Request for Comments

We are publishing this notice to inform the public that APHIS will accept written comments from the public regarding these petitions for 60 days. This is the first time APHIS has published a notice of availability of petitions to list noxious weeds and sought comments. We are publishing these petitions and seeking comments because the petitions raise unusually complex and controversial issues.

Issues for Discussion

We are particularly interested in comments pertaining to the following issues. We request responses to the bulleted questions at the end of each section:

In accordance with international agreements, APHIS supports all noxious weed listings with risk assessments based on data and other published information. Depending on the source of the information, the number of *Caulerpa* species ranges from 70 to about 1,000. However, there has been little scientific research on *Caulerpa,* and many species have not been fully characterized. The petitioners requested that all species of *Caulerpa* be listed as noxious weeds and submitted information concerning four species, in addition to *C. taxifolia,* that have caused harmful invasions: *C. scalpelliformis, C. racemosa, C. verticillata,* and *C. bracypus.*

- What data is there to help us evaluate the risks associated with non-native species of *Caulerpa* other than *C. taxifolia*?
- How many and what species of *Caulerpa* and other nonvascular plants are currently being imported?
- In addition to aquatic plant shipments, ballast water, fishing gear, ''live rocks,'' and live fish, what other pathways exist that could potentially facilitate the spread of *C. taxifolia* (Mediterranean clone) and other demonstrably invasive, non-native *Caulerpa* species?

We recognize that regulating the importation and interstate movement of marine algae is difficult. Most noxious weeds are introduced with common agricultural commodities and not in the marine aquarium trade. The pathways by which the algae may travel into the United States are not traditional targets for agricultural inspection. Among these potential pathways are ''live rocks,'' fishing gear, and live fish, where specimens may be merely fragments that are not clearly visible. In these cases, identifying the presence of *C. taxifolia* (Mediterranean clone) has been particularly difficult.

Currently, APHIS's policy is to prohibit the entry of any plant intercepted at the port of entry if there is reason to believe that it is *C. taxifolia* (Mediterranean clone). The importer or exporter is given an opportunity to establish the identity of specimens that resemble *C. taxifolia* (Mediterranean clone). We consider any foreign origin *Caulerpa* to be suspect.

Expanding our noxious weed program to cover additional species of *Caulerpa* would require additional funding, personnel, training, and possibly additional facilities and equipment as there is a lack of Agency expertise in the area of marine algae and no new funds automatically become available when a new weed is listed. It seems that, at this time, other Federal agencies are not able to provide financial or other resources in support. Without increased appropriations, the program expansion could divert attention and resources from APHIS's current weed programs.

- Given the difficulty of identifying *C. taxifolia* (Mediterranean clone), and the existence of native species of *Caulerpa* in United States waters, how could APHIS effectively regulate additional species and strains of marine algae?
- If we list additional species and strains of non-native marine algae, how should our current weed program resources be shifted in order to regulate these other strains or species as well as currently listed noxious weeds?
- If we list additional non-native species or strains of non-native marine algae, where should most of our existing resources and efforts be placed in order to be most effective? For example: Increased port of entry Inspection, surveying, eradication, public education, etc.

Authority: 7 U.S.C. 7711–7714, 7718, 7731, 7751, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 21st day of October 2004.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–23921 Filed 10–25–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19446; Directorate Identifier 2004–NM–130–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Boeing Model 767 series airplanes. The existing AD currently requires repetitive detailed and eddy current inspections of the aft pressure bulkhead for damage and cracking, and repair if necessary. This proposed AD would add one-time detailed and high frequency eddy current inspections of any ''oil-can'' located on the aft pressure bulkhead, and related corrective actions if necessary. An ''oil-can'' is an area on a pressure dome web that moves when pushed from the forward side. This proposed AD is prompted by reports of cracking at ''oil-can'' boundaries on the aft pressure bulkhead. We are proposing this AD to detect and correct fatigue cracking of the aft pressure bulkhead, which could result in rapid depressurization of the airplane and possible damage or interference with the airplane control systems that penetrate the bulkhead, and consequent loss of controllability of the airplane.

DATES: We must receive comments on this proposed AD by December 10, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington,

DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6441; fax (425) 917–6590.

