secretary's Discretionary Fund/
Special Projects

List of Subjects for 24 CFR Part 570

Community development block grants,
Grant programs: housing and community
development, Loan programs: housing
and community development, Low- and
moderate-income housing, New
communities, Pockets of poverty, Small
cities.

For the reasons set forth in the Preamble, Title 24 of the Code of Federal Regulations is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for Part 570 continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301-5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 570.206(c) is revised to read as follows:

§ 570.206 Program administration costs.

(c) *Fair housing activities.* Provision of fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601-20) by making all persons, without regard to race, color, religion, sex, national origin, familial status or handicap, aware of the range of housing opportunities available to them; other fair housing enforcement, education, and outreach activities; and other activities designed to further the housing objective of avoiding undue concentrations of assisted persons in areas containing a high proportion of low and moderate income persons.

3. Section 570.303(d)(2) is revised to read as follows:

§ 570.303 Certifications.

(d) * * *

(2) The Fair Housing Act (42 U.S.C. 3601-20).

4. Section 570.601(b) is revised to read as follows:

§ 570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.

(b) "Public Law 90-284" refers to the Fair Housing Act (42 U.S.C. 3601-20), which states that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicap or familial status. The Fair Housing Act further requires the Secretary to administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of the Fair Housing Act. In accordance with this statutory direction, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act; furthermore, section 104(b)(2) of the Act requires that each grantee receiving funds under section 106 of the Act (entitlement or small

cities grantees) certify to the satisfaction of the Secretary that it will affirmatively further fair housing.

5. In 570.904, the first sentence of paragraph (c) and paragraph (c)(1) introductory text are revised to read as follows:

§ 570.904 Equal Opportunity and Fair Housing Review criteria.

(c) *Fair housing review criteria.* Section 570.601(b) sets forth the general requirements for the Fair Housing Act (42 U.S.C. 3601-20) and the grantee's certification that it will affirmatively further fair housing. * * *

(1) The recipient has conducted an analysis to determine the impediments to fair housing choice in its housing and community development program and activities. The term "fair housing choice" means the ability of persons regardless of race, color, religion, sex, handicap, familial status or national origin, of similar income levels to have available to them the same housing choices. This analysis shall include a review for impediments to fair housing choice in the following areas:

Dated: August 22, 1989.

Audrey E. Scott,

General Deputy Assistant Secretary for Community Planning and Development.
[FR Doc. 89-21178 Filed 9-7-89; 8:45 am]

BILLING CODE 4210-29-M

Test Register Federal Register

Friday
September 8, 1989

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25 and 121

Miscellaneous Changes to Emergency
Evacuation Demonstration Procedures,
Exit Handle Illumination Requirements,
and Public Address Systems; Notice of
Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 25 and 121**

[Docket No. 26003; Notice No. 89-23]

RIN 2120-AC45

Miscellaneous Changes to Emergency Evacuation Demonstration Procedures, Exit Handle Illumination Requirements, and Public Address Systems**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flightcrew take no active role in the demonstration and by changing the age/sex distribution requirement for demonstration participants. This notice also proposes to standardize the illumination requirements for the handles of the various types of passenger emergency exits. In addition, it is proposed to add a requirement that would prevent the inadvertent disabling of the public address system because of an unstowed microphone. These proposals resulted from the public technical conference on Emergency Evacuation of Transport Airplanes held in Seattle, Washington, September 3-6, 1985, and are intended to enhance the provisions of transport category airplanes for egress of occupants under emergency conditions.

DATE: Comments must be received on or before January 8, 1990.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 26003, 800 Independence Avenue SW., Washington, DC 20591, or delivered in duplicate to FAA Rules Docket, Room 915-G, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked: Docket No. 26003. Comments may be examined in Room 915-G weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be examined in the Office of the Regional Counsel weekdays, except

Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Franklin Tiangsing, Regulations Branch (ANM-114), Transport Airplane Directorate, Aircraft Certification Service, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2121.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in duplicate, to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26003." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future rulemaking documents should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

On September 3, 1985, the FAA held a public technical conference in Seattle, Washington, to solicit and review information from the public on a variety of topics related to the emergency evacuation of transport category airplanes. As a result of the conference, three working groups were formed to discuss current safety regulations and to recommend changes. These groups, which were Design and Certification, Operations and Training, and Maintenance and Reliability, were comprised of individuals representing various aviation related organizations. The proposals in this notice are the result of certain recommendations made by the Design and Certification Working Group.

