cases. The petitioner contends that these court actions support industry's contention that because the current licensing basis (of which severe accident management is a part) carries forward to the license renewal term, the status quo will be maintained and because an equivalent level of safety is maintained, SAMAs may be properly excluded from NRC consideration in an environmental impact statement for license renewal.

The petitioner asserts that individual licensee and generic industry actions to address severe accidents demonstrate that this issue is part of the license in the current term and that the increase of the license term does not limit or diminish the value of these actions. The petitioner contends that because items in the current licensing basis are not subject to evaluation as part of the license renewal review, the license renewal rule also eliminates the need to consider the impact of their alternatives under NEPA. The petitioner concludes that there can be no NEPA inquiry of the environmental impacts and the mitigation alternatives of severe accidents if there is no change in the risk of a severe accident generated by license renewal.

The Limerick Decision

The petitioner examines the decision *Limerick Ecology Action* v. *U.S. Nuclear Regulatory Commission* and concludes that the holding in this decision is appropriately limited to the facts based on the context in which the decision was made.

First, the NRC relied on a Policy Statement to conclude that it could exclude consideration of severe accident mitigation design alternatives (SAMDAs) from individual licensing proceedings. Although the court found that the policy statement had the effect of a substantive rule, it was unwilling to treat it as a rule and allowed the policy statement to be challenged in an individual proceeding.

Second, the court was influenced by its perception that the NRC failed to give sufficiently careful consideration to SAMDAs before determining that they should not be subject to review in individual proceedings. The court highlighted the differences between the facts in *Limerick* and those in *Baltimore Gas & Electric Co.* v *Natural Resources Defense Council,* 462 U.S. 87 (1985), where the Supreme Court held that it was permissible under NEPA to treat the environmental effects of nuclear fuel storage generically. The court indicated that under the facts of BG&E, the NRC had proceeded under the basis of an extensive formal rulemaking. In *Limerick,* the NRC failed to permit consideration of SAMDAs without an explanation for doing so that was satisfactory to the court. The court concluded that this failure to evaluate SAMDAs in individual licensing proceedings meant that the NRC had concluded inappropriately that no design mitigation alternative would be worthwhile.

Third, the court was not persuaded by the NRC argument on judicial review that the risks of a severe accident are ''remote and speculative.'' The court held that the NRC had not based its decision on this determination and refused to substitute this argument for the reasons NRC articulated in the policy statement. Based on the facts presented, the court was unwilling to read into the policy statement and find that the risk is remote and speculative.

The petitioner contends that the courts articulated bases for deciding that SAMDAs should not have been excluded from consideration in an individual licensing proceeding support limiting the holding of *Limerick* to its facts. The petitioner further contends that *Limerick* does not affect the proposition that the ''rule of reason'' defines whether the environmental impact statement has addressed the significant aspects of probable environmental consequences for the proposed action. Finally, the petitioner contends that the limited nature of license renewal limits NEPA evaluation only to those environmental consequences that may reasonably flow from the proposed action, renewing a plant's license as that plant is currently designed and operated.

Finding That Severe Accidents Are Highly Unlikely

The petitioner contends that, because a ''rule of reason'' applies to all NEPA reviews and because a court has described it as a ''probabilistic rule of reason'' with respect to SAMAs, the NRC is not required to consider beyond design-basis accidents if the Commission reasonably believes that this type of accident is highly unlikely to occur. The petitioner states that the court, in *Limerick,* recognized that NEPA does not require consideration of remote and speculative risks. However, because the NRC's decision to exclude SAMAs in the *Limerick* licensing proceeding had not been based on such a determination, the court declined to uphold the NRC's action on grounds that had not been invoked by the NRC. Therefore, the petitioner contends that the *Limerick* decision did not and cannot preclude the NRC from elimination SAMAs from NEPA consideration based on an NRC finding that these accidents are highly unlikely to occur. As a result, the petitioner believes that the NRC has an ample basis to proceed with a rulemaking to delete § 51.53(c)(3)(ii)(L). The petitioner states that, based on the assessment of severe accident risk in the GEIS and the results of Individual Plant Examinations and Individual Plant Examinations for External Events, the NRC has concluded that the risk of a severe accident significantly affecting the environment is extremely small. Therefore, the petitioner believes that considering further mitigation is not worthwhile and SAMAs should be excluded from part 51 review for license renewal.