Plain Language Information: Marcia Walters, *marcia.walters@faa.gov*.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form ''Docket No. FAA–2004–99999.'' The Transport Airplane Directorate identifier is in the form ''Directorate Identifier 2004–NM–999–AD.'' Each DMS AD docket also lists the directorate identifier (''Old Docket Number'') as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2004–19446; Directorate Identifier 2004–NM–130–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On February 24, 2004, we issued AD 2004–05–10, amendment 39–13505 (69 FR 10321, March 5, 2004), for certain Model 767 series airplanes. AD 2004–05–10 requires repetitive detailed and eddy current inspections of the aft pressure bulkhead for damage and cracking, and repair if necessary. That AD was prompted by a report of multiple-site fatigue cracking in two lap splices on the aft pressure bulkhead of one airplane. We issued AD 2004–05–10 to detect and correct fatigue cracking of the aft pressure bulkhead, which could result in rapid depressurization of the airplane and possible damage or interference with the airplane control systems that penetrate the bulkhead, and consequent loss of controllability of the airplane.

Actions Since Existing AD Was Issued

In the ''Differences Between the ASB and the AD'' section of AD 2004–05–10, we explained that we were considering further rulemaking to require inspections of ''oil-cans''. We now have determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination.

Relevant Service Information

As discussed in the preamble of AD 2004–05–10, we have reviewed Boeing Alert Service Bulletin (ASB) 767–53A0026, Revision 5, dated January 29, 2004. Revision 5 of the ASB describes procedures for repetitive detailed inspections for damage (*e.g.*, nicks, tears, scratches, dents, and corrosion) of the aft pressure bulkhead, and repair if necessary. The ASB also describes procedures for repetitive high frequency and low frequency eddy current inspections for cracking of the body station (BS) 1582 bulkhead, web lap splices, and tearstrap splices, and repair if necessary. Additionally, the ASB describes procedures for a one-time detailed inspection and a high frequency eddy current inspection of the web to determine if any ''oil cans'' are present, and repair if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would supersede AD 2004–05–10. This proposed AD would continue to require repetitive detailed and eddy current inspections of the aft pressure bulkhead for damage and cracking, and repair if necessary. This proposed AD would also require detailed and high frequency eddy current inspections of any ''oil-can'' located on the aft pressure bulkhead, and repair if necessary. This proposed AD would require you to use the service information described previously to perform these actions, except as discussed under ''Differences Between the Proposed AD and the Service Bulletin.''

Differences Between the Proposed AD and the Service Bulletin

The Boeing ASB provides the following information in Note 6 of the Accomplishment Instructions: ''For the purposes of this service bulletin, do not count flight-cycles with a cabin pressure differential of 2.0 [pounds per square inch (psi)] or less. However, any flight-cycle with momentary spikes in cabin pressure differential above 2.0 psi must be included as a full-pressure flight-cycle. Cabin pressure records must be maintained for each airplane. Fleet averaging of cabin pressure is not allowed.'' We have determined that an

adjustment of flight cycles due to a lower cabin differential pressure is not substantiated and will not be allowed for use in determining the flight cycle threshold for this proposed AD.

Additionally, the Accomplishment Instructions of the ASB specify that operators may contact the manufacturer for disposition of certain repair instructions. This AD requires that, if repair requirements exceed allowable repair criteria, operators must repair per a method approved by the FAA or per 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.

Change to Existing AD

This proposed AD would retain certain requirements of AD 2004–05–10. Since AD 2004–05–10 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–05–10	Corresponding requirement in this proposed AD
paragraph (e)	paragraph (f).
paragraph (f)	paragraph (g).

Costs of Compliance

There are about 162 airplanes worldwide of the affected design. This proposed AD would affect about 99 airplanes of U.S. registry.

The actions that are required by AD 2004–05–10 and retained in this proposed AD take about 22 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the currently required actions is $1,430 per airplane, per inspection cycle.

The new proposed actions would take about 2 work hours per ''oil-can,'' at an average labor rate of $65 per work hour. Based on these figures, the estimated cost of the new actions specified in this proposed AD for U.S. operators is $130 per ''oil-can.'' The number of ''oil cans'' varies per airplane, so an estimate per airplane or for the U.S. registered fleet is not available.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect 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.

For the reasons discussed above, I certify that the 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. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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. The FAA amends § 39.13 by removing amendment 39–13505 (69 FR 10321, March 5, 2004) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2004–19446; Directorate Identifier 2004–NM–130–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this airworthiness directive (AD) action by December 10, 2004.

Affected ADs

(b) This AD supersedes AD 2004–05–10, amendment 39–13505.

Applicability

(c) This AD applies to Boeing Model 767–200 and –300 series airplanes, certificated in any category, as listed in Boeing Alert Service Bulletin (ASB) 767–53A0026, Revision 5, dated January 29, 2004.