Section 25.803(c) of the Federal Aviation Regulations (FAR) defines the requirements for conducting an emergency evacuation demonstration for the type certification of transport category airplanes. Similar requirements for U.S. air carrier operators are defined in § 121.291 of the FAR and Appendix D of part 121. Section 121.291 requires, in part, that each holder must conduct an emergency evacuation demonstration in accordance with Appendix D of part 121 for each type and model of airplane to be used in passenger-carrying operations, unless compliance has been shown with § 25.803 in effect on December 1, 1978 (Amendment 25-46) during type certification, or with § 121.291(a) in effect on October 24, 1967 (Amendment 121-30). Appendix D of part 121, in turn, contains demonstration criteria which are similar to those of § 25.803. Section 25.803(c)(19) of part 25, and Appendix D, paragraph (a)(19), of part 121 currently require the applicant's approved emergency evacuation training program procedures to be fully utilized during the demonstration. Most operators' procedures call for one or more of the flight crewmembers to enter the cabin and assist in an evacuation. To the extent that they are available for such assistance, it is appropriate that they do so in an evacuation under actual emergency conditions. It cannot be assured, however, that the flight crewmembers will always be available to provide such assistance on a timely basis. They may have to perform other duties which would delay their entry into the cabin. Such duties may, for example, include engine shutdown or communications with persons on the ground. If the evacuation is initiated by a flight attendant, the flightcrew may not be immediately aware of the evacuation. Furthermore, they may not

be available to assist in the cabin because they are incapacitated or have already evacuated through one of the cockpit emergency exits. In this regard, some operators' procedures call for one of the flightcrew to leave the airplane immediately and assist on the ground.

Because it cannot be assured that the flightcrew would always be available to assist in an evacuation under actual emergency conditions, the working group recommended that the demonstration should be conducted without their assistance in the cabin. With the proposed change, the demonstration would more accurately reflect conditions that are likely to be encountered during an actual evacuation.

As proposed, the flightcrew could participate in the coordination of the demonstration by determining when the airplane is properly prepared for the demonstration, relaying information to ground personnel, or initiating the demonstration. When the demonstration starts, the flightcrew would have to be in their assigned seats. They should then leave the airplane through one of the exits close to the flight deck, after simulating the time required to complete the emergency checklist. After the flightcrew has reached the ground, they would be permitted to assist evacuees.

Section 121.291(a) would be amended to specify that any demonstration conducted on or after the effective date of the amendment would have to be conducted without the active participation of the flightcrews, regardless of whether the demonstration is conducted under the provisions of that part or during type certification under the provisions of § 25.803. This would not, however, preclude an analysis made after that date which is based on the results of earlier demonstrations.

Since the role of the flightcrew in the demonstration would be minimal, there would be no need for them to be members of a regularly scheduled line crew. Section 25.803(c)(7) of part 25, and Appendix D, paragraph (12), of part 121, would therefore be revised accordingly. Additionally, the word "or" in § 25.803(c)(7)(i) would be changed to "and" in order to clarify that the requirement is for a joint part 25 and part 121 certification effort.

Section 25.803(c), as well as Appendix D to part 121, currently specifies, in part, that the emergency evacuation demonstration must be conducted using a representative load of persons in normal health. Of this load, at least 30 percent must be female and at least 5 percent must be over 60 years of age with a proportionate number of females

(i.e., 30 percent of 5 percent, or 1.5 percent of the total load must be female and over 60). In addition, at least 5 percent, but not more than 10 percent, must be children under 12 years of age.

The use of elderly persons in conducting emergency evacuation demonstrations, as currently specified, subjects those persons to a high risk of suffering injuries, such as broken bones, etc. Furthermore, it is an unnecessary risk since compensating factors can be applied to provide the same test results. Although there is less risk of injury to children, the use of minors in conducting emergency evacuation demonstrations actually violates prevailing child labor laws in many states. Because of these unnecessary risks, the FAA has permitted emergency evacuation demonstrations to be conducted with other mixtures of age and sex under the equivalent safety provisions of § 21.21(b)(1).

