

information to the manufacturer, this AD does not include such a requirement.

#### Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

#### Incorporation by Reference

(e) The actions shall be done in accordance with Fokker Service Bulletin SBF100-32-133, dated April 1, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 2:** The subject of this AD is addressed in Dutch airworthiness directive 2002-060, dated April 29, 2002.

#### Effective Date

(f) This amendment becomes effective on May 19, 2004.

Issued in Renton, Washington, on April 1, 2004.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-8298 Filed 4-13-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 121

[Docket No. FAA-2000-7119; Amdt. Nos. 121-280 and 135-78]

**RIN 2120-AG89**

#### Emergency Medical Equipment

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; partial revised compliance date.

**SUMMARY:** The Federal Aviation Administration (FAA) is extending the compliance date for batteries installed in automated external defibrillators (AEDs) to meet the requirements of a Technical Standard Order (TSO). The primary manufacturer of AEDs has only recently applied for approval of its battery. Not enough approved batteries exist to equip the entire air carrier fleet by the original compliance date of April 12, 2004. Extension of the compliance date will have a negligible impact on safety, will allow AEDs to continue to

be used, and will allow for further approval and production of batteries that meet the TSO requirements.

**DATES:** *Effective Date:* This amendment is effective May 12, 2004. *Compliance Date:* Power sources for automated external defibrillators must meet the standards of the applicable TSO by April 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** David H. Rich, AIR-120, Aircraft Certification Service, Aircraft Engineering Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-7141.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 12, 2001 (66 FR 19028), the FAA amended the aircraft operating rules to require Part 121 air carriers to carry automated external defibrillators (AEDs) on their aircraft as of April 12, 2004. All required electronic equipment that uses lithium batteries as a separate power source must meet the requirements of Technical Standard Order (TSO) C97 or C142 when used onboard aircraft.

Despite several years' notice, the primary manufacturer of AEDs has only recently applied for TSO approval for its AED batteries. The application has not yet been approved and batteries that comply with the TSO have not been produced. Since the batteries for AEDs must be tailored for the specifications of a particular manufacturer's unit, the batteries are not interchangeable nor are they otherwise commercially available. One AED supplier has an approved battery, but information available to the FAA suggests that it has a much smaller market share for its product. The FAA does not have any reliable information on how many AEDs from different manufacturers are affected by this lack of approved batteries.

Although the regulation requiring the carriage of AEDs is not effective until May 12, 2004, air carriers have equipped their aircraft with them in recognition of their value as a potentially lifesaving device. Rather than delay the requirement to carry AEDs for the lack of an approved battery, the FAA has determined that it is better to allow the AEDs to continue to be used until the original batteries can be replaced.

There is no safety issue in allowing the original batteries to remain in operation for the interim period. The FAA added the requirement that the batteries meet the specifications of a TSO because all lithium power sources for electronic equipment used on

aircraft are subject to agency oversight of their design and manufacture. The FAA is not aware of any particular problem with the original batteries, and does not believe that additional time in service on board commercial aircraft poses a particular risk to the flying public. While compliance with the Technical Standard Order is important over the long term, the FAA concludes that any short term risk posed by unapproved batteries is outweighed by the benefit of having the devices on board until approved batteries can be installed.

Accordingly, the FAA is amending 14 CFR Part 121, Appendix A, to include a compliance date of April 30, 2005, for the power source for required AEDs to meet the applicable TSO. This change in the compliance date does not affect the requirement to carry an approved AED, or the requirements for first aid kits, emergency medical kits, crew training in usage of any device, or any other provision of the Appendix.

#### Economic Summary

The FAA estimates that as many as 6,000 airplanes in the Part 121 fleet may be unable to comply with the regulation as of April 12 because of the unapproved battery issue. This rule extends the compliance time for operators to install a power source on automated external defibrillators that complies with the applicable TSO for that item. If the FAA left the original compliance date in place, approximately 80 operators of Part 121 aircraft, including many major air carriers, would be unable to comply for a lack of approved batteries. Those operators could be subject to fines or other enforcement action. The additional time provided by this extension will allow the AED manufacturers to complete the approvals necessary to get their batteries approved for use on aircraft and produce sufficient batteries for their air carrier customers.

The FAA is unable to provide a quantitative estimate of the costs that would result from a failure to relieve this requirement, though the agency believes they would be significant. Further, it would be a disservice to the flying public to delay the requirement to carry AEDs since they represent a significant benefit to commercial aircraft passengers. The risk of continuing to use unapproved batteries is considered less than the benefit of having the equipment available at all. A change in this compliance date will both relieve a burden beyond the control of the regulated carriers and continue to provide a benefit to the flying public.

