

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Part 1604

#### Uniformed Services Accounts

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Executive Director of the Federal Retirement Thrift Investment Board (Board) proposes to add a new part to its regulations explaining the rules under which members of the uniformed services can participate in the Thrift Savings Plan (TSP).

**DATES:** Comments must be received on or before July 2, 2001.

**ADDRESSES:** Comments may be sent to Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Forrest at (202) 942-1661.

**SUPPLEMENTARY INFORMATION:** The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA have been codified, as amended, largely at 5 U.S.C. 8351 and 8401-8479. The TSP is a tax-deferred retirement savings plan for Federal employees which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The National Defense Authorization Act for Fiscal Year 2000, Public Law 106-65, 113 Stat. 512, as amended by the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106-398, 114 Stat. 1654, extended the opportunity to participate in the TSP to uniformed services members. The uniformed services include the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration. Therefore, beginning on

October 9, 2001, uniformed services members can elect to contribute to the TSP, with contributions to commence in January 2002. Generally, uniformed services members are covered by the TSP regulations found at 5 CFR chapter VI. However, uniformed services members will contribute to the TSP under rules that differ substantially from those that apply to civilian accounts; this proposed rule supplements TSP regulations to explain those differences.

#### Analysis

An eligible employee elects to contribute to the TSP by making a contribution election within 60 days after appointment to a TSP-eligible position or during a TSP open season, as described at 5 CFR part 1600. Proposed § 1604.3 supplements part 1600 by explaining special open season rules for uniformed services members and by describing the initial uniformed services open season to begin October 9, 2001, and to end January 31, 2002. Proposed § 1604.4 further supplements part 1600 by explaining special uniformed services contribution rules, most notably those allowing TSP contributions from incentive and special pay (including bonuses), and contributions from pay that is not subject to Federal income taxation. Uniformed services accounts thereby differ from civilian accounts, which consist solely of contributions from basic pay that is subject to Federal income taxation; to account for these differences, the TSP will maintain separate uniformed services and civilian accounts, as described in proposed § 1604.5.

The TSP error correction regulations are codified at 5 CFR part 1605. Proposed § 1604.6 explains a special error correction rule that will apply if a uniformed services employing agency fails to deduct a TSP contribution from bonus pay. Under the standard error correction procedures, a participant can establish a schedule of makeup contributions to replace the missed contribution through future payroll deductions. That schedule may not exceed four times the number of pay periods over which the error occurred. Because bonuses are paid in a single monthly pay period, current procedures would limit to four months the schedule of makeup contributions relating to a

missed bonus contribution. The Board believes that four months is insufficient time to replace a bonus contribution because the dollar amount of the bonus might exceed the uniformed services member's monthly basic pay. Therefore, proposed § 1604.6 allows a schedule of makeup contributions of up to four times the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution.

The regulations codified at 5 CFR parts 1650, 1651, and 1655 govern TSP withdrawals, death benefits, and loans, respectively. Proposed §§ 1604.7, 1604.8, and 1604.10 supplement those regulations. Proposed § 1604.7(d) provides for a uniformed services member to use the definition of separation from service found at proposed § 1604.2 to determine whether he or she is eligible for a withdrawal under part 1650. Other provisions of those sections call for participants to use separate forms for uniformed services and civilian accounts, describe the spousal rights applicable to uniformed services members, and explain how non-taxable sums are treated differently from taxable sums when they are distributed from the TSP.

Under 5 CFR part 1653, a TSP account can be divided in an action for divorce, annulment, or legal separation, and is subject to legal process relating to child support, alimony, or child abuse. Proposed § 1604.9 supplements the part 1653 regulations. Proposed § 1604.9(a) pertains to participants for whom the TSP maintains both a uniformed services account and a civilian account, and states that a court order or legal process must expressly state from which account(s) payment is to be made. Proposed §§ 1604.9(b) and (c) explain how non-taxable sums are treated differently from taxable sums when they are paid from the TSP pursuant to a court order or legal process.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

#### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

### List of Subjects in 5 CFR Part 1604

Employment benefit plans, Government employees, Military personnel, Pensions, Retirement.

For the reasons set out in the preamble, the Board proposes to add a new 5 CFR part 1604 to read as follows:

### PART 1604—UNIFORMED SERVICES ACCOUNTS

Sec.

- 1604.1 Applicability.
- 1604.2 Definitions.
- 1604.3 Contribution elections.
- 1604.4 Contributions.
- 1604.5 Separate service member and civilian accounts.
- 1604.6 Error correction.
- 1604.7 Withdrawals.
- 1604.8 Death benefits.
- 1604.9 Court orders and legal processes.
- 1604.10 Loans.