In view of these unnecessary risks, the Design and Certification Working Group recommended that the FAA re-evaluate the mixture of sex and age used for emergency evacuation demonstrations. In responding to the recommendations, the FAA first reviewed three sources of data to determine the average mixture of passengers being flown in air carrier operations: (1) The "Demographic Characteristics of Airline Passengers (1984)," *The Airliner Cabin Environment: Air Quality and Safety*, National Academy Press; (2) an age distribution survey of trans-Atlantic passengers conducted in the United Kingdom by the Civil Aviation Authority (CAA); and (3) a cursory age/sex distribution survey of airline passengers conducted by the Air Transport Association (ATA).

A review of the age distribution data from the "Demographic Characteristics of Airline Passengers" shows that the percentage of passengers over 50 years of age is 27. The data from the CAA survey shows that the percentage of such passengers is 33. From an average of these data, it is assumed that the percentage of passengers over 50 years of age is 30.

The ATA data shows that the percentage of passengers under 12 years of age is 3. By rounding to the nearest 5 percent, it is assumed that the percentage of passengers under 12 years of age is 5.

The "Demographic Characteristics of Airline Passengers" data show that 46 percent of all passengers are female. The ATA data show that 38 percent of the passengers over 60 years of age are female (that is 5 percent of the total number of passengers) and 36 percent of

the passengers, ages 12 to 59, are female (30 percent of the total).

In addition to reviewing data concerning the average mixture of passengers being flown in air carrier operations, the FAA also reviewed test data concerning the relative evacuation capability of different mixtures of age and sex.

The FAA Civil Aeromedical Institute (CAMI) conducted a series of test to compare the relative evacuation rate of four different seating configurations adjacent to a Type III emergency exit (as defined in § 25.807). From those tests, the relative evacuation rates of different mixtures of age and sex were developed. In addition, the Aerospace Industries Association of America (AIA) presented data to the working group concerning the relative evacuation capability of different mixtures of age and sex. The CAMI and AIA data indicate that two age groups, participants under 50 years of age and those over 50, will adequately represent the average passenger age distribution if the percentage of passengers under 12 years of age is added to the older age group. The 5 percent assumed to be under 12 years were therefore added to the 30 percent assumed to be over 50 years to produce 35 percent.

The relative evacuation rate data from those two reports were compared with the average mixture of passengers being flown in air carrier service to produce the mixture of age and sex proposed for use in the emergency evacuation. As proposed, at least 35 percent of the participants must be over 50 years of age, at least 40 percent must be female, and at least 15 percent must be female and over 50 years of age. The 15 percent that must be female and over 50 years of age is part of the 40 percent of the participants who must be female. Based on analyses of the data discussed above, the FAA has determined that the results of evacuation demonstrations using the proposed mixture of age and sex would be comparable to results of such demonstrations under the current rules. While the proposed change would not preclude the use of persons under 12 years of age or over 60 years, it would eliminate the requirement to unnecessarily expose them to the risk of suffering injuries.

Copies of relevant portions of the documents cited above have been placed in the docket.

It is also proposed to allow the use of an alternate mixture of sex and age, provided it would produce equivalent results. Producing equivalent results would mean that it would have to produce the same evacuation rates as

the age/sex distribution specified in the regulation, or the 90-second time limit would have to be adjusted accordingly. Typically, the applicant would have to conduct comparative tests in order to show that the alternate age/sex distribution would produce equivalent results.

Although not a direct result of the working group recommendations, this notice proposes to clarify the wording in § 25.803(c)(3) and paragraph (a)(3) of Appendix D to part 121 to specify that stands and ramps may be used in emergency evacuation demonstrations at overwing exits only when off-wing descent devices are not installed on the airplane. This has been the practice since the inception of the rule, and the rewording will prevent any future uncertainty over the requirement. These changes would also require corresponding conforming changes to § 25.803(c)(18) and paragraph (a)(18) of Appendix D.

