Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance previously approved according to AD 97–05–08 are acceptable for compliance with the corresponding requirements of this AD.

Note 7: 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

(t) Special flight permits may be issued according to 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 April 25, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–10728 Filed 4–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–67–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747SP, 747SR, 747–100, 747–200, and 747–300 Series Airplanes; Equipped with Pratt & Whitney Model JT9D–3, –7, and –7Q Series Engines and Model JT9D–7R4G2 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 747SP, 747SR, 747–100, 747–200, and 747–300 series airplanes, that would have superseded an existing AD that currently requires repetitive operational tests of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, and correction of any discrepancy found. The proposed AD also would have required installation of a terminating modification, and repetitive functional tests of that installation to detect discrepancies, and repair if necessary. This new action revises the proposed rule by removing airplanes from the applicability and adding new requirements. The actions specified by this new proposed AD are intended to ensure the integrity of the fail-safe features of the thrust reverser system by preventing possible failure modes in the thrust reverser control system that can result in inadvertent deployment of a thrust reverser during flight. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 27, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–67–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–67–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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: Dan Kinney, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6499; fax (425) 917–6590.

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 action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–67–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–67–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 747SP, SR, –100, –200, and –300 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 26, 2000 (65 FR 4179). That NPRM proposed to supersede AD 95–16–02, amendment 39–9321 (60 FR 39631, August 3, 1995), which is applicable to certain Boeing Model 747SP, SR, –100, –200, and –300 series airplanes. That NPRM would have continued to require repetitive operational tests of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, and correction of any discrepancy found. That NPRM also would have added installation of a terminating modification, and repetitive functional tests of that installation to detect discrepancies, and repair, if necessary. That NPRM was prompted by the results of a safety review of the

thrust reverser systems on Model 747 series airplanes. The integrity of the fail-safe features of the thrust reverser system, if not maintained, could result in possible failure modes in the thrust reverser control system and inadvertent deployment of a thrust reverser during flight.

New Relevant Service Information

Since the issuance of that NPRM, the FAA has reviewed and approved Boeing Service Bulletins 747–78–2152, Revision 5, dated June 14, 2001; and Revision 6, dated October 24, 2002 (Boeing Service Bulletins 747–78–2152, Revision 1, dated December 12, 1996; Revision 2, dated December 18, 1997; and Revision 3, dated August 26, 1999; were referenced in the original NPRM as the appropriate sources of service information for the accomplishment of certain actions). Revision 4 of the service bulletin describes procedures for additional rework for airplanes that have a three-step clutch assembly pack located in the flight deck control stand. Those airplanes must be reworked to a two-step clutch in order for the microswitch pack, as specified in Revisions 1, 2, and 3 of the service bulletin, to function correctly. Revision 5 of the service bulletin describes further rework procedures for airplanes previously modified, and removes two airplanes from the effectivity. Revision 6 of the service bulletin describes additional procedures for modifying the sync lock by adding a new bolt, washer, and nut to the clamp-up. Accomplishment of the actions specified in Revision 5 or Revision 6 of the service bulletin is intended to adequately address the unsafe condition.

Comments

Due consideration has been given to the comments received in response to the NPRM. Certain comments have resulted in changes to the NPRM that are reflected in this supplemental NPRM. Certain other comments that are still relevant but have not resulted in any change to the NPRM will also be addressed in this supplemental NPRM.

Request To Delay Release of Final Rule

One commenter asks that the FAA delay the release of the final rule. The commenter states that it started doing the modification specified in the proposed AD but had some problems implementing the procedures specified in Revisions 1, 2, and 3 of Boeing Service Bulletin 747–78–2152. The commenter adds that airplanes having old microswitch packs and thrust lever clutch pack two-step cams cannot be modified per the procedures in these service bulletins.

The FAA delayed release of the final rule until the service bulletin was revised, reviewed, and approved, and we are now issuing this supplemental NPRM to require Revisions 5 and 6 of the service bulletin, which contain the correct procedures for airplanes having the old microswitch packs and thrust lever clutch pack two-step cams. Paragraph (c)(3) of this supplemental NPRM has been changed to require Revisions 5 and 6 for accomplishment of the installation of an additional locking system on each thrust reverser.

Request To Change Compliance Time

One commenter asks that the compliance time specified in paragraph (c) of the NPRM be extended from 36 to 48 months. The commenter states that previous accomplishment of AD 94–10–10, amendment 39–8917 (59 FR 26105, June 20, 1994), and AD 95–16–02 has provided interim protection against in-flight deployment of the thrust reversers. The commenter adds that, taking into account the accomplishment of those ADs and the ''increased controllability'' of the Model 747 airplane, the compliance time should be increased to 48 months to match the time that was required to accomplish similar ADs on Model 767 series airplanes.

We acknowledge that accomplishment of the actions required by AD 94–10–10 and AD 95–16–02 provides an added level of protection against in-flight deployment of the thrust reversers, and substantiating data from the manufacturer indicate that extending the compliance time from 36 to 48 months will have a minimal, but acceptable, impact on safety. Therefore, we agree that the compliance time for paragraph (c) of this supplemental NPRM may be extended to 48 months, to maintain an adequate level of safety in the fleet. We have revised paragraph (c) of this supplemental NPRM accordingly.