**Authority:** 5 U.S.C. 8474(b)(5) and (c)(1); sec. 661(b), Pub. L. 106–65, 113 Stat. 512, 672 (5 U.S.C. 8440e).

#### § 1604.1 Applicability.

This part describes the special features of TSP participation applicable to members of the uniformed services. Uniformed services members are also covered by the other regulations of 5 CFR chapter VI to the extent they do not conflict with the regulations of this part.

#### § 1604.2 Definitions.

As used in this part:

*Basic pay* means basic pay payable under 37 U.S.C. 204 and compensation received under 37 U.S.C. 206.

*Bonus contributions* means contributions made by participants from a bonus as defined in 37 U.S.C. chapter 5.

*Civilian account* means the account to which contributions have been made by or on behalf of a civilian employee.

*Civilian employee* means a TSP participant covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or equivalent retirement plans.

*Combat zone compensation* means compensation received for active service

during a month in which a member of the Armed Forces serves in a combat zone.

*Combat zone contributions* means employee contributions that are made from compensation subject to the Federal income tax exclusion at 26 U.S.C. 112 for combat zone compensation.

*Employee contributions* means contributions made by participants from basic pay, incentive pay, and special pay (including bonuses).

*Employing agency* means the organization that employs an individual who is eligible to contribute to the TSP and that has authority to make compensation decisions for that employee.

*Federal civilian retirement system* means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, or any equivalent Federal civilian retirement system.

*Periodic contributions* means employee contributions made from recurring incentive pay and special pay (including bonuses) as defined in 37 U.S.C. chapter 5.

*Ready Reserve* means those members of the uniformed services described at 10 U.S.C. 10142.

*Regular contributions* means employee contributions made from basic pay.

*Separation from service* means a transfer to inactive status or to a retired list pursuant to a provision of title 10, United States Code, or a release from active duty that is not followed within 31 full calendar days by a resumption of active duty.

*Service member* means a member of the uniformed services on active duty or a member of the Ready Reserve in any pay status.

*Service member account* means the account to which contributions have been made by or on behalf of a member of the uniformed services.

*Special and incentive pay* means pay payable as special or incentive pay under 37 U.S.C. chapter 5.

*TSP record keeper* means the entity that is engaged by the Board to perform record keeping services for the Thrift Savings Plan. The TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

*Uniformed services* means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

#### § 1604.3 Contribution elections.

A service member may make contribution elections as described in 5 CFR part 1600, with the following exceptions:

(a) *Initial uniformed services open season.* A service member may make a contribution election during an initial uniformed services TSP open season beginning October 9, 2001, and ending January 31, 2002. Contributions based on an election made on or before December 31, 2001, will be deducted from pay the first full pay period of January 2002; elections made in January 2002 will be effective during the first full pay period after the election is received.

(b) *New service members.* An individual who is appointed as a service member may make a TSP contribution election within 60 days after the effective date of the appointment; contributions based on such an election will be made during the first full pay period after the election is received.

(c) *Conversion between active duty and Ready Reserve status.* A service member who converts from Ready Reserve status to active duty status (for more than 30 days), or who converts from active duty to Ready Reserve status, may make a TSP contribution election within 60 days after the effective date of the conversion; contributions based on such an election will be made during the first full pay period after it is received.

(d) *TSP open season elections.* In addition to being able to make a contribution election during the periods described in paragraphs (a) through (c) of this section, as applicable, a service member may make a contribution election during any TSP open season thereafter (as described at 5 CFR part 1600, subpart B).

(e) *Source of contributions.* A service member may elect to contribute sums to the TSP from basic pay, incentive pay, and special pay (including bonuses). Except for an election to contribute from bonuses, all contribution elections must be made during one of the periods described in paragraphs (a) through (d) of this section. An election pertaining to a bonus contribution may be made before the service member receives the bonus pay; however, the service member must be making a regular contribution in order to make a bonus contribution. A service member may elect to contribute from special or incentive pay (including bonuses) in anticipation of receiving such pay (that is, he or she does not have to be receiving the special pay or incentive pay when the contribution election is made); those elections will take effect

when the service member receives the special or incentive pay.

