Proposed Rules

Federal Register
Vol. 65, No. 110
Wednesday, June 7, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–308–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes Powered by Pratt & Whitney Engines

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 757 series airplanes powered by Pratt & Whitney engines. This proposal would require modification of the nacelle strut and wing structure. This proposal is prompted by reports indicating that the actual operational loads applied to the nacelle are higher than the analytical loads that were used during the initial design. Such an increase in loading can lead to fatigue cracking in primary strut structure prior to an airplane reaching its design service objective. The actions specified by the proposed AD are intended to prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut.

DATES: Comments must be received by July 24, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–308–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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; 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–308–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–308–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that the airplane manufacturer has accomplished a structural reassessment of the damage tolerance capabilities of the Boeing Model 757 series airplane powered by Pratt & Whitney engines. This reassessment indicates that the actual operational loads applied to the nacelle strut and wing structure are higher than the analytical loads that were used during the initial design. Subsequent analysis and service history, which includes numerous reports of fatigue cracking on certain strut and wing structure, indicate that fatigue cracking can occur on the primary strut structure before an airplane reaches its design service objective of 20 years or 50,000 flight cycles. Analysis also indicates that such cracking, if it were to occur, would grow at a much greater rate than originally expected. Fatigue cracking in primary strut structure would result in reduced structural integrity of the strut.

Explanation of Relevant Service Information

Boeing recently has developed a modification of the strut-to-wing attachment structure installed on Model 757 series airplanes powered by Pratt & Whitney engines. This modification significantly improves the load-carrying capability and durability of the strut-to-wing attachments. Such improvement also will substantially reduce the possibility of fatigue cracking and corrosion developing in the attachment assembly.

The FAA has reviewed and approved Boeing Service Bulletin 757–54–0034, dated May 14, 1998, which describes procedures for modification of the nacelle strut and wing structure. The modification consists of replacing many of the significant load-bearing components of the strut (*e.g.,* the side link fittings assemblies, the midspar fittings, the side load fittings, certain fuse bolt assemblies, *etc.*) with improved components.

The service bulletin contains a formula for calculating an optional compliance threshold for the specified modification. This formula is intended to be used as an alternative to the 20-year calendar threshold specified in the service bulletin.

In addition, Table I of the service bulletin also identifies two related service bulletin modifications that must be accomplished before or at the same time as the modification in Boeing Service Bulletin 757–54–0034:

• *Boeing Service Bulletin 757–54–0027:* The FAA has reviewed and approved Boeing Service Bulletin 757–54–0027, Revision 1, dated October 27, 1994, which describes procedures for visual and eddy current inspections of the fuse pins of the diagonal brace and upper link, and installation of new 15–5PH fuse pins and new shoulder bolts for the diagonal brace and upper link.

• *Boeing Service Bulletin 757–54–0036:* The FAA has reviewed and approved Boeing Service Bulletin 757–54–0036, dated May 14, 1998, which describes procedures for replacement of the upper link with a new, improved part that will increase the strength and durability of the upper link installation. That service bulletin also describes procedures for modification of a wire support bracket attached to the upper link.

Accomplishment of the actions specified in the service bulletins 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 bulletins described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although Boeing Service Bulletin 757–54–0034 specifies that the manufacturer may be contacted for disposition of certain damage conditions that may detected during accomplishment of the modification, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 317 airplanes of the affected design in the worldwide fleet. The FAA estimates that 278 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 800 work hours per airplane to accomplish the proposed modification of the nacelle strut and wing structure described in Boeing Service Bulletin 757–54–0034, dated May 14, 1998, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of this proposed modification on U.S. operators is estimated to be $13,344,000, or $48,000 per airplane.

It would take approximately 26 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 757–54–0027, Revision 1, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $433,680, or $1,560 per airplane.

It would take approximately 90 work hours per airplane to accomplish the actions described in Boeing Service Bulletin 757–54–0036, at an average labor rate of $60 per work hour. Required parts would be provided at no cost by the airplane manufacturer. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $1,501,200, or $5,400 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–308–AD.

Applicability: Model 757 series airplanes powered by Pratt & Whitney engines, line numbers 1 through 735 inclusive, 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 indicated, unless accomplished previously.

To prevent fatigue cracking in primary strut structure and consequent reduced structural integrity of the strut, accomplish the following:

Modifications

(a) Modify the nacelle strut and wing structure on both the left and right sides of the airplane, in accordance with Boeing Service Bulletin 757–54–0034, dated May 14, 1998, at the later of the times specified in paragraph (a)(1) or (a)(2) of this AD.

(1) Prior to the accumulation of 37,500 total flight cycles, or within 20 years since the date of manufacture, whichever occurs first. Use of the optional threshold formula described in paragraph I.D. of the service bulletin is an acceptable alternative to the 20-year threshold.

(2) Within 3,000 flight cycles after the effective date of this AD.

