

judgment or order, regardless of whether an appeal is pending or could be taken and regardless of whether a violation is admitted in the consent.

(2) A suspension or disbarment from practice before OFHEO under paragraph (b)(1) of this section shall continue until the person suspended or disbarred is reinstated under paragraph (d)(2) of this section.

(c) *Notices to be filed.* (1) Any individual appearing or practicing before OFHEO who is the subject of an order, judgment, decree, or finding of the types set forth in paragraph (b)(1) of this section shall file promptly with the Director a copy thereof, together with any related opinion or statement of the agency or tribunal involved.

(2) Any individual appearing or practicing before OFHEO who is or within the last 10 years has been convicted of a felony or of a misdemeanor that resulted in a sentence of prison term or in a fine or restitution order totaling more than \$5,000 shall file a notice promptly with the Director. The notice shall include a copy of the order imposing the sentence or fine, together with any related opinion or statement of the court involved.

(d) *Reinstatement.* (1) Unless otherwise ordered by the Director, an application for reinstatement for good cause may be made in writing by a person suspended or disbarred under paragraph (a)(1) of this section at any time more than 3 years after the effective date of the suspension or disbarment and, thereafter, at any time more than 1 year after the person's most recent application for reinstatement. An applicant for reinstatement under this paragraph (d)(1) of this section may, in the Director's sole discretion, be afforded a hearing.

(2) An application for reinstatement for good cause by any person suspended or disbarred under paragraph (b)(1) of this section may be filed at any time, but not less than 1 year after the applicant's most recent application. An applicant for reinstatement for good cause under this paragraph (d)(2) may, in the Director's sole discretion, be afforded a hearing. However, if all the grounds for suspension or disbarment under paragraph (b)(1) of this section have been removed by a reversal of the order of suspension or disbarment or by termination of the underlying suspension or disbarment, any person suspended or disbarred under paragraph (b)(1) of this section may apply immediately for reinstatement and shall be reinstated by OFHEO upon written application notifying OFHEO that the grounds have been removed.

(e) *Conferences.* (1) *General.* The presiding officer may confer with a proposed respondent concerning allegations of misconduct or other grounds for censure, disbarment or suspension, regardless of whether a proceeding for censure, disbarment or suspension has been commenced. If a conference results in a stipulation in connection with a proceeding in which the individual is the respondent, the stipulation may be entered in the record at the request of either party to the proceeding.

(2) *Resignation or voluntary suspension.* In order to avoid the institution of or a decision in a disbarment or suspension proceeding, a person who practices before OFHEO may consent to censure, suspension or disbarment from practice. At the discretion of the Director, the individual may be censured, suspended or disbarred in accordance with the consent offered.

(f) *Hearings under this section.* Hearings conducted under this section shall be conducted in substantially the same manner as other hearings under this part, provided that in proceedings to terminate an existing OFHEO suspension or disbarment order, the person seeking the termination of the order shall bear the burden of going forward with an application and with proof and that the Director may, in the Director's sole discretion, direct that any proceeding to terminate an existing suspension or disbarment by OFHEO be limited to written submissions. All hearings held under this section shall be closed to the public unless the Director, on the Director's own motion or upon the request of a party, otherwise directs.

(g) *Sanctions for contemptuous conduct.* If, during the course of any proceeding, a presiding officer finds any representative or any individual representing himself to have engaged in contemptuous conduct, the presiding officer may summarily suspend that individual from participating in that or any related proceeding or impose any other appropriate sanction. Contemptuous conduct includes dilatory, obstructionist, egregious, contumacious, unethical, or other improper conduct at any phase of any adjudicatory proceeding.

**Mark A. Kinsey,**

*Acting Director, Office of Federal Housing Enterprise Oversight.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 98-CE-77-AD]

RIN 2120-AA64

#### **Airworthiness Directives; The New Piper Aircraft, Inc. PA-23, PA-30, PA-31, PA-34, PA-39, PA-40, and PA-42 Series Airplanes**

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

**SUMMARY:** This document proposes to supersede Airworthiness Directive (AD) 98-04-27, which currently requires incorporating certain icing information into the FAA-approved airplane flight manual (AFM) of The New Piper Aircraft, Inc. (Piper) PA-23, PA-30, PA-31, PA-34, PA-39, PA-40, and PA-42 series airplanes. The Federal Aviation Administration (FAA) inadvertently omitted Piper Models PA-31P, PA-31T, PA-31T1, PA-31T2, and PA-31P-350 airplanes from the Applicability section of AD 98-04-27. The proposed AD would retain the requirement of incorporating the icing information into the AFM for all airplanes affected by AD 98-04-27, and would add the Piper Models PA-31P, PA-31T, PA-31T1, PA-31T2, and PA-31P-350 airplanes to the Applicability of that AD. The actions specified by the proposed AD are intended to minimize the potential hazards associated with operating these airplanes in severe icing conditions by providing more clearly defined procedures and limitations associated with such conditions.

