

# 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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 213

RIN 3206-AJ06

#### Excepted Service—Schedule A Authority for Nontemporary Part-Time or Intermittent Positions

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed regulations.

**SUMMARY:** The Office of Personnel Management (OPM) proposes to revoke the Schedule A excepted service appointing authority for nontemporary part-time or intermittent positions for which total annual compensation does not exceed 40 percent of GS-3, step 1, because the conditions justifying the original exception no longer exist. Revocation would bring the positions filled under this Schedule A authority into the competitive service and permit noncompetitive conversion of position incumbents to competitive appointments.

**DATES:** Comments must be received on or before November 9, 2001.

**ADDRESSES:** Send or deliver written comments to Richard A. Whitford, Acting Associate Director for Employment, Office of Personnel Management, 1900 E Street, NW., Room 6566, Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Janice Domke Reid or Christina Vay on 202-606-0960 or FAX 202-606-0390.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Schedule A authority, 5 CFR 213.3102(g), was established in 1903 for use by all agencies to meet their continuing part-time, intermittent or seasonal needs for lower graded positions. These positions were excepted from the competitive service because there were too few candidates for standing registers, not due to the nature of their duties or qualifications.

The authority originally contained a dollar limitation on total compensation to assure that the positions filled were menial, not full-time, and were of the type for which the authority was intended. In 1958, this was changed to 40 percent of GS-3, step 1, to avoid having to amend the authority with each Federal pay raise. The authority was amended in 1977 to clarify that it could not be used for temporary project employment to meet a one-time need. It has not been amended since.

In the past, complexities in the examining system necessitated excepted authorities on the basis that examining was impracticable. This was especially true for this Schedule A authority where employment was expected to be sporadic, totaling less than 6 months a year, and competitive examination with the establishment of standing registers would not have been able to produce enough candidates to fill the positions. The authority has been used relatively little on a Government-wide basis.

#### Current Staffing Flexibilities

Competitive examining has changed drastically since the day when this Schedule A authority was established. Today agencies have more choices and flexibility for filling continuing positions that are not full-time. They routinely appoint employees with part-time or intermittent work schedules under career appointments in the competitive service.

Seasonal employees are also appointed under career appointments in the competitive service when they perform recurring work that is expected to last at least 6 months during a calendar year. Work lasting less than 6 months a year is usually performed by temporary employees, and agencies can appoint them under 5 CFR 316.401. When employment totals less than 1,040 hours a service year, there is no limit on the number of times temporary employees may be reappointed.

#### Conversion of Employees

The revocation brings the positions into the competitive service as provided in 5 CFR 316.701 and 316.702. Before the effective date of these regulations, positions for which examining is still impracticable may be placed under other appropriate excepted appointing authorities and the employees converted to excepted appointments under those authorities.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

#### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### List of Subjects in 5 CFR Part 213

Government employees. Reporting and recordkeeping requirements.

**Kay Coles James,**  
*Director.*

Accordingly, OPM proposes to amend 5 CFR part 213 as follows:

#### PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 is revised to read as follows:

**Authority:** 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 et seq.; and Pub. L. 106-117 (113 Stat. 1545).

#### § 213.3102 [Amended]

2. Paragraph (g) of § 213.3102 is removed and reserved.

[FR Doc. 01-22563 Filed 9-7-01; 8:45 am]

**BILLING CODE 6325-38-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-41-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 727-100 and 727-200 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 Boeing Model 727-100 and 727-

200 series airplanes. This proposal would require replacement of the installed autopilot pitch control computer with a modified computer, testing of the modified system, and revision of the Airplane Flight Manual (AFM). This action is necessary to prevent undesirable and potentially dangerous pitch oscillations during coupled instrument landing systems (ILS) approaches. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by October 25, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-41-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 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-41-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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Thanh Truong, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2552; fax (425) 227-1181.

**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-41-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 No. 2001-NM-41-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

**Discussion**

The FAA has received a report indicating that, on February 9, 1998, a Boeing Model 727 series airplane was involved in an accident during a coupled instrument landing system (ILS) category II approach at Chicago O'Hare International Airport. The approach was normal until the airplane passed through 200 feet above ground level, where the airplane started a pitch oscillation that continued to increase. The airplane descended below the ILS glide slope, then climbed above it, and finally descended below it again, impacting the ground 300 feet short of the runway threshold. Upon impact, the airplane slid over the threshold and off the right side of the runway, where it came to rest. Twenty-two passengers and one flight attendant sustained minor injuries. The airplane was extensively damaged.