The Petitioner's Conclusion

The petitioner believes that the NRC should conduct a rulemaking to exclude the consideration of SAMAs from the NRC's NEPA review for license renewal. The petitioner contends that the requirement to include SAMAs was based on an overly broad application of language in the *Limerick* case. The petitioner states that under NEPA the NRC is responsible for reviewing those impacts that directly and indirectly relate to license renewal. The petitioner contends that this evaluation is bounded by the fact that an applicant's current licensing basis continues in the renewal term and the impacts associated with the current license are not subject to license renewal evaluation unless they can be shown to be potentially greater in the renewal term. The petitioner contends that such a demonstration has not been made for severe accidents and, therefore, cannot be demonstrated for SAMAs.

Dated at Rockville, Maryland, this 27th day of August, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–22915 Filed 9–1–99; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–56–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 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 747 series airplanes. This proposal would require repetitive inspections or checks to detect broken H–11 steel bolts at the wing rear spar side-of-body on the lower chord splice plate and kick fitting; and corrective actions, if necessary. This proposal also would require eventual replacement of the existing bolts with new inconel bolts, which would constitute terminating action for the repetitive inspections. This proposal is prompted by a report of broken bolts at the wing rear spar side-of-body on the lower chord splice plate. The actions specified by the proposed AD are intended to prevent cracking of the bolts due to stress corrosion, which could result in reduced structural integrity of the wing-to-body joint structure.

DATES: Comments must be received by October 18, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; 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 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 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–56–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. 99–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that an operator found four broken high strength H–11 steel bolts on a Boeing Model 747 series airplane. The broken bolts were on one side of the wing rear spar side-of-body on the lower chord splice plate. The broken bolts were attributed to stress corrosion cracking. This condition, if not detected, could result in reduced structural integrity of the wing-to-body joint structure.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999. The service bulletin describes procedures for repetitive detailed visual inspections, or alternatively, ultrasonic inspections or torque checks, to detect broken H–11 steel bolts common to the rear spar lower chord splice plate and H–11 steel bolts on the wing rear spar lower kick fitting; and corrective actions, if necessary. The corrective actions involve performing either an ultrasonic inspection or torque check for broken bolts, if necessary; an open hole high frequency eddy current (HFEC) inspection to detect cracks at the broken bolt hole location; and installing an inconel bolt, which would eliminate the need for the repetitive inspections at this bolt location, as applicable. The service bulletin also describes procedures for an optional terminating action for the repetitive inspections. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

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 bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although incorporation of the terminating action specified in the referenced service bulletin is optional, this AD proposes to mandate, within 48 months after the effective date of this AD, the open hole inspection and replacement specified in the referenced service bulletin as terminating action for the repetitive inspections.

The FAA has determined that long-term continued operational safety would be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed replacement requirement is in consonance with these conditions.

In addition, operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved, the approval letter must specifically reference this AD.

Cost Impact

There are approximately 523 airplanes of the affected design in the worldwide fleet. The FAA estimates that

115 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 inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection of the wing rear spar side-of-body lower chord splice plate and kick fitting high strength H–11 steel bolts proposed by this AD on U.S. operators is estimated to be $6,900, or $60 per airplane, per inspection cycle.

It would take approximately 13 (Groups 1, 3, 4, and 5 airplanes) and 10 (Group 2 airplanes) work hours per airplane to accomplish the proposed open hole HFEC inspection and replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,500 per airplane. Based on these figures, the cost impact of the open hole HFEC inspection and replacement proposed by this AD on U.S. operators is estimated to be $5,280 (Groups 1, 3, 4, and 5 airplanes) and $5,100 (Group 2 airplanes) 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 AD were not adopted.

