

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

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#### AEA PA E5, Pittsburgh, PA [Revised]

Greater Pittsburgh International Airport, Pittsburgh, PA

(Lat 40°29'29"N., long. 80°13'57"W.)

Allegheny County, Airport, PA

(Lat 40°21'16"N., long. 79°55'48"W.)

STARG OM

(Lat 40°29'15"N., long. 80°22'14"W.)

That airspace extending upward from 700 feet above the surface within a 7.9 mile radius of Greater Pittsburgh International Airport and within 3.1 miles each side of the Greater Pittsburgh Runway 10R localizer course extending from the 7.9-mile radius to 5.7 miles west of the STARG OM and within a 8.5-mile radius of Allegheny County Airport.

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Issued in Jamaica, New York on June 1, 2001.

#### F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

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BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 183

[Docket No. FAA-2001-10177; Notice No. 01-09]

#### Resource Utilization Measure

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

**ACTION:** Notice of public meeting and request for comments.

**SUMMARY:** This document announces a public meeting to comment on proposed measures to use Aircraft Certification Service (the Service) resources more efficiently. Due to increasing public and industry demands, the Service foresees a shortage in available resources. Therefore, the Service is considering how to modify its workload. The Service has examined how to reduce the current workload through streamlining efforts and shift limited resources to more safety-critical activities. The proposals represent remedial measures we are considering.

**DATES:** The public meeting will be held on August 28 and 29, 2001, at 9:00 a.m., in Arlington, Virginia. Registration will begin at 8:30 a.m. on each day. Comments must be received on or before October 22, 2001.

**ADDRESSES:** The public meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202; telephone

(703) 920-3230, facsimile (703) 271-5212.

Persons who are unable to attend the meeting and wish to submit written comments may mail their comments (clearly marked with the docket number) in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-200), Docket No. FAA-2001-10177, Room 915G, 800 Independence Avenue, SW., Washington, DC 20591, or deliver in person to Room 915G at the same address. Comments submitted must be marked: "Docket No. FAA-2001-10177." Comments may be examined in Room 915G on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. Comments may also be sent electronically to the following Department of Transportation Docket Management System Internet address: <http://dms.dot.gov>. If you wish us to acknowledge receipt of your comments, include a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2001-10177." The postcard will be date stamped and mailed to you. All comments received will be filed in the docket. The docket is available for public inspection before and after the comment closing date. The Administrator, in determining whether to go forward with a proposed rulemaking, will consider all comments received on or before the closing date. Late-filed comments will be considered to the extent practicable.

#### FOR FURTHER INFORMATION CONTACT:

Requests to present a statement at the public meeting and questions regarding the logistics of the meeting should be directed to Mr. Walter Dillon, International Airworthiness Programs Staff, AIR-4, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8027, facsimile (202) 267-5364. Technical questions should be directed to Mr. Victor Powell, Aircraft Engineering Division, AIR-100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-9564, facsimile (202) 267-5340; and Mr. Randall J. Carter, Production and Airworthiness Certification Division, AIR-200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8923, facsimile (202) 267-5580.

**SUPPLEMENTARY INFORMATION:** The public meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202; telephone (703) 920-3230, facsimile (703) 271-5212. Hotel

reservations should be made in advance. A block of rooms has been reserved at the hotel at the Government per diem rate of \$119.00 per night. Persons wishing to attend the public meeting are encouraged to make reservations at the Crystal Gateway Marriott by August 10, 2001, to take advantage of the special room rates. When making reservations, persons should contact the hotel directly using the telephone or facsimile numbers listed above and should indicate that they will be attending the Federal Aviation Administration public meeting.

The purpose of the meeting is for the FAA to (1) discuss with the public the proposed requirement that organizations that employ two or more Designated Manufacturing Inspection Representatives (DMIRs) to establish an Organizational Designated Airworthiness Representative (ODAR), (2) discuss with the public prioritizing all incoming type certification projects based on the completeness of the applicant's up-front planning, (3) discuss with the public the proposed elimination of certain one only Supplemental Type Certificates (STC) for foreign registered aircraft, (4) discuss with the public the impact of prohibiting U.S. manufacturers from using suppliers from non-bilateral agreement countries, and (5) hear comments from the public on these issues.

The agenda for the meeting will include:

#### Day One:

- Discuss proposal of elimination of certain one only Supplemental Type Certificates (STC) for foreign registered aircraft.