(b) Prior to or concurrently with the accomplishment of the modification of the nacelle strut and wing structure required by paragraph (a) of this AD; as specified in paragraph I.D., Table I, ''Strut Improvement Bulletins,'' on page 5 of Boeing Service Bulletin 757–54–0034, dated May 14, 1998; accomplish the actions specified in Boeing Service Bulletin 757–54–0027, Revision 1,

dated October 27, 1994, and Boeing Service Bulletin 757–54–0036, dated May 14, 1998, as applicable, in accordance with those service bulletins.

(c) If any damage to airplane structure is found during the accomplishment of the modification required by paragraph (a) 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. 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.

Alternative Methods of Compliance

(d) 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 2: 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

(e) Special flight permits may be issued in accordance with sections 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 June 1, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–14315 Filed 6–6–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 724, 773, 774, 778, 842, 843, and 846

RIN 1029–AB94

Application and Permit Information Requirements; Permit Eligibility; Definition of Ownership and Control; the Applicant/Violator System; Alternative Enforcement Actions

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: On December 21, 1998 (63 FR 70580), we, the Office of Surface Mining (OSM), proposed a rule to amend our permanent program regulations for surface coal mining operations under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201, *et seq.*, as amended (SMCRA or the Act). We are reopening the comment period for the proposed rule in light of a judicial decision in a case decided after the close of the comment period. The comment period was originally scheduled to close on February 19, 1999, but was subsequently extended to March 25, 1999 (64 FR 8763; Feb. 23, 1999), then to April 15, 1999 (64 FR 15322; March 31, 1999), and ultimately to May 10, 1999 (64 FR 23811; May 4, 1999). Shortly thereafter, on May 28, 1999, the U.S. Court of Appeals for the District of Columbia Circuit handed down a decision in *National Mining Ass'n* v. *U.S. Dept. of the Interior,* 177 F.3d 1 (D.C. Cir. 1999) (*NMA* v. *DOI II*). Because we incorporated certain provisions and concepts into our December 21, 1998 proposed rule, which were later invalidated by the court, we feel it advisable to obtain input from the public on the effects of the appeals court's decision on our proposed rule. By this notice, we are reopening and extending the comment period for an additional 30 days to seek comments on the effects of the court decision on our proposed rule so that we can ensure that our final rule is consistent with the *NMA* v. *DOI II* decision.

DATES: We will accept written comments until 5 p.m., Eastern time on July 7, 2000. We will consider only those comments received within the allowed time period.

ADDRESSES: You may mail or hand-deliver comments to the Office of Surface Mining, Administrative Record Room 101, 1951 Constitution Avenue, NW., Washington, DC, 20240. You may also submit comments to OSM via the Internet at: osmrules@osmre.gov. Comments sent via the Internet should be in an ASCII, Word, or WordPerfect file, and you should avoid using special characters and any form of encryption. Please also include ''Attn: RIN 1029–AB94'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 208–2847.

FOR FURTHER INFORMATION CONTACT: Stephen J. McEntegart, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, DC, 20240. Telephone: (202) 208–2968; e-mail: smceteg@osmre.gov.

SUPPLEMENTARY INFORMATION

I. Public Comment Procedures

Written comments submitted by mail, electronically, or in person, should be specific, confined to issues pertinent to this reopening, and explain the bases for the comments. Please submit three copies of your comments if possible. We must stress that we will consider only comments which are germane to the effects of the *NMA* v. *DOI II* decision on our December 21, 1998 proposed rule: conversely, we will not consider comments which do not pertain to the effects of the court decision and which could have been submitted during the previous comment periods. All of the comments we received thus far are part of the rulemaking record, and we will consider both those comments and comments received under the new comment period associated with this notice before issuing a final rule. Therefore, commenters should not resubmit earlier comments.

We are specifying a 30 day deadline for comments, which we believe is appropriate because of the limited nature of this reopening; the fact that the pertinent appeals court's rulings are, for the most part, subject to straightforward interpretation; the fact that we previously extended and reopened the comment period serial times for the initial proposed rule; and our desire to expedite promulgation of a final rule. In view of the above considerations, we will not extend the comment period beyond 30 days.

II. Summary of *NMa* v. *DOI II* as it Affects our December 21, 1998 Proposed Rule

In June 1997, NMA filed suit in the U.S. District Court for the District of Columbia, challenging the validity of our April 21, 1997, interim final rule (IFR) (62 FR 19450) on broad grounds. On June 15, 1998, the district court issued a decision upholding the IFR in its entirety. *National Mining Ass'n* v. *Babbitt,* No. 97–1418 (AER) (D.D.C. June 15, 1998).

On May 28, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision in NMA's appeal of the district court's ruling. *National Mining Ass'n.* v. *U.S. Dep't of the interior,* 177 F.3d 1 (D.C. Cir. 1999) (*NMA* v. *DOI II*). The court upheld several provisions of the IFR, but invalidated others. Three of the court's holding invalidating provisions of the IFR are pertinent to this reopening because we incorporated the invalidated provisions and/or underlying concepts into the proposed rule. Since our final rule must be consistent with *NMA* v. *DOI II,* we invite your comments on