

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 26**

[Docket No. FAA-2005-21693; Amendment No. 26-4]

RIN 2120-AI32

**Damage Tolerance Data for Repairs and Alterations****AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Federal Aviation Administration (FAA) is making minor technical changes to a final rule published in the **Federal Register** on December 12, 2007. That final rule required holders of design approvals to make damage tolerance data for repairs and alterations to fatigue critical airplane structure available to operators. After issuing the final rule, the FAA determined that further changes were needed to clarify the applicability of certain provisions and the compliance time of another provision.

**DATES:** *Effective Date:* Effective on March 12, 2010.

**FOR FURTHER INFORMATION CONTACT:** For technical questions contact Greg Schneider, Airframe and Cabin Safety Branch, ANM-115, Federal Aviation Administration, 1601 Lind Ave., SW., Renton, Washington 98057-3356; telephone (425) 227-2116; facsimile (425) 227-1232; e-mail [Greg.Scheider@faa.gov](mailto:Greg.Scheider@faa.gov). For legal questions contact Doug Anderson, Office of the Chief Counsel, ANM-7, Federal Aviation Administration, 1601 Lind Ave., SW., Renton, Washington 98057-3356; telephone (425) 227-2166; facsimile (425) 227-1007; e-mail [Douglas.Anderson@faa.gov](mailto:Douglas.Anderson@faa.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Aviation Administration (FAA) published a final rule in the **Federal Register** on December 12, 2007 (72 FR 70486), which amended 14 CFR parts 26, 121, and 129. That final rule requires holders of design approvals to make available to operators damage tolerance (DT) data for repairs and alterations to fatigue critical airplane structure. After issuing the final rule, the FAA determined that minor technical changes are needed to clarify the intent of and compliance with § 26.43(e) and § 26.45(b)(1) and (e)(1).

**Change to § 26.43(e)**

The change to § 26.43(e) clarifies that this section does not apply to type

certificate (TC) holders of pending or future type certified airplane models, including any airplane model type certified after January 11, 2008. This change is relieving to TC holders and does not impact a TC holder's ability to comply with § 26.43(e). The FAA did not intend to require TC holders to develop repair evaluation guidelines (REG) for pending or future type certified airplane models. The purpose of the REG is to enable operators to obtain DT data for existing repairs for which DT data has not already been provided. Section 26.43(b), (c), and (d) already require all TC holders to develop and make available to operators DT data for all future repairs they develop that affect fatigue critical baseline structure. Operators, therefore, will have the DT data for TC holder repairs necessary to support their compliance with 14 CFR 121.1109(c)(2) of the Aging Airplane Safety rule. For repairs developed by the operator or third parties, operators are responsible for developing or obtaining the necessary DT data to comply with the certification bases for these airplanes; it would not be appropriate to impose this obligation on the TC holder.

**Change to § 26.45(b)**

The change to § 26.45(b)(1) clarifies that § 26.45(b)(1) applies to both existing and future alterations and corrects an inconsistency with § 26.45(b). This change does not require additional work, since § 26.45(b) already applies to existing and future alterations.

**Change to § 26.45(e)(1)**

The change to § 26.45(e)(1) provides an appropriate compliance time for submitting a list of fatigue critical alteration structure for alteration data approved on or after January 11, 2008. This change is relieving and necessary to correct an oversight in the original regulatory text, which inadvertently imposes a compliance time that cannot be met for future alterations. For alteration data approved on or after January 11, 2008, this change would require that the list of fatigue critical structure be submitted before the alteration data is approved.

**Justification for Immediate Adoption**

Since this action is relieving to holders of type certificates and clarifies the intent of the regulations, the FAA finds that notice and public comment under 5 U.S.C. 553(d) is unnecessary. For the same reason, the FAA finds good cause exists under 5 U.S.C. 553(d) for making this rule effective upon publication.

**Technical Amendment**

The technical amendment clarifies the applicability of § 26.43(e) and the scope of § 26.45(b)(1). This technical amendment also adds to § 26.45(e)(1) an appropriate compliance time for submitting fatigue critical alteration structure for alteration data approved on or after January 11, 2008.

**List of Subjects in 14 CFR Part 26**

Aircraft, Aviation safety, Continued airworthiness.

■ Accordingly, Title 14 of the Code of Federal Regulations (CFR) part 26 is amended as follows:

**PART 26—CONTINUED AIRWORTHINESS AND SAFETY IMPROVEMENTS FOR TRANSPORT CATEGORY AIRPLANES**

■ 1. The authority citation for part 26 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

■ 2. Amend § 26.43 by revising paragraph (e) introductory text to read as follows:

**§ 26.43 Holders of and applicants for type certificates—Repairs.**

\* \* \* \* \*

(e) *Repair evaluation guidelines.* Except for airplane models whose type certificate is issued after January 11, 2008, holders of a type certificate for each airplane model subject to this section must—

\* \* \* \* \*

■ 3. Amend § 26.45 by revising paragraphs (b)(1) and (e)(1) to read as follows:

**§ 26.45 Holders of type certificates—Alterations and repairs to alterations.**

\* \* \* \* \*

(b) \* \* \*

(1) Review alteration data and identify all alterations that affect fatigue critical baseline structure identified under § 26.43(b)(1);

\* \* \* \* \*

(e) \* \* \*

(1) The list of fatigue critical alteration structure identified under paragraph (b)(3) of this section must be submitted—

(i) No later than 360 days after January 11, 2008, for alteration data approved before January 11, 2008.