- Discuss proposal to prioritize all incoming type certification projects based on the completeness of the applicant's up-front planning.

- Public presentations.

#### Day Two:

- Discuss the impact of prohibiting U.S. manufacturers from using suppliers from non-bilateral agreement countries.

- Discuss the impact requiring organizations that employ two or more Designated Manufacturing Inspection Representatives (DMIRs) to establish an Organizational Designated Airworthiness Representative (ODAR).

- Public presentations.

- Responses to questions and open discussion of identified issues.

#### Participation at the Public Meeting

Requests from persons who wish to present oral statements at the public meetings should be received by the FAA no later than August 24, 2001. Such

requests should be submitted to Mr. Walter Dillon, International Airworthiness Programs Staff, AIR-4, as listed in the section above titled **FOR FURTHER INFORMATION CONTACT** and should include a written summary of oral remarks to be presented and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers and presenters and make the agenda available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Persons requiring audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

#### Availability of Notice

Internet users may reach the FAA's Web page at <http://www.faa.gov>, the **Federal Register** Web page at [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs), or the Department of Transportation Docket Management System Web page at <http://dms.dot.gov> for access to recently published rulemaking documents. Anyone can obtain a paper copy of this document by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the notice number or docket number of this document. Persons interested in being placed on the mailing list for future Advance Notice of Proposed Rulemaking (ANPRM's) and Notices of Proposed Rulemaking (NPRM's) should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

*Proposal 1.* Require organizations that employ two or more Designated Manufacturing Inspection Representatives (DMIRs), to establish an Organizational Designated Airworthiness Representative (ODAR). This proposal can be implemented using existing procedures in FAA Order 8100.8, Designee Management Handbook.

Title 14 of the Code of Federal Regulations (CFR), part 183, Representatives of the Administrator, allows the designation of private persons to act as a representative of the Administrator in examining, inspecting, and testing persons and aircraft for the

purpose of issuing airman and aircraft certifications.

A DMIR is an individual appointed in accordance with § 183.31 who is employed by a Production Approval Holder (PAH), or a PAH's approved supplier, to act as a representative of the Administrator. The DMIR is responsible for performing authorized functions concerning products and parts that are produced and controlled by their employer's production approval in accordance with applicable requirements. The FAA managing office is responsible for training, counseling, supervising, monitoring, tracking, and maintaining records for each DMIR to confirm the representative is performing the assigned functions in accordance with the appropriate regulations, policies, and procedures.

An ODAR is an organization appointed in accordance with § 183.33 to act as a representative of the Administrator. The Service can appoint an ODAR at PAH facilities, including PAH approved supplier facilities. Each ODAR includes an authorized management focal point that is responsible for day-to-day management and oversight of the ODAR. The ODAR is responsible for performing all authorized functions concerning products and parts that are produced and controlled under its organizational designation in accordance with applicable requirements. Unlike an individual DMIR, the ODAR as a whole must meet all qualifications for the authorized functions identified in its approved procedure manual. The ODAR is responsible for assuring that the individual authorized representatives identified in the ODAR procedures manual continue to meet the FAA qualifications criteria specific to the actual function they perform.

The FAA managing office is responsible to confirm that the ODAR is performing its authorized functions in accordance with the appropriate regulations, policies, and procedures. This effort is accomplished through the training, counseling, supervising, monitoring, tracking, and maintenance of records for the ODAR as a whole, rather than for each person performing an authorized function within the ODAR. The PAH's authorized management focal point performs these administrative activities, greatly reducing the FAA managing office workload.

This proposal requires an organization that employs two or more DMIRs to establish an ODAR. Implementation of this proposal will result in the FAA supervising only the organization rather than each individual

DMIR. This will reduce FAA designee supervision time, and will reduce the time individual designees interface with the FAA. Currently, the FAA spends approximately 12 hours per year to supervise a DMIR, and approximately 18 hours per year to supervise an ODAR. For example, an organization with 10 DMIRs would require approximately 120 hours of FAA supervision annually. Supervision of the same organization having an ODAR would require approximately 18 hours annually.

*Proposal 2.* Prioritize all incoming type certification projects based on the completeness of the applicant's up-front planning.