As a further conforming change, § 121.291(a) would be revised to extend the exceptions of those subparagraphs to include emergency evacuation demonstrations conducted in accordance with any later amendments to that section or § 25.803(a).

This notice also proposes to revise § 25.811 to standardize the requirements for illumination of passenger emergency exit operating handles. This section currently specifies that each operating handle of Type I and Type A passenger emergency exits must be self-illuminated, or it must be conspicuously located and well-illuminated by a separate light source. Section 25.811 does not provide this option for Type III exits. The operating handle of a Type III passenger emergency exit must be self-illuminated. Although § 25.811 does not extend this option to Type III exits, the FAA has accepted such exits with handles which are conspicuously located and well-illuminated by a separate light source, under the equivalent level of safety provisions of § 21.21(b)(1). Further, § 25.811 does not provide criteria for illumination of the operating handles of Type II and Type IV passenger emergency exits. As proposed, this section would specify the same alternative methods of illumination for the operating handles of all passenger emergency exits, regardless of the type.

The emergency lighting required by § 25.812 may provide sufficient illumination of the operating handles of Type II and Type IV passenger emergency exits in many airplanes; however, as noted above, § 25.811 does not currently provide criteria for illumination of the operating handles of

such exits. Because no criteria are contained in § 25.811, there may be transport category airplanes in current air carrier, air taxi or commercial service which have no illumination or insufficient illumination of those handles. Although no retrofit requirement is proposed in this notice, the FAA is considering future rulemaking to amend parts 121 and 135 to require air carrier, air taxi and commercial operators to provide sufficient illumination of the operating handles of Type II and Type IV exits. The FAA specifically invites comments concerning the models and numbers of transport category airplanes in such service with Type II or Type IV exits, the adequacy of any existing illumination of operating handles in those airplanes, the cost of providing sufficient illumination of those handles on a retrofit basis, and whether the cost of modifying airplanes in service would be commensurate with any increase in safety that would result.

Covers are sometimes provided for the operating handles of passenger exits. Section 25.811 currently requires the instructions for the removal of such covers from Type III exits to be self-illuminated; however, the FAA has allowed the option of locating the instructions conspicuously and providing sufficient illumination by a separate source of light in lieu of self-illumination. Although the need for such illumination is of equal importance, § 25.811 does not currently specify any means to illuminate the instructions for removal of the operating handle cover from any other type of passenger emergency exit. Section 25.811 would therefore be amended to specify that the instructions for removing such covers from any type exit must either be self-illuminated or conspicuously located and well-illuminated by a separate source of light.

Part 25 does not require the installation of a public address system for type certification. Section 25.1411 does, however, contain certain accessibility standards that are applicable if a public address system is installed. The FAA proposed in Notice 86-5 (51 FR 19140; May 27, 1986) to adopt a new § 25.1423 which would, in part, require a power source which is independent of engine operation and auxiliary power unit operation, the forward motion of the airplane, and all normal means used by the flightcrew for power source disconnection. Since the time Notice 86-5 was developed, the Design and Certification Working Group identified a need for additional standards concerning the public address system.

Under certain circumstances, the public address system can be rendered inoperative inadvertently. During a recent incident in which there was an emergency evacuation due to a large fuel spill from one wing, the escape slides were deployed into the fuel. The flight attendants at the back of the cabin could not be notified of this potentially hazardous situation because the cockpit microphone was not returned to the stowed position after use and was thereby rendered inoperative. As recommended, a new regulation is proposed which would require the public address system to be designed so that it will not be rendered inoperative when any microphone is not in the stowed position. Since this requirement is a system design standard rather than an accessibility requirement as currently found in § 25.1411(a)(2), the new requirement would be placed in a new § 25.1423 entitled, "Public address system." The proposed new requirement would be in addition to any standards which may result from Notice 86-5. Additionally, the design standards found in § 121.318 would be added to the new § 25.1423 so that all the design requirements for the public address system will be found in one location in part 25. The addition of the requirements in part 121 to § 25.1423 is merely an editorial change and does not impact the regulatory evaluation of this NPRM.

