

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 121**

[Docket No. FAA-2002-14081; NPRM No. 03-02]

RIN 2120-AH67

**Transponder Continuous Operation**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposal would amend the instrument and equipment requirements for airplanes operated in domestic, flag, and supplemental operations. Specifically, the Federal Aviation Administration (FAA) proposes to require affected airplanes to have the capability to help assure immediate activation of the designated air traffic control (ATC) hijack alert code, and continuous transmission of that code to ATC during a hijack situation. The FAA is proposing this action in response to the heightened threat to U.S. civil aviation. The FAA believes that this capability would help provide ATC personnel with more time to initiate a national security response to a potential airplane hijack situation.

**DATES:** Send your comments on or before March 17, 2003.

**ADDRESSES:** Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2002-14081 at the beginning of your comments.

You may also submit comments through the Internet to <http://dms.dot.gov>. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Richard E. Jennings, Aircraft Certification Service, Aircraft Engineering Division, AIR-130, Federal Aviation Administration, c/o Atlanta ACO, 1895 Phoenix Boulevard, Suite 450, Atlanta, GA 30349; telephone (770) 703-6090; facsimile (770) 703-6055, e-mail [Richard.Jennings@faa.gov](mailto:Richard.Jennings@faa.gov).

**SUPPLEMENTARY INFORMATION:****Comments Invited**

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file comments we receive in the docket, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Comments regarding national security information or sensitive security information should not be submitted directly to the public docket. These comments should be submitted according to procedures for safeguarding sensitive security information and sent to: Armen A. Sahagian, Office of Civil Aviation Security, Program Manager, Aircraft Security, ACP-400, Room 323, Transportation Security Administration, 800 Independence Avenue, SW., Washington, DC 20591, Docket No. FAA-2002-14081. Questions on these procedures may be directed to Armen Sahagian. These comments will be reviewed to determine appropriateness for inclusion in the public docket system.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

**Availability of Rulemaking Documents**

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) web page (<http://dms.dot.gov/search>).

(2) On the search page type in the last five digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's web page at <http://www.faa.gov/avr/armhome.htm> or the Government Printing Office's web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

You can also get a copy by submitting 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. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

**Background**

On September 11, 2001, four U.S.-registered commercial airliners operating under the provisions of 14 CFR part 121 were hijacked and subsequently crashed, resulting in great loss of life and extensive damage to occupied buildings. In order to reduce the likelihood of such an event reoccurring, the FAA initiated a complete review of aircraft and airport security procedures. Based on this review, the FAA has determined that it is necessary to propose certain new regulations that would increase the desired level of safety and security.

If adopted, these proposed amendments would require that a single action by the pilot or copilot (or flight engineer, where appropriate) immediately activate the air traffic control (ATC) transponder beacon code "7500," which is the International Civil Aviation Organization (ICAO) code indicating to ATC that an aircraft is being subjected to unlawful interference, that is, being hijacked.

Before the events of September 11, a flight crew would have responded appropriately to an airborne hijack situation by acceding to a hijacker's demands, flying the aircraft to the instructed destination, and allowing the appropriate authorities to resolve the situation. Before September 11, however, no one had envisioned a hijacking situation in which a hijacker would take control of a commercial