#### § 1604.4 Contributions.

(a) *Employee contributions.* Subject to the regulations at 5 CFR part 1600 and the following limitations, a service member may make regular contributions to the TSP from basic pay. If the service member makes regular contributions, he or she also may contribute all or a portion of incentive pay and special pay (including bonuses) to the TSP:

(1) *Temporary percentage limitations.* Subject to paragraph (a)(2) of this section, the maximum service member TSP regular employee contribution (including combat zone contributions) for 2001 is 6 percent of basic pay per pay period. The maximum contribution will increase one percent a year until 2005, after which the percentage of basic pay limit will not apply and the maximum contribution will be limited only as provided in paragraph (a)(2) of this section.

(2) *Internal Revenue Code limitations.* The dollar amount of TSP employee contributions is limited by three different provisions of the Internal Revenue Code (I.R.C.). If a service member's employee contributions exceed any of these limitations, the service member may request a refund of employee contributions (and associated earnings) from the TSP on the form titled "Request for Return of Excess Employee Contributions to Participant," which can be obtained from the TSP record keeper. The completed form must be returned to the TSP record keeper by February 20 of the year after the excess contributions were made.

(i) *Limit on elective deferrals.* Section 402(g) of the I.R.C. (26 U.S.C. 402(g)) places a dollar limit on the amount a person may save on a tax-deferred basis through retirement savings plans. (The limit is periodically adjusted by the Internal Revenue Service; it is \$10,500 in 2001.) The TSP will not accept any employee contributions that exceed the I.R.C. section 402(g) limit. If a service member contributes to a civilian TSP account or to another qualified employer plan described at I.R.C. sections 401(k), 403(b), or 408(k) (26 U.S.C. 401(k), 403(b), or 408(k)), and the total employee contributions from taxable income made to all plans exceed the I.R.C. section 402(g) limit, he or she may request a refund of employee contributions from the TSP to conform with the limit. (Combat zone contributions are not taken into consideration when determining the application of the I.R.C. section 402(g) limit.)

(ii) *Section 457 limit.* If a service member contributes to the TSP and to a plan described at I.R.C. section 457 (26 U.S.C. 457) (generally, a deferred compensation plan for a state or local government or tax-exempt organization), the total amount the service member may contribute to all tax-deferred savings plans cannot exceed the dollar limit found at section 457(c) (as opposed to the I.R.C. section 402(g) limit described in paragraph (a)(2)(i) of this section). (The limit is periodically adjusted by the Internal Revenue Service; it is \$8,500 in 2001.) A service member who contributes to a section 457 plan should consult that plan's administrator concerning any limit on the amount he or she can also contribute to the TSP. (Combat zone contributions are not taken into consideration when determining the application of the I.R.C. section 457(c) limit.)

(iii) *Limit on contributions to qualified plans.* Section 415(c) of the I.R.C. (26 U.S.C. 415(c)) also places an annual limit on the combined amount that can be contributed to the TSP and to other Federal civilian retirement systems (as defined in § 1604.2). (The limit is periodically adjusted by the Internal Revenue Service; it is the lesser of 25 percent of compensation or \$35,000 in 2001.) For purposes of applying this limit, compensation includes combat zone compensation. In implementation of this law, no employee contribution may be made to the TSP for any year to the extent that the sum of the employee's contributions to the TSP and to a Federal civilian retirement system, when added to the employer's contributions to the TSP for that year, would exceed the I.R.C. section 415(c) limit. (If a service member contributes to a civilian TSP account and to a service member TSP account in a single calendar year, the annual limit on contributions will be derived from the participant's combined service member and civilian compensation.) Combat zone contributions are taken into consideration when determining the application of the I.R.C. section 415(c) limit.

(b) *Matching contributions.* When the Secretary of a military department (i.e., the Army, Navy and Air Force) authorizes matching contributions for a service member, the service member's regular contributions will be matched dollar-for-dollar on the first three percent of basic pay contributed to the TSP, and 50 cents on the dollar on the next two percent of basic pay contributed. Matching contributions only apply to regular contributions. Matching contributions are not taken

into consideration when determining the application of the contribution limits found at I.R.C. sections 402(g) and 457 (described in paragraphs (a)(2)(i) and (a)(2)(ii) of this section, respectively), but they are taken into consideration when determining the application of the contribution limit found at I.R.C. section 415 (described in paragraph (a)(2)(iii) of this section).

(c) *Deduction and transmittal of contributions.* A service member's employing agency will deduct regular contributions from the service member's basic pay each pay period based on his or her contribution election and will transmit the contributions to the TSP. If a service member also elects to make periodic contributions to the TSP, the employing agency must deduct (and transmit to the TSP) these contributions from the service member's incentive pay or special pay (including bonuses), as applicable.