The purpose of this proposal is to implement a process that responds to applicants' requests for certification services in priority order based on the use of Certification Process Improvement (CPI) principles. The FAA and Industry Guide to Product Certification, dated January 25, 1999, is the current guidance that will assist applicants in meeting the intent of this proposal. The CPI process recognizes applicants who employ and use technical specialists in all relevant disciplines, who maximize the use of designees, and who provide timely and complete data packages leading to certification. The process applies to type certification projects leading to a Type Certificate (TC), Supplemental Type Certificate (STC), amendment to either a TC or STC, and type design change. Aircraft Certification Offices (ACO) will prioritize certification projects using the following criteria:

Priority One. Projects from applicants with a formal CPI program already in place, including a Partnership for Safety Plan (PSP) and Project Specific Certification Plans (PSCP), based on the guidelines established in the FAA and Industry Guide to Product Certification.

Priority Two. Projects from applicants without a formal CPI program but those who incorporate CPI principles as they develop their certification program plans. This includes significant up-front planning with the FAA, employing technical specialists in all relevant disciplines, maximizing the use of designees, and providing timely and complete data leading to certification.

Priority Three. Projects from applicants that do not fall into either of the previous two categories.

Applicants that do not have a formal CPI program in place and want to qualify as a second priority would be expected to accomplish the following:

1. Develop a complete certification plan as described in Advisory Circular 21-40, Application Guide for obtaining

a Supplemental Type Certificate, or PSC as shown in The FAA and Industry Guide to Product Certification.

2. Commit to early notification and planning with the FAA.

3. Demonstrate a high quality of compliance documentation.

4. Provide adequate staffing, including the use of appropriate designees.

5. Have a conformity management process similar to that described in FAA Notice 8110.76, Designated Engineering Representative to Designated Manufacturing Inspection Representative.

6. Demonstrate the capability to produce the product, *i.e.*, have established a system, which ensures that only products and parts conforming to the FAA approved design are produced and released to service.

*Proposal 3.* Eliminate certain one-only supplemental type certificates (STC) for foreign registered aircraft.

The Service is continually being requested to approve the modification of aircraft operating under the civil registration of another country. Such activity must follow the Standards of the Convention on International Civil Aviation as administered by the International Civil Aviation Organization (ICAO). Annex 6 to the Convention of International Civil Aviation requires that all modifications and repairs meet airworthiness requirements acceptable to the State of Registry. Therefore, irrespective of the State of Design of the aircraft, approval of its modification is the responsibility of the State of Registry.

The FAA does not have sufficient resources to serve as the approval authority for the global fleet and to accept workload that is not within its mandate. In a 1999 survey, FAA found that 31 percent of the STCs involving foreign registered test articles were one only approvals.

During the approval of one only STCs, FAA ACOs are finding compliance to FAA requirements and those additional requirements imposed by the State of Registry of each individual aircraft such as Joint Airworthiness Authorities, Joint Aviation Requirements. This creates additional approval workload for the FAA on products where the FAA has no direct safety role.

The FAA continues to accept U.S. STC applications for multiple STCs, using a foreign-registered prototype test article, recognizing that the STC may later be installed on a U.S. registered aircraft and that parts manufacturing oversight is the FAA's responsibility. These STC actions are considered to be in the U.S. public interest because they

may be duplicated and installed on a U.S. registered aircraft.

The FAA wishes to shift full responsibility for unique modification activity back to the States of Registry, per ICAO provisions. Three exceptions to this policy are envisioned: (1) Mandated safety enhancements such as Traffic Collision Avoidance Systems (TCAS) installations; (2) diplomatic aircraft; and (3) Heads of State aircraft. In these cases the foreign State of Registry would request FAA's assistance and an appropriate process would be established whereby the Service supports the State of Registry for the proposed design change.

*Proposal 4.* Explore the impact of restricting U.S. manufacturers from using suppliers located in non-bilateral countries (where there is no Bilateral Airworthiness Agreement or Implementation Procedures for Airworthiness under a Bilateral Aviation Safety Agreement).

Bilateral agreements facilitate the reciprocal airworthiness certification of civil aeronautical products imported/exported between two signatory countries. A Bilateral Airworthiness Agreement (BAA) or Bilateral Aviation Safety Agreement (BASA) with Implementation Procedures for Airworthiness (IPA) provides for airworthiness technical cooperation between the FAA and its counterpart civil aviation authority. Bilateral agreements provide an alternative means for the FAA to make its determinations of compliance to U.S. airworthiness standards by making maximum practicable use of the certification system of another aviation authority.