### Good Cause for "No Notice"

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA) (5 U.S.C. 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find good cause exists to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." The FAA finds that notice and public comment on this change to the compliance date are both impracticable and contrary to the public interest. Notice and comment are impracticable in this instance because they would defeat the need for the rule change. Air carriers using certain equipment are unable to comply with the regulation because of a parts availability problem beyond their control. The FAA would not be able to accomplish notice and comment rulemaking until after the compliance date in the current regulation. Further, the FAA finds that the carriage of AEDs on commercial aircraft represent a significant benefit to the flying public, and delaying implementation of the rule for availability of an approved battery is contrary to that interest when little safety risk is involved for a short time.

### Good Cause for Immediate Adoption

Section 553(d) of the APA requires that rules become effective no less than 30 days after their issuance. Paragraph (d)(1) allows an agency to make a rule effective immediately if it is relieving in nature. This final rule extends a compliance date, relieving the requirement to have equipment installed that may not be available. Accordingly, this rule is effective on issuance.

### List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

### The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends part 121 of Title 14, Code of Federal Regulations (14 CFR Part 121) as follows:

### PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

■ 2. Amend Appendix A, Automated External Defibrillators, paragraph 2, to read as follows:

### Appendix A to Part 121—First Aid Kits and Emergency Medical Kits

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#### Automated External Defibrillators

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2. On and after April 30, 2005, meet FAA Technical Standard Order requirements for power sources for electronic devices used in aviation as approved by the Administrator.

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Issued in Washington, DC, on April 8, 2004.

**Marion C. Blakey,**  
*Administrator.*

[FR Doc. 04–8512 Filed 4–12–04; 10:16 am]

**BILLING CODE 4910–13–P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1210

### Safety Standard for Cigarette Lighters; Adjusted Customs Value for Cigarette Lighters

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission has a safety standard requiring that disposable and novelty lighters meet specified requirements for child-resistance. The rule defines disposable lighters, in part, as refillable lighters that use butane or similar fuels and have a Customs Value or ex-factory price below a threshold value (initially set at \$2.00). The standard provides that the initial \$2.00 value adjusts every 5 years for inflation as measured by the percentage change since June 1993 in the appropriate Wholesale Price Index for which cigarette lighters are a part, as published by the Department of Labor's Bureau of Labor Statistics ("BLS") (now referred to as the Producer Price Index for Miscellaneous Fabricated Products). The adjustment is rounded to the nearest \$0.25 increment. With this notice, the Commission adds to the rule a statement that the import value adjusted to \$2.25 when the June 2003 Index was finalized by BLS in November 2003. This information was also conveyed to the public by a Commission press release issued January 5, 2004.

This notice also makes a technical correction to change the term "Wholesale Price Index" to "Producer Price Index for Miscellaneous Fabricated Products."

**DATES:** This rule is effective April 14, 2004.

**FOR FURTHER INFORMATION CONTACT:** Joe Vogel, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7599; e-mail [jvogel@cpsc.gov](mailto:jvogel@cpsc.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

In 1993, the Commission issued a standard that required disposable and novelty lighters to meet certain requirements for child-resistance. The standard defines disposable lighters as those that either are (1) non-refillable or (2) use butane or similar fuels and have "a Customs Valuation or ex-factory price under \$2.00, as adjusted every 5 years, to the nearest \$0.25, in accordance with the percentage changes in the monthly Wholesale Price Index from June 1993." 16 CFR 1210.2(b)(2)(ii).

Thus, the rule provides for the \$2.00 threshold to adjust in accordance with inflation. The rule provides for adjustment to be rounded to the nearest twenty-five cents. Adjustment did not occur in 1998 because change in the Index since June 1993 was not sufficient to warrant an adjustment.

The name of the Wholesale Price Index has changed to the Producer Price Index. The Index that includes cigarette lighters is the Producer Price Index for Miscellaneous Fabricated Products (hereafter "the Index"). The Bureau of Labor Statistics generally releases the Index figures for the month of June in July, and the figures are subject to revision for four months.

Adjustment to \$2.25 occurred as of November 2003. This figure is based on an 8% increase since June 1993 in the Index rounded to the nearest twenty-five cents.

The staff was concerned that there could be confusion about the exact amount and timing of the increase without specific notice from the Commission. So, on January 5, 2004, the Commission issued a press release notifying the public of the change in the price of lighters included in the cigarette lighter standard due to the adjustment and indicating that the adjustment would be enforced prospectively from March 1, 2004 (available on CPSC's Web site at <http://www.cpsc.gov/cpscpub/prerel/prhtml104/04060.html>). To provide enhanced notice to those subject to the standard of this and any future