#### § 1604.5 Separate service member and civilian accounts.

(a) *Separate accounts.* Service member accounts are maintained separately from civilian accounts. Therefore, service members making both civilian and uniformed services TSP contributions will have two TSP accounts. For those participants, the accounts are treated separately except in the following circumstances:

(1) If a participant contributes to a service member account and a civilian account, the contributions to both accounts together cannot exceed the Internal Revenue Code contribution limits described in § 1604.4(a)(2).

(2) An active duty member of the uniformed services may obtain a loan from his or her account, as described at § 1604.10, and the loan will be disbursed from the uniformed services account. If the TSP maintains a service member account and a civilian account for an individual, the TSP will calculate the Internal Revenue Code maximum loan amount using both account balances, as described in § 1604.10(a)(3).

(b) *Transfers between TSP accounts.* Service member and civilian TSP account balances may be combined through a transfer (thus producing one account), and the transferred funds will be treated as employee contributions and otherwise invested as described at 5 CFR part 1600. Transfers under this section are subject to the following rules:

(1) An account balance can be transferred once the TSP is informed (by the participant's employing agency) that the participant has separated from either civilian or uniformed services employment.

(2) Combat zone contributions may not be transferred from a uniformed services TSP account to a civilian TSP account.

(3) Transferred funds will be allocated among the TSP's investment funds according to the contribution allocation in effect for the gaining account.

(4) If a service member's account balance exceeds \$3,500, the service member must obtain the consent of his or her spouse before transferring the balance into a civilian account. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(5) Before the transfer can be accomplished, any outstanding loans from the account to be transferred must be closed as described in 5 CFR part 1655.

#### § 1604.6 Error correction.

(a) *General rule.* A service member's employing agency must correct the service member's account if, as the result of employing agency error, a service member does not receive the TSP contributions to which he or she is entitled. Except as provided in paragraph (b) of this section, those corrections must be made in accordance with 5 CFR part 1605.

(b) *Missed bonus contributions.* This paragraph (b) applies when an employing agency fails to implement a contribution election that was properly submitted by a service member requesting that a TSP contribution be deducted from bonus pay. Within 30 days of receiving the employing agency's acknowledgment of the error, a service member may establish a schedule of makeup contributions with his or her employing agency to replace the missed contribution through future payroll deductions. These makeup contributions can be made in addition to any TSP contributions that the service member is otherwise entitled to make.

(1) The schedule of makeup contributions may not exceed four times the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution. For example, a service member who earns \$29,000 yearly in basic pay and who missed a \$2,500 bonus contribution to the TSP can establish a schedule of makeup contributions with a maximum duration of 8 months. This is because it takes the service member 2 months to earn \$2,500 in basic pay (at \$2,416.67 per month).

(2) At its discretion, an employing agency may set a ceiling on the length of a schedule of employee makeup

contributions. The ceiling may not, however, be less than twice the number of months it would take for the service member to earn basic pay equal to the dollar amount of the missed contribution.

#### § 1604.7 Withdrawals.

A service member may withdraw all or a portion of his or her account under the rules in 5 CFR part 1650, with the following exceptions:

(a) *Separate accounts.* If the TSP maintains a service member account and a civilian account for an individual, a separate withdrawal request must be made for each account.

(b) *Spousal rights.* The spouse of a service member participant has the same TSP spousal rights as the spouse of a civilian participant covered under the Federal Employees' Retirement System; those spousal rights in the context of a withdrawal (and the process by which a service member may obtain an exception to them) are explained at 5 CFR part 1650.

(c) *Combat zone contributions.* If a service member account contains combat zone contributions, the withdrawal will be distributed *pro rata* from all sources. If a participant requests the TSP to transfer all, or a portion, of a withdrawal to an Individual Retirement Account (IRA) or other eligible retirement plan, the *pro rata* share of the withdrawal attributable combat zone contributions (if any) cannot be transferred.

(d) *Separation.* The definition of separation from service at § 1604.2 applies when determining a service member's eligibility for a withdrawal.

#### § 1604.8 Death benefits.

The account balance of a deceased service member will be paid as described at 5 CFR part 1651, with the following exceptions:

(a) *Separate accounts.* To designate a beneficiary for a TSP death benefit, a service member must file a valid beneficiary designation form. If the TSP maintains a service member account and a civilian account for an individual, a separate beneficiary designation form must be filed for each account.

(b) *Combat zone contributions.* If a service member account contains combat zone contributions, the death benefit payment will be made *pro rata* from all sources.