Through bilateral agreements, the FAA recognizes the competency of the exporting authority to conduct airworthiness certification functions in a manner compatible to the FAA's. Upon request and after mutual acceptance, the FAA and the civil aviation authority may provide technical assistance to each other when significant activities are conducted in either country. These activities help avoid any undue burden imposed on either authority. Types of assistance may include, but are not limited to, determination of compliance, surveillance, and oversight.

Globalization of the aircraft manufacturing industry has created challenges for the FAA in carrying out its statutory mandate to confirm that safety and airworthiness standards for civil aircraft are being met during manufacture. Data obtained from the U.S. Department of Commerce report for fiscal year 2000 titled U.S. Imports of

Civil Aerospace Products indicates that there are currently 103 countries from which the United States imports aeronautical parts. To date, the United States has 25 BAAs with only 5 BASAs with IPAs in effect.

Any FAA PAH may propose to use suppliers and manufacture parts in any country without benefit of bilateral agreements. FAA data indicates that the use of suppliers in non-bilateral countries continues to increase. In this case, the FAA cannot rely on the other country's airworthiness authority to assist the FAA and must perform supplier surveillance and designee supervision itself. One consideration for approval is that the airworthiness authority of that country may not inhibit in any manner FAA supplier surveillance or supervision in their country. However, limited FAA resources make it difficult for the FAA to perform surveillance and supervision in these countries.

In accordance with current regulations, performance of the surveillance or supervision activities must not create an undue burden for the FAA. Therefore, the FAA must make an undue burden determination before any resources can be allocated to the activity. Although the Service discourages use of suppliers in non-bilateral countries, it has provided limited support, on a case-by case basis, in the past. The FAA has reached the point where it can no longer support the use of suppliers in non-bilateral countries.

This proposal is intended to obtain feedback from U.S. manufacturers concerning the impact of restricting the use of suppliers located in non-bilateral countries.

It also encourages U.S. manufacturers to provide suggestions on alternate methods for the FAA to perform surveillance at suppliers located in non-bilateral countries.

#### **Economic Impact**

The Regulatory Flexibility Act of 1980 requires Federal agencies to consider the extent that proposed rules may have a significant economic impact on a substantial number of small entities. We are unable, at this time, to determine the cost impact of requiring DMIRs to become ODARs. Nor can we compute the loss of revenue caused by eliminating certain supplemental type certificates associated with foreign registered aircraft modifications or prohibiting suppliers in non-bilateral countries. Following a review of the comments submitted to this Notice, the Service will determine the potential costs and benefits of the options.

Likewise, at this preliminary stage, we cannot yet determine if there will be a significant economic impact to a substantial number of small entities, or what the paperwork burden might be.

Issued in Washington, DC, on July 18, 2001.

**Ronald T. Wojnar,**

*Deputy Director, Aircraft Certification Service.*

[FR Doc. 01-18310 Filed 7-23-01; 8:45 am]

BILLING CODE 4910-13-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

[Release No. 34-44568; File No. S7-14-01]

RIN 3235-A123

### Request for Comment on the Effects of Decimal Trading in Subpennies

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Concept release; request for comments.

**SUMMARY:** The Securities and Exchange Commission ("Commission") seeks comment on the impact on fair and orderly markets and investor protection of trading and potentially quoting securities in an increment of less than a penny. As of April 9, 2001, all U.S. equity markets have been quoting stocks in pennies. In the past, some Nasdaq market makers and electronic communication networks ("ECNs") traded stocks in smaller price increments than the public quote. This practice has continued in the new decimal environment, with some trades occurring in Nasdaq securities priced in subpennies. The Commission seeks comment on the effects of subpenny prices on market transparency and the operation and effectiveness of Commission and self-regulatory organization ("SRO") rules that are dependent on trading or quoting price differentials. The Commission also seeks comment on the effects of subpenny trading on automated systems.

**DATES:** Comments must be received on or before September 24, 2001.

**ADDRESSES:** Persons wishing to submit written comments should send three copies to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically at the following E-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File

No. S7-14-01. Comments submitted by E-mail should include this file number in the subject line. Comment letters received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (<http://www.sec.gov>).<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** Any of the following attorneys in the Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549: James Brigagliano, Jo Anne Swindler, Gregory Dumark, or Kevin Campion at (202) 942-0772; Alton Harvey, Patrick Joyce, or John Roeser at (202) 942-0154.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction and Summary