As proposed in this notice, the requirement to have a public address system that will not be rendered inoperative when any microphone is not in the stowed position would apply only to future transport category airplanes for which an application for type certificate is made after the effective date of the change. Although no retrofit requirement is proposed in this notice, the FAA is considering future rulemaking to amend parts 121 and 135 to require air carrier, air taxi or commercial operators of transport category airplanes already in service to have public address systems which meet this new standard. The FAA specifically invites comments as to whether the cost of modifying such airplanes would be commensurate with the increase in safety that would result.

Regulatory Evaluation

Cost-Benefit Analysis

The regulatory evaluation analyzes the costs and benefits of a Notice of Proposed Rulemaking to amend parts 25 (Airworthiness Standards for Transport Category Airplanes) and 121 (Certification and Operations for Domestic, Flag, Supplemental Air Carriers, and Commercial Operators of

Transport Category Airplanes) of the FAR. This notice proposes to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flightcrew take no active role in the demonstration and by changing the age/sex distribution requirement for demonstration participants. This notice also proposes to extend the illumination requirement for the operating handles of Type I and Type A exits currently in the regulations to include the operating handles of Type II and Type IV exits and to change the handle illumination requirement for Type III exits to correspond to the requirements for the operating handles of Type I and Type A exits. In addition, the notice proposes to add a requirement to prevent the public address system from becoming inoperative due to a microphone not being stowed. An example of a means of compliance would be to install a "push-to-talk" switch on each microphone.

This notice is a result of findings of the recent Public Emergency Evacuation Task Force and is intended to improve the chances of passengers safely escaping an airplane during an emergency evacuation.

Costs

The FAA estimates the total incremental cost of compliance that would accrue from implementation of the proposed rule to be less than \$74,000 (discounted present value, 10 years, 10 percent, 1986 dollars).

According to information available to the FAA, only one of the proposed amendments to part 25 would result in additional cost to manufacturers of transport category airplanes produced under new type certificates. In addition, none of the proposed amendments to part 121 are expected to adversely impact air carrier operators.

Each of the proposed amendments is evaluated below for probable cost impact:

1. Proposed Amendments

a. *Regularly Scheduled Line Crew.* This proposed amendment would require that flight crewmembers need not be members of a regularly scheduled line crew, provided they have knowledge of the airplane. In other words, such flight crewmembers need not be line pilots. This amendment is not expected to impose any additional cost on aircraft manufacturers because it represents nothing more than a minor procedural change.

b. *Age/Sex Distribution of Passengers used in an Emergency Evacuation Demonstration.* This proposed amendment would require that the age/sex distribution of persons who

participate in manufacturers' emergency evacuation demonstrations must consist of at least 40 percent female, at least 35 percent must be over 50 years of age, and at least 15 percent must be female and over 50 years of age. This requirement is not expected to impose additional costs to manufacturers, because any costs generated from the age/sex distribution change would be offset by the savings accrued from the elimination from such demonstrations of the requirement that includes the participation of persons under 18 and over 60 years of age. The other part of this amendment would allow an alternate passenger load to be used if it can be shown that either the alternate passenger load will produce an equivalent evacuation rate, or the 90-second time limit is adjusted to produce a demonstration that will provide an equivalent evacuation capability to that provided by a demonstration used for the representative passenger load. This feature would not impose any additional cost to manufacturers because it only represents an option to the 90-second evacuation time limit. Moreover, it is reasonable to assume that a manufacturer would not choose to use an alternate passenger load if it were not deemed to be in the manufacturer's best interest.

c. *Emergency Evacuation Demonstrations by Flight Attendants without Flightcrew.* This proposed amendment would require that emergency evacuation demonstrations be conducted by flight attendants without reliance on the flightcrew. This requirement would not impose an additional cost to manufacturers because it represents nothing more than a minor procedural change. This change would allow the flightcrew to perform other duties, such as engine shutdown and communication with persons on the ground.

d. *Passenger Emergency Exit Handle.* This amendment would require that all passenger emergency exit operating handles and the instructions for removal of covers from those handles that are covered must be: (1) Self-illuminated, or (2) conspicuously located and well-illuminated. This amendment would impose little, if any, additional cost impact on manufacturers, because illumination of the operating handles of three of five types of exits is already required under the current regulations. For instance, the current regulations require that the operating handles of Type I and Type A passenger emergency exits must be self-illuminated or conspicuously located and well-illuminated by another source. In addition, the handles of Type III exits

must be self-illuminated under the current regulations; however, the regulations do not include the option for the handle to be conspicuously located and well-illuminated by another source. The FAA has made findings of equivalent safety under the provisions of § 21.21(b)(2) for the handles of Type III exits, wherein the handle is conspicuously located and well-illuminated. Thus, for the aforementioned reasons, the optional means of lighting the handles of Type III exits would not impose additional costs on manufacturers, because they are already in compliance. This practice is expected to continue.