The National Transportation Safety Board (NTSB), in investigating the

accident, has determined that the existence of an autopilot system anomaly can, under certain conditions, produce undesirable pitch oscillations in the Model 727-100 and -200. The ILS provides electronic signals to guide the pilot and autopilot in flying the airplane to the runway. The glide slope is usually determined from a 3-degree flight path to a point about 1,000 feet down the runway from the approach end. Electronic signals are processed on the airplane and instruments indicate whether the airplane is on the localizer and glide slope or indicate how much, and in which direction, the airplane has deviated from them. The information provided to the pilot via displays on the instrument panel, or directly to the autopilot, indicate whether the airplane should continue on course or fly up, down, left, or right to get back on course.

Because glide slope deviations close to the runway require smaller pitch corrections than those required far from the runway, the autopilot sensitivity has to be reduced as the airplane nears the runway. This process, called desensitization, depends on distance from the runway, but if the ILS does not provide distance measuring equipment, this is sometimes calculated by measuring time elapsed since passing a point of known distance from the runway and multiplying the measured time by an assumed ground speed. This time-based method was used by the Sperry SP-150 autopilot installed on the accident airplane. The system was set up to start desensitizing over a period of 150 seconds after passing through a radio altitude of 1,500 feet. Upon receiving the middle marker signal on the ILS approach, the speed of desensitization would increase.

A characteristic of the time-based method of desensitizing the autopilot is that the gain will be scheduled correctly only if the ground speed is relatively close to the ground speed the autopilot designers assumed when selecting the time period required for desensitization. If the ground speed is higher than the ground speed assumed in the autopilot design, the airplane will approach the runway before the desensitization period expires and the sensitivity will be higher than that intended by the design.

The 150-second desensitization period used by the Sperry SP-50 and SP-150 autopilots was optimized for the lower approach airspeeds and a 40-degree flap setting. However, in the early 1980s, operators started landing the Model 727 at 30-degree flap settings, and higher airspeeds, in order to

improve the maneuverability of the airplane during the approach.

During the NTSB investigation, another pilot described a pitch event experienced by another Model 727 series airplane in 1997. That airplane was asking a coupled ILS category II approach to a runway at Chicago O'Hare International Airport when, at about 250 feet, the crew felt a bump and the airplane pitched up in response to being slightly below the glide slope. The airplane climbed through the glide slope and then pitched down severely to recapture the glide slope. The pilot called for a go-around, came back for another approach, and experienced the same bump again before diverting to the alternate airport. This Model 727 also had a time-based autopilot with a 150-second desensitization period. NTSB studies found that at the approach speeds of the accident flight, the autopilot with the 150-second desensitization period responds to disturbances by commanding oscillatory pitch changes that grow in time and result in significant deviations from the desired flight path. Based on the NTSB's studies and FAA findings, the improper desensitization schedule is considered a contributing factor in the destabilized approach of the accident flight and in the reported pitch event that occurred in 1997. Therefore, the FAA is concerned that other Model 727 series airplanes equipped with unmodified SP-50 and SP-150 autopilots could experience, in conditions similar to those of the accident flight, undesirable and potentially dangerous pitch changes during coupled ILS category II approaches.

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

The FAA has reviewed and approved Boeing Alert Service Bulletin 727-22A0093, dated December 20, 2000, which describes procedures for replacement of the SP-50 or SP-150 autopilot pitch control computer with a modified autopilot pitch control computer and a functional test to verify function. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Boeing Alert Service Bulletin 727-22A0093 refers to Sperry Service Bulletin 21-1132-121, dated November 23, 1982 (for the SP-50 autopilots), and Sperry Service Bulletin 21-1132-122, dated February 7, 1983 (for the SP-150 autopilots), as additional sources of service information for accomplishment of the replacement of the autopilot pitch control computer and subsequent one-time test.

#### **Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below. The proposed AD would also require two revisions to the FAA-approved Airplane Flight Manual (AFM). One revision, required within six months after the effective date of the proposed AD, would prohibit a category II autopilot coupled ILS approach if the Middle Marker (ground or airborne system) is inoperative. This revision would also require that the autopilot be disconnected at, or prior to, 80 feet above the runway's touchdown-zone elevation during coupled ILS category II approaches. The second revision, required after the autopilot modification, would limit the approach flap setting to 30 degrees when conducting a category II autopilot coupled ILS approach. It should be noted that the FAA is conducting additional studies to develop operating limitations, as necessary, that address approach flap settings and airspeeds specifically, and also considering other aspects such as winds and glideslope angles.