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 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 99–NM–56–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999, 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 (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 detect and prevent cracking of the high strength H–11 steel bolts on the wing rear spar side-of-body on the lower chord splice plate and kick fitting due to stress corrosion, which could result in reduced structural integrity of the wing-to-body joint structure, accomplish the following:

Repetitive Inspections

(a) Within 12 months after the effective date of this AD, perform a detailed visual inspection, or alternatively, an ultrasonic inspection or torque check, to detect broken H–11 steel bolts common to the rear spar lower chord splice plate and the H–11 steel bolts common to the wing rear spar lower chord kick fitting, in accordance with Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999. Thereafter, repeat the applicable inspection or torque check at intervals not to exceed 18 months, until accomplishment of the actions specified in paragraph (d) of this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Actions

(b) If there is any detection or indication that any bolt is broken during the inspection required by paragraph (a) of this AD, prior to further flight, perform the applicable corrective action [i.e., ultrasonic inspection, torque check, high frequency eddy current (HFEC) inspection, repair, and replacement] in accordance with Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999; except as provided in paragraph (c) of this AD. Replacement of a broken bolt with a new inconel bolt in accordance with the service bulletin constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD for that bolt only.

(c) If any crack is detected during any corrective action required by paragraph (b) of this AD; and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Terminating Action

(d) Within 48 months after the effective date of this AD, accomplish the actions required by paragraphs (d)(1) and (d)(2) of this AD in accordance with Boeing Alert Service Bulletin 747–57A2309, dated February 25, 1999. Accomplishment of the actions specified in this paragraph constitutes terminating action for the repetitive inspection requirements of this AD.

(1) Prior to accomplishing the replacement required by paragraph (d)(2) of this AD, perform an open hole HFEC inspection to detect cracks at the bolt hole location for the eight high strength H–11 steel bolts common to the rear spar lower chord splice plate and the four high strength H–11 steel bolts common to the wing rear spar lower chord kick fitting. If any crack is detected, prior to further flight, perform applicable corrective actions in accordance with paragraph (c) of this AD.

(2) Replace all eight high strength H–11 steel bolts common to the rear spar lower chord splice plate and all four high strength H–11 steel bolts common to the wing rear spar lower chord kick fitting with new inconel bolts.

Spares

(e) As of the effective date of this AD, no person shall install an H–11 steel bolt having part number (P/N) BACB30MT ( ) * ( ) or BACB30TR ( ) * ( ), or any other H–11 steel bolt in the locations specified in this AD, on any airplane.

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 ACO. 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 3: 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 §§ 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 27, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–22921 Filed 9–1–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AAL–15]

Proposed Establishment of Class E Airspace; Koliganek, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Koliganek, AK. The establishment of Global Positioning System (GPS) instrument approach procedures at Koliganek Airport have made this action necessary. The Koliganek Airport status will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). Adoption of this proposal would result in adequate controlled airspace for aircraft flying IFR procedures at Koliganek, AK.

DATES: Comments must be received on or before October 18, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AAL–530, Docket No. 99–AAL–15, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

The official docket may be examined in the Office of the Regional Counsel for the Alaskan Region at the same address.

An informal docket may also be examined during normal business hours in the Office of the Manager, Operations Branch, Air Traffic Division, at the address shown above and on the Internet at Alaskan Region's homepage at http://www.alaska.faa.gov/at or at address http://162.58.28.41/at.

FOR FURTHER INFORMATION CONTACT: Bob Durand, Operations Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: http://www.alaska.faa.gov/at.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AAL–15.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the **Federal Register**'s web page for access to recently published rulemaking documents at http://www.access.gpo.gov/su—docs/aces/aces140.html.

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, AAL–530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the individual(s) identified in the **FOR FURTHER INFORMATION CONTACT** section.

The Proposal

The FAA proposes to amend 14 CFR part 71 by establishing Class E airspace at Koliganek, AK, due to the development of two GPS instrument approach procedures. The intended effect of this proposal is to provide controlled airspace for IFR operations at Koliganek, AK.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9F, *Airspace Designations and Reporting Points,* dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1 (63 FR 50139; September 21, 1998). The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed 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