The current regulations do not provide criteria for the illumination of the operating handles of Type II and Type IV exits. This proposal would standardize the illumination of the operating handles of all passenger emergency exits to only two methods (self-illuminated, or conspicuously located and well illuminated by another source), regardless of the type of exit involved. Neither of these two exit types currently is required to have handles which meet the provisions of the proposed amendment. Nevertheless, the proposed amendment would not impose any significant additional cost on manufacturers. This is primarily because transport category airplanes seldom have such exits. For the few airplanes which will have Type II or IV exits, the emergency lighting currently required by § 25.812 would provide sufficient lighting for the exit handles or would provide the electrical circuitry with which additional lighting could easily be provided.

e. *Public Address System.* This amendment would require that the public address system incorporate a feature, such as a push-to-talk switch, so that the system would be capable of operating regardless of the position of any microphone. Based on the informed judgment of FAA personnel, this item is expected to cost under \$400 per airplane. While some FAA personnel projected lower cost estimates, the higher cost figure was chosen to represent a worst-case scenario. From a cost impact standpoint, this worst-case cost estimate is expected to be negligible relative to the minimum cost of more than \$20 million required to manufacture each of the transport category airplanes expected to come into the U.S. service, under new type certificates, in the early to middle 1990's.

f. *Appendix D to Part 121.* The proposed amendments to this part would impose the same requirements on air carrier operators as those proposed

as § 25.803(c) (7) and (8) for aircraft manufacturers. They would also establish the effective date of the amendments as the date on which the new standards became effective for such operators. These proposed amendments are not expected to impose additional costs to air carrier operators for those reasons given previously for aircraft manufacturers.

Benefits

The proposed rule is expected to generate benefits in the form of enhanced safety. Such safety would take the form of reduced likelihood of serious injuries and fatalities. Such injuries and fatalities would be incurred primarily during survivable post-crash ground fire emergency evacuations from air carrier airplanes and would be due largely to ineffective public address systems and inadequate illumination near or at some passenger emergency exit handles.

Estimation of these benefits, in monetary terms, is extremely difficult, since there has not been a documented aviation accident in which either serious injuries or fatalities have been shown to have resulted due to those deficiencies noted previously. There was, however, a potentially catastrophic emergency evacuation in 1984 from a Boeing 747 airplane at Honolulu, Hawaii. During that incident, the escape slides were deployed into a large pool of spilled fuel. This presented a potential hazard due to the possibility of fire. The public address system was inoperative because one cockpit microphone was not returned to the stowed position; therefore, the flight attendants at the back of the cabin could not be notified of the fuel leakage.

As a result of that incident, the aforementioned safety deficiencies in emergency evacuation equipment and procedures, and aviation accident information contained in a report published by the National Transportation Safety Board, the FAA believes there is an increased probability, over the next 10 years, of a survivable post-crash ground fire accident which could result in injuries or fatalities. This evaluation employs benefits for total cumulative airplane-years of exposure, based on the number of newly type certificated transport category airplanes projected to come into U.S. service between 1987 and 1996. An airplane-year of exposure refers to one airplane operating for 1 year at typical utilization rates for transport category airplanes. As a result of uncertainty related to whether or not an aviation accident would occur and result in casualties that could be

prevented by the provisions of the proposed rule, this evaluation employs a range of potential benefits. The lower end of the range represents the prevention of four serious injuries and the upper end represents the prevention of a fatality. In monetary terms, this equates with a potential range of total benefits between \$216,000 and \$1,000,000 (1986 dollars), based on FAA's estimated monetary value of \$54,000 for a serious aviation injury and a \$1 million minimally accepted statistical value of life used by economists for the purpose of analysis. Subsequently, these benefits were distributed over the 10-year evaluation period based on total airplane-years of exposure in each year, discounted using present value factors, and summed over the 10-year period (1987-96). This procedure results in estimates of one-time total discounted present value benefits ranging from \$92,000 to \$425,000. In view of the expected total cost of \$74,000 and benefits of \$92,000 to \$425,000, the FAA believes the proposed rule is cost-beneficial.

