

afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provision of the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area is being considered for the period of December 1, 1994, through January 31, 1995:

In § 1032.7(c), the words "each of", the letter "s" at the end of the word "months", and the words "through January" and "for the months of February".

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed rule would suspend a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk order. The proposed suspension would allow a supply plant to qualify as a pool plant during the months of December 1994 and January 1995 if it qualified as a pool supply plant during the immediately preceding month of September.

Mid-America Dairymen, Inc. (Mid-America), and Prairie Farms, Inc. (Prairie Farms), jointly requested the proposed suspension. According to the request letter, Mid-America lost a major account with a pool distributing plant regulated under Order 32, effective December 16, 1994. As a result, Mid-America and Prairie Farms contend that much of the producer milk supplying the distributing plant will no longer be needed for Class I use. The proponents

assert that the order should not penalize producers who have historically supplied the Class I needs of the market by requiring milk shipments that are not needed.

Accordingly, it may be appropriate to suspend the aforesaid provisions from December 1, 1994, through January 31, 1995.

List of Subjects in 7 CFR Part 1032

Milk marketing orders.

The authority citation for 7 CFR Part 1032 continues to read as follows:

Authority: Secs. 1-19, 48 Stat 31, as amended; 7 U.S.C. 601-674.

Dated: December 27, 1994.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 94-32290 Filed 12-30-94; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-208-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With General Electric Model CF6-45 or -50 Series Engines, or Pratt & Whitney Model JT9D-70 Series 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 747 series airplanes. This proposal would require modification of the nacelle strut and wing structure, inspections and checks to detect discrepancies, and correction of discrepancies. This proposal is prompted by the development of a modification of the strut and wing structure that improves the fail-safe capability and durability of the strut-to-wing attachments, and reduces reliance on inspections of those attachments. The actions specified by the proposed AD are intended to prevent failure of the strut and subsequent loss of the engine.

DATES: Comments must be received by February 28, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-208-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: Tim Backman, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2776; fax (206) 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 94-NM-208-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-103, Attention: Rules Docket No. 94-NM-208-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received numerous reports of fatigue cracking and/or corrosion in the strut-to-wing attachments on Boeing Model 747 series airplanes. In two cases, cracking resulted in the failure of a strut load path and the subsequent loss of the number 3 engine and strut. In both cases, catastrophic accidents occurred when the number 3 engine and strut separated from the wing of the airplane and struck the number 4 engine, causing it to separate from the airplane. Investigation into the cause of these accidents and other reported incidents has revealed that fatigue cracks and corrosion in the strut-to-wing attachments, if not detected and corrected in a timely manner, can result in failure of the strut and subsequent separation of the engine from the airplane. Investigation also has revealed that the structural fail-safe capability of the strut-to-wing attachment is inadequate on these airplanes.

The FAA has previously issued 13 AD's that address various problems associated with the strut attachment assembly on Boeing Model 747 series airplanes that are equipped with General Electric Model CF6-45 or -50 series engines or Pratt & Whitney Model JT9D-70 series engines. These AD's have required, among other things, inspections of the strut, strut-to-wing attachment structure, and wing backup structure.

Explanation of Service Information

Boeing recently has developed a modification of the strut-to-wing attachment structure installed on Model 747 series airplanes equipped with General Electric Model CF6-45 or -50 series engines or Pratt & Whitney Model JT9D-70 series 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 Alert Service Bulletin 747-54A2158, dated November 30, 1994, which describes procedures for modification of the nacelle strut and wing structure. This modification entails the following:

1. Changing the strut by adding a new titanium dual side load fitting to the strut aft bulkhead, replacing the aft end of the midspar web with a new 15-5 stainless steel web, installing new 15-5 stainless steel midspar fittings on the inboard struts, and replacing the aft bulkhead assembly and overhauling the spring beams on the outboard struts;
2. Changing the wing structure by installing a new dual side load underwing fitting and new support fitting, and replacing the end fitting and installing a new stiffener at the wing midspar for the outboard strut location [for certain airplanes, installing new inboard backup fittings, installing new titanium outboard underwing fittings at all strut positions, and replacing the tee fitting common to the rib at wing station (WS) 1140; for certain other airplanes, replacing the tee fitting bolts common to the rib at WS 1140];
3. Changing the electrical wiring and hydraulics by rerouting the wire bundles around the new dual side load fitting, splicing additional wire to the wire bundles, and installing new hydraulic tubes; and
4. Installing the strut with a new upper link, a new diagonal brace, and new side links.