The conversion from fractional to decimal pricing for consolidated quotations in all equity securities and options was successfully completed on April 9, 2001. As a result, the minimum price variation ("MPV") for consolidated quotations in equity securities has been narrowed from  $\frac{1}{16}$  of a dollar to a penny. The decimal conversion was effected with no significant operational problems on the markets, clearing organizations, and key market participants.<sup>2</sup> Preliminary estimates indicate that decimal pricing has reduced quotation spreads (the difference between the highest bid quotation and the lowest offer quotation) in both exchange-traded and Nasdaq securities with manageable increases in quotation volumes.<sup>3</sup>

While the move from fractions to decimals was designed to simplify pricing for investors and to make our markets more competitive internationally,<sup>4</sup> a number of market structure and investor protection issues have been raised by this fundamental change. In particular, difficult issues have been raised in connection with the limited practice of pricing orders and

trades in increments that are smaller than the MPV for quotations.

For years, some ECNs and Nasdaq market makers have permitted trading in increments smaller than the public quote. This practice has continued in the decimal environment, with approximately 4% to 6% of trades in Nasdaq securities priced in subpenny increments even though the quotations for these securities are at a penny MPV. Trading in subpennies raises difficult questions under rules based on the MPV, which markets allowing subpenny trading have attempted to address.<sup>5</sup> The Commission approved these measures on a pilot basis.

Before considering whether to permanently approve these measures, however, the Commission is seeking comment on their impact on market transparency, as well as the impact of subpenny trading on customer protection rules, and alternative approaches, if any.<sup>6</sup>

In ordering the conversion to decimals, the Commission noted that this effort might require further analyses of the impact of a small MPV on trading rules and the markets.<sup>7</sup> There may be a point at which the incremental costs of

<sup>5</sup> On April 6, 2001, the Commission approved, on a pilot basis, a rule filed by the NASD specifying the protections Nasdaq market makers must provide to customer limit orders in subpennies. See Securities Exchange Act Release No. 44165 (April 6, 2001), 66 FR 19268 (April 13, 2001). On April 6, 2001, the Commission also granted the Chicago Stock Exchange ("CHX"), on a pilot basis, the flexibility to compete with ECNs and Nasdaq market makers by accepting orders in Nasdaq/NM securities priced in subpenny increments while maintaining the uniform penny MPV for quotations. See Letter to Paul O'Kelley, Chief Operations Officer, CHX, from Annette L. Nazareth, Director, Division of Market Regulation, Commission (April 6, 2001). This letter provided CHX specialists and market makers with the same flexibility in handling subpenny orders that had been granted to ECNs and Nasdaq market makers in a no-action letter to the Nasdaq Stock Market from the Division of Market Regulation, dated July 30, 1997. See *infra* n.30. The Commission also approved on April 6 a pilot program setting forth protections that must be provided by CHX specialists and market makers for customer subpenny orders in Nasdaq/NM securities. Securities Exchange Act Release No. 44164 (April 6, 2001), 66 FR 19263 (April 13, 2000) (order approving a proposed rule change by the CHX relating to the precedence of customer limit orders on the book).

<sup>6</sup> The Nasdaq and CHX proposals were originally approved as pilot programs until July 9, 2001, and were recently extended until November 5, 2001. See Securities Exchange Act Release No. 44529 (July 9, 2001), 66 FR 37082 (July 16, 2001) (order extending the Nasdaq pilot); Securities Exchange Act Release No. 44535 (July 10, 2001), 66 FR 37251 (July 17, 2001) (order extending the CHX pilot). During this time the markets will supply the Commission staff with monthly reports on their activity in subpenny increments.

<sup>7</sup> See Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000). See also Securities Exchange Act Release No. 42360 (January 28, 2000), 65 FR 5004 (February 2, 2000).

<sup>1</sup> Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submission. Submit only information that you wish to make publicly available.

<sup>2</sup> See, e.g., Nasdaq Decimalization Impact Study (June 11, 2001) ("Nasdaq Study") at 55. This study can be accessed at [www.nasdaqnews.com](http://www.nasdaqnews.com).

<sup>3</sup> The Nasdaq Study found that, on average, quoted and effective spreads both have fallen by about 50%, with greater declines in stocks with greater trading volume and lower prices. For the most actively traded stocks, quoted spreads fell from 6.6 cents to 1.9 cents when penny increments were introduced. *Id.* at pp. 2, 15-16.

<sup>4</sup> See Securities Exchange Act Release No. 42360 (January 28, 2000), 65 FR 5004 (February 2, 2000).