The Regulatory Evaluation that has been placed in the docket contains additional information related to the costs and benefits that are expected to accrue from the implementation of the proposed rule.

Regulatory Flexibility Determination

Under the criteria of the Regulatory Flexibility Act of 1980, the FAA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Since this Act applies to U.S. entities, only U.S. manufacturers and air carrier operators of transport category airplanes would be potentially impacted. In the United States, there are only two manufacturers that presently specialize in commercial transport category airplanes: (1) The Boeing Company, and (2) the McDonnell Douglas Corporation. In addition, there are many manufacturers that produce transport category airplanes for general aviation (GA) use, such as business jets. Some of these GA manufacturers include, for example, Gates Learjet and Cessna Aircraft.

The FAA size threshold for a small entity for U.S. airplane manufacturers is 75 employees, i.e., any U.S. airplane manufacturer with more than 75 employees is considered not to be a small entity. None of the transport category airplane manufacturers are considered to be small entities because each manufacturer is believed to have more than 75 employees. Thus no significant economic impact would be

incurred by U.S. manufacturers of commercial transport category airplanes.

In terms of small entities, none of those airplane operators under Part 121 would incur significant economic impact from implementation of the proposed rule. This assessment is based on the belief that the proposed rule would not have any cost impact on such operators for those reasons given previously for airplane manufacturers in the cost section.

International Trade Impact Assessment

The proposed rule is not expected to have an adverse impact on the trade opportunities of U.S. manufacturers of transport category airplanes doing business abroad nor on foreign airplane manufacturers doing business in the United States. Since the certification rules are applicable to both foreign and domestic manufacturers that sell in the United States, there would be no competitive trade advantage to either.

Federalism Implications

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that these proposed regulations would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons given earlier in the preamble, the FAA has determined that this is not a major regulation as defined in Executive Order 12291. As this notice concerns a matter on which there is significant public interest, the FAA has determined that this action is significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies under the criteria of the Regulatory Flexibility Act that this regulation, at promulgation, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

14 CFR Part 25

Air Transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 121

Air carriers, Air transportation, Aircraft, Airplanes, Airworthiness

directives and standards, Aviation safety, Common carriers, Crashworthiness, Emergency evacuation, Safety, Transportation.

The Proposed Amendments

Accordingly, the FAA proposes to amend Parts 25 and 121 of the Federal Aviation Regulations (FAR), 14 CFR parts 25 and 121, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

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

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 49 CFR 1.47(a).

2. By amending § 25.803 by revising paragraphs (c)(3), (c)(7)(i), (c)(8)(i), (ii), and (iii), (c)(18), and (c)(19), and by adding a new paragraph (c)(8)(vi) to read as follows:

§ 25.803 Emergency evacuation.

(c) * * *

(3) Unless the airplane is equipped with an off-wing descent means, stands or ramps may be used for descent from the wing to the ground. Safety equipment such as mats or inverted life rafts may be placed on the floor or ground to protect participants. No other equipment that is not part of the emergency evacuation equipment of the airplane may be used to aid the participants in reaching the ground.

(7) * * *

(i) For compliance with this section and § 121.291 of this chapter, a member of a regularly scheduled line crew, except that flight crewmembers need not be members of a regularly scheduled line crew provided they have knowledge of the airplane; or

(ii) * * *

(8) * * *

(i) At least 40 percent of the passenger load must be female.

(ii) At least 35 percent of the passenger load must be over 50 years of age.

(iii) At least 15 percent of the passenger load must be female and over 50 years of age.

(iv) * * *

(v) * * *

(vi) An alternate passenger load may be used provided it can be shown to provide an evacuation rate equivalent to that provided by the passenger load specified above or the time limit is

appropriately reduced from 90 seconds to compensate for any differences.

