

restrictions in 18 U.S.C. 207(c)(1) as a result of the amendment to 18 U.S.C. 207(c)(2)(A)(ii).

On January 6, 2004, OPM issued a memorandum providing additional guidance on the new salary-based threshold for determining the applicability of certain post-employment conflict-of-interest restrictions to SES members. (See "Notification of Changes in Post-Employment Restrictions Coverage for Members of the Senior Executive Service (SES)" at <http://www.opm.gov/oca/compmemo/2004/2004-01.asp>.) In that memorandum, OPM encouraged agencies to identify and notify those SES members who would be covered by the post-employment restrictions as of January 11, 2004. We also provided written sample notices that agencies could use to notify their employees.

In these interim regulations, we have added a new 5 CFR part 730, which requires agencies to provide written notice to affected employees before, or as part of, any action that affects the employee's coverage under 18 U.S.C. 207(c)(1), including when employment or service in a covered position is terminated. A copy of the written notice must be provided simultaneously to the Designated Agency Ethics Official (or a delegate) for the agency involved. The notices are to be retained for the particular individual as part of the OGE/GOVT-1 Governmentwide System of Records. (See 68 FR 3098 (January 22, 2003) (Privacy Act system notice).) However, post-employment restrictions apply to covered employees whether or not they receive a written notice from their agencies.

#### Regulatory Flexibility Act

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

#### Waiver of Notice of Proposed Rulemaking

Pursuant to sections 553(b)(3)(B) and (d)(3), of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making this rule effective in less than 30 days. These regulations implement section 1125(b) of Public Law 108-136, which requires OPM, in consultation with the Attorney General and the Office of Government Ethics, to promulgate regulations no later than 180 days after the law's effective date (by May 24, 2004). The waiver of the two requirements in sections 553(b)(3)(B) and (d)(3) is necessary in order for OPM to comply

with the law by consulting with the designated officials and promulgating regulations by the deadline imposed by Congress.

#### E.O. 12866, Regulatory Review

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

#### List of Subjects in 5 CFR Part 730

Government employees.  
Office of Personnel Management.

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

■ Accordingly, OPM is adding a new part 730 to read as follows:

#### PART 730—NOTIFICATION OF POST-EMPLOYMENT RESTRICTIONS

Sec.

- 730.101 Purpose.
- 730.102 Definitions.
- 730.103 Coverage.
- 730.104 Notification.
- 730.105 Savings provision.

**Authority:** 5 U.S.C. 7302 and sec. 1125(b) of the National Defense Authorization Act for FY 2004, Pub. L. 108-136, 117 Stat. 1392.

##### § 730.101 Purpose.

This part implements 5 U.S.C. 7302, which requires agencies to provide written notice to senior executives and other individuals covered by 18 U.S.C. 207(c)(2)(A)(ii) that they are subject to certain post-employment conflict-of-interest restrictions in 18 U.S.C. 207(c).

##### § 730.102 Definitions.

*Agency* means an Executive agency as defined in 5 U.S.C. 105, but does not include the General Accounting Office.

*Senior executive* means a member of the Senior Executive Service (SES).

##### § 730.103 Coverage.

(a) The following individuals are subject to the post-employment conflict-of-interest restrictions in 18 U.S.C. 207(c), as amended by section 1125(b)(1) of the National Defense Authorization Act for FY 2004:

(1) Any individual, including a senior executive, who is paid at a rate of basic pay equal to or greater than 86.5 percent of the rate for level II of the Executive Schedule; and

(2) Any individual, including a senior executive, who as of November 23, 2003, was paid at a rate of basic pay, exclusive of any locality-based comparability payments under 5 U.S.C. 5304, equal to or greater than the rate of basic pay for level 5 of the Senior Executive Service on that date (*i.e.*, \$134,000). These employees are subject to the post-employment restrictions through November 24, 2005, without

regard to any subsequent changes in position or pay.

(b) Nothing in this part affects individuals serving in positions described in 18 U.S.C. 207(c)(2)(A)(i), (iii), (iv), or (v).

#### § 730.104 Notification.

(a) Agencies must provide written notification to senior executives and other individuals covered by the amendment to 18 U.S.C. 207(c)(2)(A)(ii) that they are subject to the post-employment conflict-of-interest restrictions in 18 U.S.C. 207(c), before, or as part of, any personnel action that affects the employee's coverage under 18 U.S.C. 207(c)(1), including when employment or service in a covered position is terminated. A copy of the written notice must be provided simultaneously to the Designated Agency Ethics Official (or his or her delegate). The written notice must include information on the applicable penalties or injunctions that may be imposed under 18 U.S.C. 216(a), (b), and (c) for violations of the post-employment restrictions in 18 U.S.C. 207(c). The notice also must indicate that employees covered by 18 U.S.C. 207(c) are subject to 18 U.S.C. 207(f), which imposes additional post-employment restrictions on representing, aiding, or advising certain foreign entities.

(b) Notwithstanding paragraph (a) of this section, the post-employment restrictions in 18 U.S.C. 207(c) apply to covered employees without regard to whether they receive written notice from their employing agency.