#### **Differences Between the Proposed AD and the Service Bulletin**

Operators should note that the service bulletin recommends accomplishing the replacement "at the earliest convenience" (after the release of the service bulletin). The FAA, however, has determined that performing the replacement "at the earliest convenience" may not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the replacement (approximately 2 hours). In light of all of these factors, the FAA finds an 18-month compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Operators should also note that, although the service bulletin recommends performing a functional test in accordance with the 727 Maintenance Manual, the proposed AD

would require accomplishment of the more detailed functional test in accordance with Sperry Service Bulletins 21-1132-121 or 21-1132-122, as applicable.

#### **Cost Impact**

There are approximately 750 airplanes of the affected design in the worldwide fleet. The FAA estimates that 162 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed AFM revisions, and that the average labor rate is \$60 per work hour. Based on this figure, the cost impact of the proposed AFM revisions on U.S. operators is estimated to be \$9,720, or \$60 per airplane.

It would take approximately 1 work hour per airplane to accomplish the proposed replacement and functional test of the SP-50 autopilot. Estimated costs for required parts would be \$1. It would take approximately 2 work hours per airplane to accomplish the proposed replacement and functional test of the SP-150 Autopilot. Estimated costs for required parts would be \$168. Based on these figures, the cost impact of the proposed replacement and functional test on U.S. operators is estimated to be between \$9,882 and \$46,656, or between \$61 and \$288 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

#### **Regulatory Impact**

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

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

##### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket 2001-NM-41-AD.

**Applicability:** Model 727-100 and 727-200 series airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin 727-22A0093, dated December 20, 2000.

**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 (f) 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 undesirable and potentially dangerous pitch oscillations during coupled instrument landing systems (ILS) approaches, accomplish the following:

#### Revision of Airplane Flight Manual

(a) Within six months after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by adding the following paragraphs under AUTOPILOT/FLIGHT DIRECTOR SYSTEM. This may be

accomplished by inserting a copy of this AD into the AFM.

“CAT II autopilot coupled ILS approach shall not be performed if the Middle Marker (ground or airborne system) is inoperative.

Disconnect the autopilot at, or prior to, 80 ft. (above the runway's touchdown-zone elevation) during Cat II autopilot coupled ILS approaches.”

#### Modification and Testing of Autopilot

(b) Within 18 months after the effective date of this AD, replace the existing SP-50 or SP-150 single channel autopilot with a modified single channel autopilot in accordance with Boeing Alert Service Bulletin 727-22A0093, dated December 20, 2000.

(c) Concurrent with the modifications required by paragraph (b) of this AD, and before reinstallation of the modified autopilot and further flight, perform a one-time test procedure of the modified autopilot in accordance with Sperry Service Bulletin 21-1132-121, dated November 23, 1982 (for SP-50 autopilots), or 21-1132-122, dated February 7, 1983 (for SP-150 autopilots), as applicable.

#### Post-Modification Revision of Airplane Flight Manual

(d) Before further flight after performing the replacement required by paragraph (b) of this AD, revise the Limitations Section of the AFM by adding the following paragraph under AUTOPILOT/FLIGHT DIRECTOR SYSTEM. This may be accomplished by inserting a copy of this AD into the AFM.

“Limit the approach flap setting to 30 degrees when conducting CAT II autopilot coupled ILS approach.”

#### Spare Parts

(e) As of the effective date of this AD, no person shall install on any airplane an autopilot pitch control computer unless it has been modified and the applicable AFM has been revised in accordance with this AD.

#### Alternative Methods of Compliance

(f) 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, Seattle 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, Seattle ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

#### Special Flight Permits

(g) 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.

Issued in Renton, Washington, on August 31, 2001.

**Vi L. Lipski,**

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

[FR Doc. 01-22589 Filed 9-7-01; 8:45 am]

**BILLING CODE 4910-13-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA-4152b; FRL-7050-2]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for 14 Individual Sources in the Philadelphia-Wilmington-Trenton Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for 14 major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO<sub>x</sub>). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

**DATES:** Comments must be received in writing by October 10, 2001.

**ADDRESSES:** Written comments should be addressed to David L. Arnold, Chief,