**DATES:** Comments must be received on or before November 5, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-77-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

**FOR FURTHER INFORMATION CONTACT:** Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6932; facsimile: (816) 426-2169.

#### **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 should 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 notice may be changed in light of the comments received.

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 that summarizes 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98-CE-77-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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-77-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

#### Discussion

AD 98-04-27, Amendment 39-10339 (63 FR 7668, February 17, 1998), currently requires revising the Limitations Section of the FAA-approved airplane flight manual (AFM) to specify procedures that would specify the following for PA-23, PA-30, PA-31, PA-34, PA-39, PA-40, and PA-42 series airplanes:

- Require flight crews to immediately request priority handling from Air Traffic Control to exit severe icing conditions (as determined by certain visual cues);
- Prohibit flight in severe icing conditions (as determined by certain visual cues);
- Prohibit use of the autopilot when ice is formed aft of the protected surfaces of the wing, or when an unusual lateral trim condition exists; and
- Require that all icing wing inspection lights be operative prior to

flight into known or forecast icing conditions at night.

That action also proposed to require revising the Normal Procedures Section of the FAA-approved AFM to specify procedures that would:

- Limit the use of the flaps and prohibit the use of the autopilot when ice is observed forming aft of the protected surfaces of the wing, or if unusual lateral trim requirements or autopilot trim warnings are encountered; and
- Provide the flight crew with recognition cues for, and procedures for exiting from, severe icing conditions.

#### Actions Since Issuance of Previous Rule

Since AD 98-04-27 became effective, the FAA has realized that it inadvertently omitted the Models PA-31P, PA-31T, PA-31T1, PA-31T2, and PA-31P-350 airplanes from the Applicability section of the AD.

#### The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that:

- The requirements of AD 98-04-27 should also apply to Piper Models PA-31P, PA-31T, PA-31T1, PA-31T2, and PA-31P-350 airplanes; and
- AD action should be taken to minimize the potential hazards associated with operating these airplanes in severe icing conditions by providing more clearly defined procedures and limitations associated with such conditions.

#### Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other PA-23, PA-30, PA-31, PA-34, PA-39, PA-40, and PA-42 series airplanes of the same type design, the FAA is proposing AD action to supersede AD 98-04-27. The proposed AD would retain from AD 98-04-27 the requirement of incorporating certain icing information into the FAA-approved AFM for the affected airplanes, and would add Piper Models PA-31P, PA-31T, PA-31T1, PA-31T2, and PA-31P-350 airplanes to the Applicability section of the AD.

#### Cost Impact

The FAA estimates that 5,265 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately \$60 an hour. Since an owner/operator who holds at least a

private pilot's certificate as authorized by §§ 43.7 and 43.9 of the Federal Aviation Regulations (14 CFR 47.7 and 43.9) can accomplish the proposed action, the only cost impact upon the public is the time it would take the affected airplane owners/operators to incorporate the proposed AFM revisions.

The cost impact figure discussed above is 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 AD were not adopted.

In addition, the FAA recognizes that the proposed action may impose operational costs. However, these costs are incalculable because the frequency of occurrence of the specified conditions and the associated additional flight time cannot be determined. Nevertheless, because of the severity of the unsafe condition, the FAA has determined that continued operational safety necessitates the imposition of the costs.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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) 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 has been placed 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 14 CFR part 39 of the Federal Aviation Regulations 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 removing Airworthiness Directive (AD) 98-04-27, Amendment 39-10339 (63 FR 7668, February 17, 1998), and by adding a new AD to read as follows:

**The New Piper Aircraft, Inc.:** Docket No. 98-CE-77-AD; Supersedes AD 98-04-27, Amendment 39-10339.

**Applicability:** Models PA-23, PA-23-160, PA-23-235, PA-23-250, PA-E23-250, PA-30, PA-39, PA-40, PA-31, PA-31-300, PA-31-325, PA-31-350, PA-31P, PA-31T, PA-31T1, PA-31T2, PA-31P-350, PA-34-200, PA-34-200T, PA-34-220T, PA-42, PA-42-720, and PA-42-1000 airplanes, all serial numbers, certificated in any category.