This alert service bulletin specifies that the modification of the nacelle strut and wing structure is to be accomplished prior to, or concurrently with, the terminating actions described in the service bulletins listed in paragraph I.C., Table 2, "Prior or Concurrent Service Bulletins," on page 7 of this alert service bulletin. These terminating actions include the following:

1. Replacement of the diagonal brace, midspar and upper link fuse pins with

new third generation 15-5 corrosion resistant steel fuse pins;

2. Replacement of the strut-to-diagonal brace aluminum attach fitting on the inboard engine with a steel fitting;

3. Installation of a large skin doubler and frame stiffener in the area of the precooler exhaust vent;

4. A zero-time overhaul of the springbeams and rework of certain fastener holes of the springbeam support fittings of the outboard strut;

5. Inspection and torque check of certain fasteners of the strut-to-wing attachment fittings; and

6. Modification of the rib at wing station 669.5.

Explanation of the Provisions of the Proposed AD

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 modification of the nacelle strut and wing structure, inspections and checks to detect discrepancies in the adjacent structure, and correction of discrepancies. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

The FAA has determined that long term continued operational safety will 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 modification requirement is in consonance with these considerations.

Accomplishment of the modification of the nacelle strut and wing structure would terminate the inspections required by the following AD's:

| AD No. | Amendment No. | Federal Register citation- | Date of Publication |
|--------------------|---------------|----------------------------|---------------------|
| 94-22-08 | 39-9057 | 59 FR 58761 | Nov. 15, 1994. |
| 93-17-07 | 39-8678 | 58 FR 45827 | Aug. 31, 1993. |
| 93-03-14 | 39-8518 | 58 FR 14513 | Mar. 18, 1993. |
| 92-24-51 | 39-8439 | 57 FR 60118 | Dec. 18, 1992. |
| 90-20-20 | 39-6725 | 55 FR 37859 | Sept. 14, 1990. |
| 89-07-15 | 39-6167 | 54 FR 11693 | Mar. 22, 1989. |
| 87-04-13 R1- | 39-5836 | 53 FR 2005 .. | Jan. 26, 1988. |
| 86-23-01 | 39-5450 | 51 FR 37712 | Oct. 24, 1986. |
| 86-08-03 | 39-5289 | 51 FR 12836 | Apr. 16, 1986. |
| 86-07-06 | 39-5270 | 51 FR 10821 | Mar. 31, 1986. |
| 86-05-11 R1- | 39-5334 | 51 FR 21900 | June 17, 1986. |

| AD No. | Amendment No. | Federal Register citation— | Date of Publication |
|----------------|---------------|----------------------------|---------------------|
| 80-08-02 | 39-3738 | 45 FR 24450 | Apr. 10, 1980. |
| 79-17-07 | 39-3533 | 44 FR 50033 | Aug. 27, 1979. |

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this requirement.

Cost Estimate

There are approximately 145 Model 747 series airplanes of the affected design, equipped with General Electric Model CF6-45 or -50 series engines or Pratt & Whitney Model JT9D-70 series engines in the worldwide fleet. The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD.

The proposed modification may take as many as 6,600 to 7,151 work hours to accomplish, depending upon the configuration of the airplane. The manufacturer would incur the cost of labor, on a pro-rated basis, with 20 years being the expected life of these airplanes. The total cost impact of the proposed AD on U.S. operators is based on the median age for the fleet of Model 747 series airplanes equipped with General Electric Model CF6-45 or -50 series engines or Pratt & Whitney Model JT9D-70 series engines, which is estimated to be 15 years. The average labor rate is estimated to be \$60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operator. Based on these figures, the cost impact of this proposal on U.S. operators is estimated to be between \$3,564,000 (\$297,000 per airplane) and \$3,861,540 (\$321,795 per airplane).

This cost impact figure does not reflect the cost of the terminating actions described in the service bulletins listed in paragraph I.C., Table 2, "Prior or Concurrent Service Bulletins," on page 7 of Boeing Alert

Service Bulletin 747-54A2158, dated November 30, 1994, that are proposed to be accomplished prior to or concurrently with the modification of the nacelle strut and wing structure. Since some operators may have accomplished certain modifications on some or all of the airplanes in its fleet, while other operators may not have accomplished any of the modifications on any of the airplanes in its fleet, the FAA is unable to provide a reasonable estimate of the cost of accomplishing the terminating actions described in the service bulletins listed in Table 2 of the Boeing alert service bulletin. As indicated earlier in this preamble, the FAA invites comments specifically on the overall economic aspects of this proposed rule. Any data received via public comments to this notice will aid the FAA in developing an accurate accounting of the cost impact of the rule.