#### § 730.105 Savings provision.

Any post-employment restrictions established under 18 U.S.C. 207 and applicable prior to the first day of the first pay period beginning on or after January 1, 2004, remain in effect.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NE-68-AD; Amendment 39-13825; AD 2004-21-04]

RIN 2120-AA64

#### Airworthiness Directives; Becker Flugfunkwerk GmbH AR 4201 VHF AM Transceivers

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Becker Flugfunkwerk GmbH AR 4201 VHF AM transceivers. This AD requires adding an aircraft flight manual (AFM) limitation to the Limitations Section of the AFM, and cockpit placard due to the intermittent malfunctioning of the transceiver, or removing the affected transceiver from service. This AD results from reports of crewmembers having difficulty communicating with Air Traffic Control and other aircraft due to the AR 4201 VHF AM transceiver's inability to block interference from transmitters operating on frequencies other than those set in the transceiver. We are issuing this AD to prevent difficulty in communicating with Air Traffic Control and other aircraft due to intermittent malfunctioning of the transceiver.

**DATES:** This AD becomes effective November 19, 2004.

**ADDRESSES:** You may examine the AD Docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** David Setser, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7173; fax (781) 238-7170.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed airworthiness directive (AD). The proposed AD applies to Becker Flugfunkwerk GmbH AR 4201 VHF AM transceivers. We published the proposed AD in the **Federal Register** on May 20, 2004 (69 FR 29108). That action proposed to require adding an aircraft flight manual (AFM) limitation to the Limitations Section of the AFM, and cockpit placard due to the intermittent malfunctioning of the transceiver, or removing the affected transceiver from service.

*Examining the AD Docket:* You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

**Comments**

We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public.

**Conclusion**

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

**Costs of Compliance**

There are 9,349 Becker Flugfunkwerk GmbH AR 4201 VHF AM transceivers of the affected design in the worldwide fleet. There are about 1,000 transceivers installed on aircraft of U.S. registry. We estimate that it would take about 2 work hours per transceiver to inspect and or remove a transceiver from service, and that the average labor rate is \$65 per work hour. The average retail cost of an AR 4201 transceiver is \$1,149. If all transceivers were replaced, the total purchase cost would be about \$1,149,000. Based on these figures, the total cost of the AD to U.S. operators to replace transceivers is estimated to be \$1,279,000.

**Regulatory Findings**

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will 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.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866;
- (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
- (3) 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.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "AD Docket No. 2003-NE-68-AD" in your request.

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

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

**2004-21-04 Becker Flugfunkwerk GmbH:** Amendment 39-13825. Docket No. 2003-NE-68-AD.

**Effective Date**

(a) This AD becomes effective November 19, 2004.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to Becker Flugfunkwerk GmbH AR 4201 VHF AM transceivers, with serial numbers (SNs) 0150 through 9499.

**Unsafe Condition**

(d) This AD results from reports of crewmembers having difficulty communicating with Air Traffic Control and other aircraft due to the AR 4201 VHF AM transceiver's inability to block interference from transmitters operating on frequencies other than those set in the transceiver. We are issuing this AD to prevent difficulty in communicating with Air Traffic Control and other aircraft due to intermittent malfunctioning of the transceiver.

**Compliance**

(e) You are responsible for having the actions required by this AD performed within five days after the effective date of this AD, unless the actions have already been done.

(f) For installed Becker Flugfunkwerk GmbH AR 4201 VHF AM transceivers, inspect the SN. If the transceiver does not have an affected SN, no further action is required.

(g) If the transceiver has an affected SN, and does not have Change Index 02 or higher index number marked on it, do the following:

(1) Add an aircraft flight manual (AFM) limitation to the Limitations Section of the AFM, that restricts transceiver usage to VFR operations, and add a placard to the cockpit within view of the pilot that states, in ¼ inch-high or higher characters, "Use of Becker Comm Equipment AR 4201 is restricted to VFR operations"; or

(2) Remove the transceiver from service.

(h) After the effective date of this AD, do not install any Becker Flugfunkwerk GmbH AR 4201 VHF AM transceiver with an affected SN that does not have Change Index 02 or higher index number marked on it, unless it was removed to determine the SN or to check for Change Index 02 or higher index number.

**Terminating Action**

(i) If you later install a transceiver that is not listed in this AD or install a transceiver that is marked with Change Index 02 or higher index number, remove the limitation from the Limitations Section of the AFM, and placard if present, that are specified in paragraph (g)(1).

**Alternative Methods of Compliance**

(j) The Manager, Boston Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

**Material Incorporated by Reference**

(k) None.

**Related Information**

(l) LBA airworthiness directive No. 2003-234, dated August 21, 2003, and Becker Flugfunkwerk GmbH Service Bulletin No. AR 4201-01/03; dated July 22, 2003, also pertain to the subject of this AD.

Issued in Burlington, Massachusetts, on October 8, 2004.

**Jay J. Pardee,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 04-23143 Filed 10-14-04; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 97**

[Docket No. 30425; Amdt. No. 3106]

**Standard Instrument Approach Procedures; Miscellaneous Amendments**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective October 15, 2004. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 15, 2004.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The Flight Inspection Area Office which originated the SIAP; or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

*For Purchase—*Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription—*Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:**

Donald P. Pate, Flight Procedure Standards Branch (AMCAFS-420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by

publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

**The Rule**

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

**Conclusion**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.