

TABLE 1—GULFSTREAM AIRPLANE MODELS AND ALERT CUSTOMER BULLETINS (ACB)

Model	ACB	Dated
G-1159 and G-1159B (G-II/IIB) series airplanes	No. 27	March 20, 2001.
G-1159A (G-III) series airplanes	No. 13	March 20, 2001.
G-IV series airplanes	No. 27	March 20, 2001.
G-V series airplanes	No. 12	March 20, 2001.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of hydraulic system fluid due to failure of the door control valve of the landing gear, which could require the flight crew to use alternate gear extension procedures (landing gear blow down) for landing of all models; accomplish the following:

Inspection and Replacement of Valves

(a) Within 15 landings or 30 days after the effective date of this AD, whichever occurs later: Perform a general visual inspection to determine if any landing gear door control valve having Gulfstream part number (P/N) 1159SCH231-33 with Eaton/Sterer P/N 65940-1, -1 Rev. A, or -1 Rev. B, is installed.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(1) If no valve has those P/N's, no further action is required by this paragraph.

(2) If all valves found have P/N 1159SCH231-33 with Eaton/Sterer P/N 65940-1, Rev. C, no further action is required by this paragraph.

(b) If any valve has a door control valve of the landing gear having Gulfstream P/N 1159SCH231-33 with Eaton/Sterer P/N 65940-1 and a serial number as specified in paragraph (b)(1) or (b)(2) of this AD: Replace the set screw with a new set screw, fill with Dow Corning RTV 732 sealant, and label the valve as P/N 65940-1 Rev. C; in accordance with Gulfstream G-II ACB No. 27 (for Model G-1159 and G-1159B series airplanes), G-III ACB No. 13 (for Model G-1159A series airplanes), G-IV ACB No. 27 (for Model G-

IV series airplanes), and G-V ACB No. 12 (for Model G-V series airplanes); all dated March 20, 2001, as applicable; at the times specified in paragraph (b)(1) or (b)(2), as applicable.

(1) For valves having serial number 1900 or higher: Within 5 landings or 15 days after the inspection accomplished per the requirements of paragraph (a) of this AD, whichever occurs later.

(2) For valves having a serial number less than 1900: Within 50 landings or 90 days after the inspection accomplished per the requirements of paragraph (a) of this AD, whichever occurs later.

Note 3: The Gulfstream ACB's specified in paragraphs (a) and (b) of this AD reference Eaton Aerospace Sterer Engineering Service Bulletin 65940-27-01, dated March 1, 2001, as an additional source of service information.

(c) As of the effective date of this AD, no person shall install on any airplane a door control valve of the landing gear, Gulfstream P/N 1159SCH231-33 with Eaton/Sterer P/N 65940-1, unless that valve has been modified in accordance with paragraph (b) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) With the exception of the general visual inspection required by paragraph (a) of this AD, the actions shall be done in accordance with Gulfstream G-II Alert Customer Bulletin No. 27, dated March 20, 2001; Gulfstream G-III Alert Customer Bulletin No. 13, dated March 20, 2001; Gulfstream G-IV Alert Customer Bulletin No. 27, dated March 20, 2001; and Gulfstream G-V Alert Customer Bulletin No. 12, dated March 20, 2001; as applicable. This incorporation by reference was approved previously by the Director of the Federal Register as of May 10, 2001 (66 FR 20734, April 25, 2001). Copies may be

obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D-10, Savannah, Georgia 31402-9980. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) The effective date of this amendment remains May 10, 2001.

Issued in Renton, Washington, on June 21, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 001116322-1017-02]

RIN 0648-A074

Amendment to Florida Keys National Marine Sanctuary Regulations Revising the Boundary of the Northernmost Area To Be Avoided Off the Coast of Florida

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA, in cooperation with the U.S. Coast Guard (USCG), revises the boundary of the northernmost Area To Be Avoided (ATBA) off the coast of the Florida Keys. This change to the boundary is expected to increase maritime safety and to avoid harm to the marine environment and its resources.

DATES: This final rule is effective July 30, 2001.

ADDRESSES: Copies of the Final Environmental Assessment that was prepared for this action and the final rule amendment can be requested by writing to the Florida Keys National

Marine Sanctuary headquarters at P.O. Box 500368, Marathon, Florida 33050.

FOR FURTHER INFORMATION CONTACT:

Billy Causey, Superintendent, Florida Keys National Marine Sanctuary, Florida Keys National Marine Sanctuary Headquarters, P.O. Box 500368, Marathon, Florida 33050, Tel: (305) 743-2437, E-mail: billy.causey@noaa.gov

SUPPLEMENTARY INFORMATION:

Background

In part, as a result of three large vessel groundings within an 18-day period in the fall of 1989 on the coral reef tract of the Florida Keys, Congress enacted the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA), designating the area surrounding the Florida Keys as the Florida Keys National Marine Sanctuary (FKNMS). The primary goal of this Act is to protect the health of the fragile ecosystem of the Florida Keys. Among other things, the FKNMSPA, established four ATBAs where tank vessels and vessels larger than 50 meters are prohibited from entering. Under the FKNMSPA, NOAA and the USCG have the authority to amend the ATBAs.