**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 (d) 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 follows, unless already accomplished:

1. *For all affected airplanes, except for Models PA-31P, PA-31T, PA-31T1, PA-31T2, and PA-31P-350 airplanes:* Within 30 days after March 13, 1997 (the effective date of AD 98-04-27).

2. *For all Models PA-31P, PA-31T, PA-31T1, PA-31T2, and PA-31P-350 airplanes:* Within the next 30 days after the effective date of this AD.

To minimize the potential hazards associated with operating the airplane in severe icing conditions by providing more clearly defined procedures and limitations associated with such conditions, accomplish the following:

(a) At the applicable compliance time presented in the Compliance section of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

**Note 2:** Operators should initiate action to notify and ensure that flight crewmembers are apprised of this change.

(1) Revise the FAA-approved Airplane Flight Manual (AFM) by incorporating the following into the Limitations Section of the

AFM. This may be accomplished by inserting a copy of this AD in the AFM.

#### “WARNING

Severe icing may result from environmental conditions outside of those for which the airplane is certificated. Flight in freezing rain, freezing drizzle, or mixed icing conditions (supercooled liquid water and ice crystals) may result in ice build-up on protected surfaces exceeding the capability of the ice protection system, or may result in ice forming aft of the protected surfaces. This ice may not be shed using the ice protection systems, and may seriously degrade the performance and controllability of the airplane.

- During flight, severe icing conditions that exceed those for which the airplane is certificated shall be determined by the following visual cues. If one or more of these visual cues exists, immediately request priority handling from Air Traffic Control to facilitate a route or an altitude change to exit the icing conditions.

- Unusually extensive ice accumulation on the airframe and windshield in areas not normally observed to collect ice.

- Accumulation of ice on the upper surface of the wing, aft of the protected area.

- Accumulation of ice on the engine nacelles and propeller spinners farther aft than normally observed.

- Since the autopilot, when installed and operating, may mask tactile cues that indicate adverse changes in handling characteristics, use of the autopilot is prohibited when any of the visual cues specified above exist, or when unusual lateral trim requirements or autopilot trim warnings are encountered while the airplane is in icing conditions.

- All wing icing inspection lights must be operative prior to flight into known or forecast icing conditions at night. [Note: This supersedes any relief provided by the Master Minimum Equipment List (MMEL).]”

(2) Revise the FAA-approved AFM by incorporating the following into the Normal Procedures Section of the AFM. This may be accomplished by inserting a copy of this AD in the AFM.

#### “THE FOLLOWING WEATHER CONDITIONS MAY BE CONDUCTIVE TO SEVERE IN-FLIGHT ICING

- Visible rain at temperatures below 0 degrees Celsius ambient air temperature.

- Droplets that splash or splatter on impact at temperatures below 0 degrees Celsius ambient air temperature.

#### PROCEDURES FOR EXITING THE SEVERE ICING ENVIRONMENT

These procedures are applicable to all flight phases from takeoff to landing. Monitor the ambient air temperature. While severe icing may form at temperatures as cold as  $\times 18$  degrees Celsius, increased vigilance is warranted at temperatures around freezing with visible moisture present. If the visual cues specified in the Limitations Section of the AFM for identifying severe icing conditions are observed, accomplish the following:

- Immediately request priority handling from Air Traffic Control to facilitate a route or an altitude change to exit the severe icing conditions in order to avoid extended exposure to flight conditions more severe than those for which the airplane has been certificated.

- Avoid abrupt and excessive maneuvering that may exacerbate control difficulties.

- Do not engage the autopilot.

- If the autopilot is engaged, hold the control wheel firmly and disengage the autopilot.

- If an unusual roll response or uncommanded roll control movement is observed, reduce the angle-of-attack.

- Do not extend flaps when holding in icing conditions. Operation with flaps extended can result in a reduced wing angle-of-attack, with the possibility of ice forming on the upper surface further aft on the wing than normal, possibly aft of the protected area.

- If the flaps are extended, do not retract them until the airframe is clear of ice.

- Report these weather conditions to Air Traffic Control.”

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by § 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(c) Special flight permits may be issued in accordance with §§ 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.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) All persons affected by this directive may examine information related to this AD at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 17, 1998.

**Michael K. Dahl,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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