

SUMMARY SHEET
Airworthiness Directive Implementation Aviation Rulemaking Committee
AD Development Working Group

Primary Report and Recommendation	AD Compliance Review Team (Task 2), Recommendation 4, Bullet 3- Posting Service Instructions on FDMS
Secondary Report and Recommendation	None
Assigned Members	Holly Thorson (AIR) (POC) Tim Dowling (Boeing) (POC) Tammy Anderson (AIR) Elizabeth Bumann (AIR) Jim Orchard (AFS) Harry Hoffman (AFS) Eric Blancaneaux (Airbus) Marco Capaccio (EASA) Ross Stewart (ABX) Rafael Marques (Embraer) Oswaldo de Oliveira (ANAC) Craig Fabian (ARSA) Plamen Stoyanov (Alaska) Barry Baker (Pinnacle)
Links to Other Working Groups	None

WORKING GROUP REVIEW OF ISSUE/PROBLEM

If the service information associated with airworthiness directives (ADs) was made available during the Notice of Proposed Rulemaking (NPRM) phase it would better facilitate public comments on the specific instructions for correcting an unsafe condition. After an AD is issued, 14 CFR section 21.99(a)(2) requires the design approval holder (DAH) to make available the descriptive data for required design changes to all operators of the product. Although DAHs typically provide this data via service information to operators prior to AD issuance, the information is not made available by the agency directly to the public. Placing the service information associated with correcting the unsafe condition in the Federal Docket Management System (FDMS) at website <http://www.regulations.gov> would ensure access by the public.

Additionally, the FAA is currently under scrutiny from the Office of the Federal Register (OFR) for not making material incorporated by reference (IBR'd) readily available. The OFR has indicated that materials that are not readily available to the regulated public do not qualify for IBR approval under 1 CFR 51.7(a)(4). If not allowed to include IBR material in ADs, then ADs would become significantly longer and potentially confusing because the corrective action procedures would have to be written directly into the AD itself.

The FAA's legal counsel, AGC-200, has concluded that service information IBR'd in final rule ADs is part of the public domain and can therefore be posted to the FDMS. Service information, when IBR'd, becomes publicly available, which exempts it from Export Administration Regulations (EAR). Without further investigation, AGC-200 has also concluded that non-IBR'd

SUMMARY SHEET
Airworthiness Directive Implementation Aviation Rulemaking Committee
AD Development Working Group

information may only be posted on the FDMS with permission from the DAH. One U.S. DAH has already given the FAA permission to post service bulletins to FDMS in support of public comment on NPRMs.

REGULATIONS AND GUIDANCE IDENTIFIED FOR REVIEW

1 CFR 51.7(a)(4)
14 CFR section 21.99(a)(2)
AD Manual, FAA-IR-M-8040.1C
Export Administration Regulations (EAR)

WORKING GROUP PROPOSAL TO ADDRESS THE RECOMMENDATION(S)/FINDING(S)

Because the intellectual property and export compliance issues have not been fully vetted, the FAA will only post the service information identified in an NPRM to FDMS with permission from the DAH. A letter requesting permission to post service information into FDMS at the NPRM stage will be sent to Airbus, Embraer, and Bombardier (note that Boeing has already given permission).

All service information IBR'd in a final rule AD action (e.g., "Final rule; request for comments," final rule after NPRM, or Federal Register version of an emergency AD) will be posted to FDMS.

ALTERNATIVES CONSIDERED

None

IMPLEMENTATION PLAN

The FAA issued Notice N8110.112, Placing Service Information into the Federal Docket Management System (FDMS), on September 28, 2010. This notice requires service information that is IBR'd to be placed into the FDMS. For service information that is not IBR'd, written consent is required from the DAH prior to placing the service information into FDMS. The Delegation and Airworthiness Programs Branch, AIR-140, will send letters to Airbus, Embraer, and Bombardier requesting their positions for posting service information required to address an unsafe condition at the NPRM stage into FDMS (note that Boeing has already provided consent). Each DAH has agreed to provide their position on this issue by June 30, 2011.

Given that a DAH's permission is necessary in order to place service information into FDMS at the NPRM stage and they may choose to decline, the proposed solution may not fully address the AD CRT's concern that service instructions are not available when the AD NPRM is issued. However, the AD Development working group considers issuance of FAA Notice N8110.112 to be an acceptable solution to the recommendation.

SUMMARY SHEET
Airworthiness Directive Implementation Aviation Rulemaking Committee
AD Development Working Group

ASSUMPTIONS/CONSTRAINTS

A DAH may not provide consent for placing their service information into FDMS at the NPRM stage.

ISSUES FOR WORKING GROUP CONSIDERATION

N/A

ISSUES FOR ARC CONSIDERATION

Initial responses received via email from Embraer and Airbus AD Aviation Rulemaking Committee (ARC) working group members is that their companies' do not agree with posting AD related service information to the FDMS.

FINDING No. 4

The Team found systemic problems in the AD process as follows:

- Multiple ADs affecting airworthiness in the same area of the airplane resulting in overlapping and confusing mandates for air carriers. This can lead to inadvertent noncompliance or reversal of previous AD actions.
- Occasionally, the OEM's service instructions are not available when the AD NPRM is issued. In addition, copies of service instructions are not included in the Government's electronic regulatory docket system. In either case, this prevents air carriers from having the full comment period to comment on the specifics of the service document.
- ADs generally have an aggressive installation timeline. Because of the urgent nature of AD tasks and the need for planning to minimize aircraft out-of-service time, air carriers frequently accomplish service instructions ahead of the AD issuance date. This creates an exposure to noncompliance when there are changes in the final AD that differ from the originally released service document.

The Team noted that as part of a process improvement effort, in 2006 the FAA signed a working agreement with Boeing Commercial Airplanes on Agreed Principles and Practices for AD-friendly service bulletins related to the Boeing transport fleet. The agreement was developed as part of a joint effort by the FAA and an OEM to identify and implement improvements to the format and quality of service instructions and ADs. The Team acknowledged that the joint effort is a major step in improving the FAA's AD process, provided that certain recommendations in section 2.2.2 regarding service instructions are incorporated to simplify air carrier implementation.

SUMMARY SHEET
Airworthiness Directive Implementation Aviation Rulemaking Committee
AD Development Working Group

RECOMMENDATION No. 4, BULLET 3

OEMs should review Intellectual Property and Export Compliance policies to allow easier public access to NPRM- and AD-referenced service instructions via the electronic regulatory docket system.

SUMMARY SHEET
Airworthiness Directive Implementation Aviation Rulemaking Committee
AD Development Working Group

APPENDIXES

N/A