On April 21, 1998, pursuant to input from the shipping industry, the Florida Keys National Marine Sanctuary Advisory Council (SAC) recommended a revision to the boundary of the northernmost ATBA to eliminate a small portion of the boundary near "the Elbow" which juts out further than other portions of the ATBA. The revision to the boundary will permit ships in two opposing traffic patterns located just outside the boundary of the ATBA to increase the distance between them, thus increasing maritime safety in the area. The revised boundary will not result in bringing ship traffic any closer to the reef than the other parts of the ATBA and, by reducing the potential for collisions, the boundary revision is beneficial for the protection of the marine environment.

The north- and east-bound vessels utilize the Gulf Stream in this area while the south- and west-bound vessels try to take advantage of countercurrents from eddies off of the Gulf Stream. The existing configuration of the ATBA near the coral reef known as "the Elbow," when examined in relation to the axis of the Gulf Stream, results in a potential convergence of northeasterly bound and southwesterly bound traffic. The potential risk of collision increases when the Gulf Stream meanders closer to "the Elbow." The revision of the ATBA boundary will permit ships in these two opposing traffic patterns to

increase the distance between them, thus increasing maritime safety in the area. A collision in this area could cause oil and other material to seep into the Florida Keys damaging marine sanctuary resources, the marine environment, and quite possibly, the recreational, tourism and fishing industries of the Florida Keys.

In March 2000, the USCG conducted a survey of mariners, who frequently travel through this area, to see whether they believed "the Elbow" of the ATBA to be a safety hazard for vessels traveling in that area. Close to half of the mariners surveyed felt that "the Elbow" created a "pinch point" for south- and west-bound vessels that attempt to stay out of both the ATBA and the lanes of traffic for the north- and east-bound vessels. The USCG subsequently recommended the revision of the ATBA boundary in order to increase maritime safety in the area.

Based on these recommendations, and its own draft environmental assessment of the recommendations, NOAA published a proposed rule to revise the boundary in the **Federal Register** on November 22, 2000 (65 FR 70324, Nov. 22, 2000). Two public hearings were subsequently held on December 12 and 13, 2000. While no formal requests to present oral testimony at either meeting were received, a total of six people spoke at the meetings regarding the revised boundary. At the first meeting two individuals spoke in favor of the revision. At the second meeting one person spoke in favor of the revision and three individuals requested further information as to how the revision could affect their tugboat operations in the Florida Keys. Once it was explained that the ATBA only affects boats larger than 50 meters in registered length, the individuals spoke in favor of the change as well. One written comment was received supporting the boundary revision.

Miscellaneous Requirements

Executive Order 12866

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

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when the rule was proposed that it will not have a significant economic impact on a substantial number of small entities. The basis for that certification has not changed. Accordingly, a Regulatory Flexibility Analysis was not prepared.

National Environmental Policy Act Requirements

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required. A final environmental assessment has been prepared. Copies are available (see **ADDRESSES**).

Plain Language Requirement

The President has directed all agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this rule (see **ADDRESSES**).

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Marine resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

Margaret A. Davidson,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth in the preamble, 15 CFR part 922 is amended as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart P—Florida Keys National Marine Sanctuary

2. Appendix VII to subpart P is amended in the table by redesignating the entries for points 23 through 51 as 24 through 52, and by revising the entries under "In the vicinity of the Florida Keys" to read as follows:

Appendix VII To Subpart P of Part 922—Areas To Be Avoided Boundary Coordinates

In the Vicinity of the Florida Keys
[Reference Charts: United States 11466, 27th Edition—September 1, 1990 and United States 11450, 4th Edition—August 11, 1990]

Point	Latitude	Longitude
1	25°45.00'N	80°06.10'W
2	25°38.70'N	80°02.70'W
3	25°22.00'N	80°03.00'W
4	25°06.38'N	80°10.48'W
5	24°56.37'N	80°19.26'W
6	24°37.90'N	80°47.30'W

Point	Latitude	Longitude
7	24°29.20'N	81°17.30'W
8	24°22.30'N	81°43.17'W
9	24°28.00'N	81°43.17'W
10	24°28.70'N	81°43.50'W
11	24°29.80'N	81°43.17'W
12	24°33.10'N	81°35.15'W
13	24°33.60'N	81°26.00'W
14	24°38.20'N	81°07.00'W
15	24°43.20'N	80°53.20'W
16	24°46.10'N	80°46.15'W
17	24°51.10'N	80°37.10'W
18	24°57.50'N	80°27.50'W
19	25°09.90'N	80°16.20'W
20	25°24.00'N	80°09.10'W
21	25°31.50'N	80°07.00'W
22	25°39.70'N	80°06.85'W
23	25°45.00'N	80°06.10'W

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BILLING CODE 3510-08-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1****[TD 8954]****RIN 1545-AY36****Nondiscrimination Requirements for Certain Defined Contribution Retirement Plans****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Final regulations.