(ii) No later than 30 days after March 12, 2010 or before initial approval of the alteration data, whichever occurs later, for alteration data approved on or after January 11, 2008.

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Issued in Washington, DC, on March 9, 2010.

**Julie A. Lynch,**

*Acting Director, Office of Rulemaking.*

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BILLING CODE 4910-13-P

## TENNESSEE VALLEY AUTHORITY

### 18 CFR Part 1301

#### Tennessee Valley Authority Procedures

**AGENCY:** Tennessee Valley Authority (TVA).

**ACTION:** Final rule.

**SUMMARY:** The Tennessee Valley Authority is amending its regulations which contain TVA's procedures for the Freedom of Information Act (FOIA), the Privacy Act, and the Government in the Sunshine Act. These amendments reflect changes in position titles and addresses; for FOIA purposes, update the definitions of "news media" and "news media requesters" to reflect changes in the way news is delivered; conform references to Privacy Act systems of records to the most current publication of TVA's Privacy Act Systems Notices in the **Federal Register**; clarify special procedures for the release of certain medical records in response to Privacy Act requests; pursuant to amendments to the TVA Act, reflect changes in the number of TVA Board members required for a quorum; and make other editorial changes.

**DATES:** *Effective Date:* March 12, 2010.

**FOR FURTHER INFORMATION CONTACT:** Nicholas P. Goschy, Assistant General Counsel, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902-1401, (865) 632-8960.

**SUPPLEMENTARY INFORMATION:** This rule was not published in proposed form since it relates to agency procedure and practice. TVA considers this rule to be a procedural rule which is exempt from notice and comment under 5 U.S.C. 533(b)(3)(A). This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, TVA certifies that these regulatory amendments will not have a significant impact on small business entities. Since this rule is nonsubstantive, it is being made effective March 12, 2010.

#### List of Subjects in 18 CFR Part 1301

Freedom of Information, Government in the Sunshine, Privacy.

■ For the reasons stated in the preamble, TVA amends 18 CFR Part 1301 as follows:

### PART 1301—PROCEDURES

#### Subpart A—Freedom of Information Act

■ 1. The authority citation for part 1301, Subpart A, is revised to read as follows:

**Authority:** 16 U.S.C. 831-831ee, 5 U.S.C. 552.

■ 2. In § 1301.3, revise paragraphs (a) and (b) to read as follows:

#### § 1301.3 Requirements for making requests.

(a) *How made and addressed.* You may make a request for records of TVA by writing to the Tennessee Valley Authority, FOIA Officer, 400 W. Summit Hill Drive (WT 7D), Knoxville, Tennessee 37902-1401. You may find TVA's "Guide to Information About TVA"—which is available electronically at <http://www.tva.gov>, and is available in paper form as well—helpful in making your request. For additional information about the FOIA, you may refer directly to the statute. If you are making a request for records about yourself, see Subpart B Privacy Act for additional requirements. If you are making a request for records about another individual, either a written authorization signed by that individual permitting disclosure of those records to you or proof that that individual is deceased (for example, a copy of a death certificate or an obituary) will help the processing of your request. Your request will be considered received as of the date it is received by the FOIA Officer. For the quickest possible handling, you should mark both your request letter and the envelope "Freedom of Information Act Request."

(b) *Descriptions of records sought.* You must describe the records that you seek in enough detail to enable TVA personnel to locate them with a reasonable amount of effort. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. If known, you should include any file designations or descriptions for the records that you want. As a general rule, the more specific you are about the records or type of records that you want, the more likely TVA will be able to locate those records in response to your request. If TVA determines that your request does not reasonably describe records, you will be informed what additional information is needed or why your

request is otherwise insufficient. TVA shall also give you an opportunity to discuss your request so that you may modify it to meet the requirements of this section. If your request does not reasonably describe the records you seek, the agency's response to your request may be delayed.

\* \* \* \* \*

■ 3. In § 1301.5, revise paragraph (b) introductory text to read as follows:

#### § 1301.5 Timing of responses to request.

\* \* \* \* \*

(b) *Multi-track processing procedures.*

TVA has established three tracks for handling requests and the track to which a request is assigned will depend on the nature of the request and the estimated processing time, including a consideration of the number of pages involved. If TVA places a request in a track other than Track 1, it will advise requesters of the limits of its faster track(s). TVA may provide requesters in its tracks 2 and 3 with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of TVA's faster track(s). When doing so, TVA may contact the requester either by telephone, e-mail, or letter, whichever is most efficient in each case.

\* \* \* \* \*

■ 4. In § 1301.9, revise paragraph (a) to read as follows:

#### § 1301.9 Appeals.

(a) *Appeals of adverse determinations.* If you are dissatisfied with TVA's response to your request, you may appeal an adverse determination denying your request, in any respect, to TVA's FOIA Appeal Official, Tennessee Valley Authority, 400 W. Summit Hill Drive (WT 7D), Knoxville, Tennessee 37902-1401. You must make your appeal in writing, and it must be received by the FOIA Appeal Official within 30 days of the date of the letter denying your request. Your appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the TVA determination (including the assigned request number, if known) that you are appealing. An adverse determination by the TVA FOIA Appeal Official will be the final action of TVA.

\* \* \* \* \*

■ 5. In § 1301.10, revise paragraph (b)(6) to read as follows:

#### § 1301.10 Fees.

\* \* \* \* \*

(b) \* \* \*

(6) *Representative of the news media, or news media requester,* means any