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.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-

beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

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. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

BOEING: Docket 94-NM-208-AD.

Applicability: Model 747 series airplanes, equipped with General Electric Model CF6-45 or -50 series engines, or Pratt & Whitney Model JT9D-70 series engines; 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 use the authority

provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the strut and subsequent loss of the engine, accomplish the following:

(a) Accomplish the modification of the nacelle strut and wing structure in accordance with Boeing Alert Service Bulletin 747-54A2158, dated November 30, 1994, within 56 months after the effective date of this AD. All of the terminating actions described in the service bulletins listed in

paragraph I.C., Table 2, "Prior or Concurrent Service Bulletins," on page 7 of Boeing Alert Service Bulletin 747-54A2158, dated November 30, 1994, must be accomplished in accordance with those service bulletins prior to, or concurrently with, the accomplishment of the modification of the nacelle strut and wing structure required by this paragraph.

(b) Perform the inspections and checks specified in paragraph III, NOTES 8, 9, 10, and 11 of the Accomplishment Instructions on page 129 of Boeing Alert Service Bulletin 747-54A2158, dated November 30, 1994, concurrently with the modification of the nacelle strut and wing structure required by paragraph (a) of this AD. Prior to further flight, correct any discrepancies found in accordance with the alert service bulletin.

(c) Accomplishment of the modification of the nacelle strut and wing structure in accordance with Boeing Alert Service Bulletin 747-54A2158, dated November 30, 1994, constitutes terminating action for the inspections required by the following AD's:

| AD No. | Amendment No. | Federal Register citation- | Date of Publication |
|--------------------|---------------|----------------------------|---------------------|
| 94-22-08 | 39-9057 | 59 FR 58761 | Nov. 15, 1994. |
| 93-17-07 | 39-8678 | 58 FR 45827 | Aug. 31, 1993. |
| 93-03-14 | 39-8518 | 58 FR 14513 | Mar. 18, 1993. |
| 92-24-51 | 39-8439 | 57 FR 60118 | Dec. 18, 1992. |
| 90-20-20 | 39-6725 | 55 FR 37859 | Sept. 14, 1990. |
| 89-07-15 | 39-6167 | 54 FR 11693 | Mar. 22, 1989. |
| 87-04-13 R1 | 39-5836 | 53 FR 2005 .. | Jan. 26, 1988. |
| 86-23-01 | 39-5450 | 51 FR 37712 | Oct. 24, 1986. |
| 86-08-03 | 39-5289 | 51 FR 12836 | Apr. 16, 1986. |
| 86-07-06 | 39-5270 | 51 FR 10821 | Mar. 31, 1986. |
| 86-05-11 R1- | 39-5334 | 51 FR 21900- | Jun. 17, 1986. |
| 80-08-02 | 39-3738 | 45 FR 24450 | Apr. 10, 1980. |
| 79-17-07 | 39-3533 | 44 FR 50033 | Aug. 27, 1979. |

(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 Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. 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.

(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 December 27, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-32264 Filed 12-30-94; 8:45 am]

BILLING CODE 4310-13-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period on Proposed Endangered Status for the San Diego Fairy Shrimp

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces that the comment period on the proposed rule to list the San Diego fairy shrimp (*Branchinecta sandiegoensis*) as endangered is reopened through March 6, 1995. The Service has reopened the comment period to allow all interested parties to submit additional written comments on the proposal.

DATES: The public comment period, which was extended to October 31, 1994, is reopened and closes on March

6, 1995. Comments from all interested parties must be received by March 6, 1995.

ADDRESSES: Written comments and materials may be submitted directly to the Field Supervisor, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments and materials received will be available for public inspection during business hours by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, at the address listed above (telephone 619/431-9440).

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1994, the Service published a proposed rule in the Federal Register to list the San Diego fairy shrimp (*Branchinecta sandiegoensis*) as endangered (59 FR 39874). A public hearing was scheduled on October 19, 1994, to accept public input on the proposed endangered status. The comment period was extended to October 31, 1994, to