(18) Except as provided in paragraph (c)(3) of this section, all evacuees must leave the airplane by a means provided as part of the airplane's equipment.

(19) The applicant's approved procedures must be fully utilized, except the flightcrew must take no active role inside the cabin during the demonstration.

§ 25.811 [Amended]

3. By amending § 25.811 by removing paragraph (e)(3) and marking it [RESERVED] and by revising paragraph (e)(2) introductory text to read as follows:

§ 25.811 Emergency exit marking.

(e) * * *

(1) * * *

(2) Each passenger emergency exit operating handle and the cover removal instructions, if the operating handle is covered, must—

(i) * * *

(ii) * * *

(3) [Reserved]

4. By adding a new § 25.1423 to read as follows:

§ 25.1423 Public address system.

A public address system required by this chapter must—

(a) Be capable of operation within 10 seconds by a flight attendant at those stations in the passenger compartment from which its use is accessible;

(b) Be audible at all passenger seats, lavatories, and flight attendant seats and work stations;

(c) Be designed so that no unused, unstowed microphone will render the system inoperative; and

(d) Be capable of functioning independently of any required crewmember interphone system.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

5. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 49 CFR 1.47(a).

6. By amending § 121.291 by revising paragraph (a) to read as follows:

§ 121.291 Demonstration of emergency evacuation procedures.

(a) Except as provided in subparagraph (1) of this paragraph, each certificate holder must conduct an actual demonstration of emergency evacuation procedures in accordance with paragraph (a) of Appendix D to this part to show that each type and model of airplane with a seating capacity of more than 44 passengers to be used in its passenger-carrying operations allows the evacuation of the full capacity, including crewmembers, in 90 seconds or less.

(1) An actual demonstration need not be conducted if that airplane type and model has been shown to be in compliance with this paragraph in effect on or after October 24, 1967, or, if during type certification, with § 25.803 of this chapter in effect on or after December 1, 1978.

(2) Any actual demonstration conducted after [insert the effective date of this amendment] must be in accordance with paragraph (a) of Appendix D to this part in effect on or after that date or with § 25.803 in effect on or after that date.

7. By amending Appendix D to Part 121 by revising paragraphs (a)(3), (a)(7), (a)(12), (a)(18), and (a)(19) to read as follows:

Appendix D—Criteria for Demonstration of Emergency Evacuation Procedures Under § 121.291

(a) * * *

(3) Unless the airplane is equipped with an off-wing descent means, stands or ramps may be used for descent from the wing to the ground. Safety equipment such as mats or inverted life rafts may be placed on the floor or ground to protect participants. No other equipment that is not part of the emergency evacuation equipment of the airplanes may be used to aid the participants in reaching the ground.

(7) A representative passenger load of persons in normal health must be used. At least 40 percent of the passenger load must be females. At least 35 percent of the passenger load must be over 50 years of age. At least 15 percent of the passenger load must be female and over 50 years of age. Three life-size dolls, not included as part of the total passenger load, must be carried by passengers to simulate live infants 2 years old or younger. Crewmembers, mechanics, and training personnel, who maintain or operate the airplane in the normal course of their duties, may not be used as passengers.

(12) Each crewmember must be a member of a regularly scheduled line crew, except that flight crewmembers need not be members of a regularly scheduled line crew, provided they have knowledge of the

airplane. Each crewmember must be seated in the seat the crewmember is normally assigned for takeoff, and must remain in that seat until the signal for commencement of the demonstration is received.

* * * * *

(18) Except as provided in paragraph (a)(3) of this appendix, all evacuees must leave the airplane by a means provided as part of the airplane's equipment.

* * * * *

(19) The certificate holder's approved procedures and all of the emergency equipment that is normally available, including slides, ropes, lights, and megaphones, must be fully utilized during the demonstration, except that the flightcrew must take no active role inside the cabin during the demonstration.

* * * * *

Issued in Washington, DC, on August 31, 1989.

M.C. Beard,

Director, Aircraft Certification Service.

[FR Doc. 89-21134 Filed 9-7-89; 3:45 am]

BILLING CODE 4910-13-M