Unsafe Condition

(d) This AD was prompted by reports of cracking at ''oil-can'' boundaries on a Boeing Model 747 series airplane's aft pressure bulkhead, which is similar to the aft pressure bulkheads on Boeing Model 767 series airplanes. We are issuing this AD to detect and correct fatigue cracking of the aft pressure bulkhead, which could result in rapid depressurization of the airplane and possible damage or interference with the airplane control systems that penetrate the bulkhead, and consequent loss of controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Requirements of AD 2004–05–10

Detailed Inspections and Eddy Current Inspections

(f) Perform a detailed inspection for damage and cracking of the aft side of the aft pressure bulkhead and perform high frequency and low frequency eddy current inspections for cracking of the aft pressure bulkhead, per the Accomplishment Instructions of Boeing ASB 767–53A0026, Revision 5, dated January 29, 2004, at the later of the times specified in paragraph (f)(1) or (f)(2) of this AD. Thereafter, repeat these inspections at intervals not to exceed 1,800 flight cycles.

Note 1: For the purposes of this AD, a detailed inspection is: ''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.''

(1) Prior to the accumulation of 25,000 total flight cycles, or within 1,800 flight cycles after the most recent inspection done per AD 88–19–03 R1, whichever occurs later; or

(2) Within 90 days after March 22, 2004 (the effective date of AD 2004–05–10).

Repair Requirements

(g) If any damage or cracking is detected during any inspections required by paragraph (f) of this AD: Before further flight accomplish the requirements of paragraph (g)(1) or (g)(2) of this AD, as applicable:

(1) For repairs within the limits of the Accomplishment Instructions of Boeing ASB 767–53A0026, Revision 5, dated January 29, 2004, repair per the ASB.

(2) For any repairs outside the limits, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, as required by this paragraph, the approval must specifically reference this AD.

New Requirements of This AD

''Oil-Can'' Inspection and Repair

(h) Before the accumulation of 37,500 total flight cycles, or within 1,800 flight cycles

after the effective date of this AD, whichever occurs later: Do a one-time detailed and surface high frequency eddy current inspections at all ''oil-can'' locations of the aft pressure bulkhead web for damage and cracks, in accordance with Figure 4 of the Accomplishment Instructions of the Boeing ASB 767–53A0026, Revision 5, dated January 29, 2004. All ''oil-cans'' must meet the limits specified in the service bulletin.

Note 2: An ''oil-can'' is an area on a pressure dome web that moves when pushed from the forward side.

(1) If no damage and no crack is found, no further action is required by this paragraph.

(2) If any damage or crack is found, before further flight, repair in accordance with the service bulletin, except as required by paragraph (i) of this AD.

(3) If any ''oil can'' does not meet the limits specified in the service bulletin, before further flight, repair the ''oil can'' in accordance with the service bulletin, except as required by paragraph (i) of this AD.

(i) Where the service bulletin specifies to contact Boeing for repair data, before further flight, repair the damage or crack per a method approved by the Manager, Seattle ACO, FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, as required by this paragraph, the approval must specifically reference this AD.

(j) Inspections and repairs accomplished before the effective date of this AD in accordance with Boeing ASB 767–53A0026, Revision 4, dated March 27, 2003, are considered acceptable for compliance with paragraph (h) of this AD.

Determining the Number of Flight Cycles for Compliance Time

(k) For the purposes of calculating the compliance threshold for the actions required by paragraph (f) and (h) of this AD, the number of flight cycles in which cabin differential pressure is at 2.0 pounds per square inch (psi) or less must be counted when determining the number of flight cycles that have occurred on the airplane. Where the service bulletins and this AD differ, the AD prevails.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make those findings.

(3) Alternative methods of compliance, approved previously in accordance with AD 2004–05–10, amendment 39–13505, are approved as alternative methods of compliance with this AD.

Issued in Renton, Washington, on October 18, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–23931 Filed 10–25–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19448; Directorate Identifier 2004–NM–134–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all McDonnell Douglas Model MD–90–30 airplanes. This proposed AD would require replacing, with improved parts, certain existing fluorescent light lamp holders located in the ceiling panels and life raft ceiling support housings, and behind the overhead stowage compartments in the main cabin. This proposed AD is prompted by reports of failure of fluorescent light lamp holders in the main cabin. We are proposing this AD to prevent chafing of the lamp holder power wire against the mounting bracket, and moisture intrusion into the lamp holders, which could result in failure of the lamp holders and consequent smoke and fire in the airplane cabin.

DATES: We must receive comments on this proposed AD by December 10, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- By fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024).

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov,* or at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: *Technical information:* George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

Plain language information: Marcia Walters, *marcia.walters@faa.gov.*

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form ''Docket No. FAA–2004–99999.'' The Transport Airplane Directorate identifier is in the form ''Directorate Identifier 2004–NM–999–AD.'' Each DMS AD docket also lists the directorate identifier (''Old Docket Number'') as a cross-reference for searching purposes.

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2004–19448; Directorate Identifier 2004–NM–134–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each