(c) *Trustee-to-trustee transfers.* The surviving spouse of a TSP participant can request the TSP to transfer a death benefit payment to an Individual Retirement Account (IRA); the *pro rata* share attributable to combat zone

contributions (if any) cannot be transferred.

#### § 1604.9 Court orders and legal processes.

A TSP account can be divided in an action for divorce, annulment, or legal separation, and is subject to legal process relating to child support, alimony, or child abuse. The TSP will make a payment from a service member's account under such orders or processes as described at 5 CFR part 1653, with the following exceptions:

(a) *Separate accounts.* To qualify for enforcement against the TSP, a court order or legal process must expressly relate to the TSP. Therefore, if the TSP maintains a service member account and a civilian account for an individual, a qualifying court order or legal process must expressly state from which account payment is to be made.

(b) *Combat zone contributions.* If a service member account contains combat zone contributions, the payment will be made *pro rata* from all sources.

(c) *Trustee-to-trustee transfers.* The current or former spouse of a TSP participant can request the TSP to transfer a court-ordered payment to an Individual Retirement Account (IRA) or other eligible retirement plan; the *pro rata* share attributable to combat zone contributions (if any) cannot be transferred.

(d) *Transfer to a TSP account.* If the TSP maintains an account for a court order payee who is the current or former spouse of the participant, the payee can request the TSP to transfer the court-ordered payment to the payee's TSP account; the *pro rata* share attributable to combat zone contributions (if any) cannot be transferred.

#### § 1604.10 Loans.

A service member may be eligible for a TSP loan as described at 5 CFR part 1655, with the following exceptions:

(a) *Separate accounts.* If the TSP maintains a service member account and a civilian account for an individual:

(1) A separate loan application must be made for each account;

(2) A participant may have no more than two loans outstanding from each account at any time; one loan from each account may be a loan for the purchase of a primary residence;

(3) The Internal Revenue Code maximum loan amount test, which is described in 5 CFR part 1655, will be applied using the combined balances in both TSP accounts; and

(4) Separate TSP loan statements will be issued for each account.

(b) *Spousal rights.* Before a loan agreement is approved for a service member account, the participant's

spouse must consent to the loan by signing the loan agreement. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(c) *Combat zone contributions.* If a service member account contains combat zone contributions, the loan will be distributed *pro rata* from all sources; loan repayments will be credited on a similar *pro rata* basis. If a loan is declared a taxable distribution, the *pro rata* share of the loan attributable to combat zone contributions (if any) will not be reported as taxable income to the participant.

**Roger W. Mehle,**

*Executive Director, Federal Retirement Thrift Investment Board.*

[FR Doc. 01-10698 Filed 4-30-01; 8:45 am]

BILLING CODE 6760-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-72-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Airbus Model A300 B2; A300 B4; A300 B4-600, B4-600R, and F4-600R (Collectively Called A300-600); A310; A319; A320; A321; A330; and A340 Series Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 B2; A300 B4; A300 B4-600, B4-600R, and F4-600R (collectively called A300-600); A310; A319; A320; A321; A330; and A340 series airplanes. This proposal would require replacement of Labinal actuators in certain powered cockpit seats by new improved actuators. This action is necessary to prevent uncommanded horizontal movement of the cockpit seats or loss of ability to lock the seats in place during flight, which could limit the ability of the crew to perform necessary tasks, leading to reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by May 31, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport

Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-72-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-72-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from SOGERMA Z.I. de l'arsenal, BP. 109-17303 Rochefort Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056, telephone (425) 227-2125; fax (425) 227-1149.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-72-AD." The postcard will be date stamped and returned to the commenter.

#### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket Number 2001-NM-72-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### **Discussion**

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Airbus Model A300 B2; A300 B4; A300 B4-600, B4-600R, and F4-600R (collectively called A300-600); A310; A319; A320; A321; A330; and A340 series airplanes, equipped with certain powered cockpit seats manufactured by SOGERMA. The DGAC advises that there have been incidents of uncommanded horizontal movement of the seats during flight. Investigation indicated that these incidents were due to broken Labinal actuators for the electric brake on the seats. This condition, if not corrected, could result in uncommanded movement of the cockpit seats or loss of ability to lock the seats into place during flight, which could limit the ability of the crew to perform necessary tasks, leading to reduced controllability of the airplane.

#### **Explanation of Relevant Service Information**

SOGERMA has issued Service Bulletin SB TAAI2-25-402, Revision 1, dated December 21, 2000, which describes procedures for replacement of the Labinal actuators in the cockpit seats with new improved actuators. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2000-524(B), dated December 27, 2000, in order to