SUMMARY: This document contains final regulations that permit certain defined contribution retirement plans to demonstrate compliance with the nondiscrimination requirements based on plan benefits rather than contributions. Under the final regulations, a defined contribution plan can test on a benefits basis if it provides broadly available allocation rates, age-based allocations, or passes a gateway requiring allocation rates for nonhighly compensated employees to be at least 5% of pay or at least one-third of the highest allocation rate for highly compensated employees. The regulations also permit qualified defined contribution and defined benefit plans that are tested together as a single, aggregated plan (and that are not primarily defined benefit or broadly available separate plans) to test on a benefits basis after passing a similar gateway, under which the allocation rate for nonhighly compensated employees need not exceed 7½% of pay. These final regulations affect employers that maintain qualified

retirement plans and qualified retirement plan participants.

DATES: *Effective Date:* These regulations are effective June 29, 2001.

Applicability Date: These regulations apply for plan years beginning on or after January 1, 2002.

FOR FURTHER INFORMATION CONTACT: John T. Ricotta, 202-622-6060 or Linda S.F. Marshall, 202-622-6090 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Background**

This document contains amendments to 26 CFR part 1 under section 401(a)(4) of the Internal Revenue Code of 1986 (Code).

Section 401(a)(4) provides that a plan or trust forming part of a stock bonus, pension, or profit-sharing plan of an employer shall not constitute a qualified plan under section 401(a) of the Code unless the contributions or benefits provided under the plan do not discriminate in favor of highly compensated employees (HCEs) (within the meaning of section 414(q)). Whether a plan satisfies this requirement depends on the form of the plan and its effect in operation.

Section 415(b)(6)(A) provides that the computation of benefits under a defined contribution plan, for purposes of section 401(a)(4), shall not be made on a basis inconsistent with regulations prescribed by the Secretary. The legislative history of this provision explains that, in the case of target benefit and other defined contribution plans, "regulations may establish reasonable earnings assumptions and other factors for these plans to prevent discrimination." Conf. Rep. No. 1280, 93d Cong., 2d Sess. 277 (1974).

Under the section 401(a)(4) regulations, a plan can demonstrate that either the contributions or the benefits provided under the plan are nondiscriminatory in amount. Defined contribution plans generally satisfy the regulations by demonstrating that contributions are nondiscriminatory in amount, through certain safe harbors provided for under the regulations or through general testing.

A defined contribution plan (other than an ESOP) may, however, satisfy the regulations on the basis of benefits by using cross-testing pursuant to rules provided in § 1.401(a)(4)-8 of the regulations. Under this cross-testing method, contributions are converted, using actuarial assumptions, to equivalent benefits payable at normal retirement age, and these equivalent benefits are tested in a manner similar

to the testing of employer-provided benefits under a defined benefit plan.

In Notice 2000-14 (2000-10 I.R.B. 737), released February 24, 2000, the IRS and the Treasury Department initiated a review of issues related to use of the cross-testing method by so-called new comparability plans and requested public comments on this plan design from plan sponsors, participants and other interested parties. In general, new comparability plans are defined contribution plans that have built-in disparities between the allocation rates for classifications of participants consisting entirely or predominantly of HCEs and the allocation rates for other employees.

In a typical new comparability plan, HCEs receive high allocation rates, while nonhighly compensated employees (NHCEs), regardless of their age or years of service, receive comparatively low allocation rates. For example, HCEs in such a plan might receive allocations of 18 or 20% of compensation, while NHCEs might receive allocations of 3% of compensation. A similar plan design, sometimes known as a super-integrated plan, provides for an additional allocation rate that applies only to compensation in excess of a specified threshold, but the specified threshold (e.g., \$100,000) or the additional allocation rate (e.g., 10%) is higher than the maximum threshold and rate allowed under the permitted disparity rules of section 401(l).

These new comparability and similar plans rely on the cross-testing method to demonstrate compliance with the nondiscrimination rules by comparing the actuarially projected value of the employer contributions for the younger NHCEs with the actuarial projections of the larger contributions (as a percentage of compensation) for the older HCEs. As a result, these plans are able generally to provide higher rates of employer contributions to HCEs, while NHCEs are not allowed to earn the higher allocation rates as they work additional years for the employer or grow older. Notwithstanding the analytical underpinnings of cross-testing, the IRS and Treasury Department became concerned that new comparability and similar plans were not consistent with the basic purpose of the nondiscrimination rules under section 401(a)(4).

After consideration of the comments received in response to Notice 2000-14, the IRS and Treasury issued proposed regulations on this subject (REG-114697-00), which were published in the **Federal Register** on October 6, 2000 (65 FR 59774). The proposed regulations