Request To Change Applicability

One commenter states that the applicability paragraph in the NPRM omits references to Pratt & Whitney JT9D–7A and –7J engine models, and asks if this is an oversight.

We infer that the commenter wants us to specifically identify JT9D–7A and –7J engine models in the applicability section of the NPRM. We do not agree that such a specification is necessary. The applicability statement of this supplemental NPRM refers to airplanes powered by Pratt & Whitney engines as specified in Boeing Service Bulletin 747–78–2152, and the service bulletin clearly identifies all affected airplanes, including those having JT9D–7A and –7J engines. We have, however, clarified the applicability section to show that the –7 and –7Q series engines encompass the engine series that includes the –7A and –7J engine models.

Request To Change Cost Impact Section

One commenter, the manufacturer, asks that the Cost Impact section in the NPRM be updated. The commenter states that this section specifies that required parts for the wiring modifications would be provided by the manufacturer at no cost to the operators, but this was valid only until December 31, 1999. As of January 1, 2000, there is a charge for the kits required to do the modifications. For the modification specified in Boeing Service Bulletin 747–78–2134, the kit cost is approximately $21,600 per airplane. For the modification specified in Boeing Service Bulletin 747–78–2152, the kit cost is approximately $166,000 per airplane. The commenter adds that these costs are approximate because the actual costs vary with engine model and airplane effectivity.

We agree with the commenter, and we have revised the Cost Impact section in this supplemental NPRM accordingly.

Request To Remove Certain Requirements

One commenter asks that the ''Restatement of Requirements of AD 95–16–02'' and paragraph (c)(2) of the NPRM be removed. The commenter states that paragraph (c)(2) is a restatement of the requirements in AD 94–10–10. The commenter notes that the NPRM would require work currently mandated by those ADs, and repeating those requirements is redundant. The commenter prefers that the NPRM simply reference that those ADs must be complied with. Additionally, the commenter suggests that, after those sections are removed, paragraph (c) of the NPRM be changed to state, ''Accomplishment of the actions required by paragraphs (c)(1) and (c)(3) of this AD, along with accomplishment of the actions required by AD 94–10–10, constitutes terminating action for AD 95–16–02.''

We partially agree with the commenter. Paragraphs (a) and (b) of the NPRM—the ''Restatement of Requirements of AD 95–16–02''—merely repeat the actions that were previously mandated by AD 95–16–02, which this supplemental NPRM proposes to supersede. The intent of including these paragraphs is to ensure

that the currently required repetitive tests continue to be done until the terminating modifications specified in paragraph (c) of this supplemental NPRM are installed. We have, however, added a new Note 2 to this supplemental NPRM for clarification.

Paragraph (c)(2) of the supplemental NPRM, to be done per Revision 5 of Boeing Service Bulletin 747–78–2152, does restate the requirements for the modification required by AD 94–10–10, which is to be done per Revision 3 of the service bulletin. However, as specified in the revised service information section above, airplanes having old microswitch packs and thrust lever clutch pack two-step cams cannot be modified per the procedures in Revision 3 of the service bulletin. If the modification has already been done on airplanes that do not have the old microswitch packs and thrust reverser clutch pack two-step cams, it does not have to be repeated.

New Dispatch Limitations

Paragraphs (e) and (f) have been added to this supplemental NPRM and would allow the option to dispatch an airplane with one thrust reverser deactivated and operate the airplane for up to 10 days with one thrust reverser deactivated. This option would be allowed in the event of unsuccessful accomplishment of the repetitive inspections and tests specified in paragraphs (a) and (b) of this AD or installation of a spare thrust reverser assembly with a different configuration than that installed on the other engines of the airplane.

Explanation of Requirements of Supplemental NPRM

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, this supplemental NPRM would supersede AD 95–16–02 to continue to require repetitive operational tests of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, and correction of any discrepancy found. This supplemental NPRM also would add installation of a terminating modification, and repetitive functional tests of that installation to detect discrepancies, and repair, if necessary. The new action would require accomplishment of the installation of an additional locking system on each thrust reverser, as specified in the service bulletins described previously, except as discussed below.

Differences Between Supplemental NPRM and Boeing Service Bulletin 747–78–2152

The service bulletin recommends no specific compliance time for accomplishment of the additional locking system installation, but we have determined that an unspecified compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, the time necessary to perform the installation, and comments received. In light of all of these factors, we find a 48-month compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Although the service bulletin does not specify repetitive functional testing of the additional lock installation following accomplishment of that installation, we have determined that repetitive functional tests of the additional lock installation on each thrust reverser, at intervals not to exceed 3,000 flight hours, will support continued operational safety of thrust reversers with actuation system locks.

Conclusion

Since these changes expand the scope of the originally proposed rule, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 455 airplanes of the affected design in the worldwide fleet. The FAA estimates that 218 airplanes of U.S. registry would be affected by this proposed AD.

The operational tests that are currently required by AD 95–16–02, and retained in this AD, take approximately 16 work hours (4 per engine) per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $960 per airplane, per test cycle.

It would take approximately 544 work hours per airplane, to accomplish the proposed wiring modifications, at an average labor rate of $60 per work hour. Required parts would cost approximately $21,600 per airplane. Based on these figures, the cost impact of the wiring modifications proposed by this AD on U.S. operators is estimated to be $11,824,320, or $54,240 per airplane.

It would take approximately 104 work hours (26 per engine) per airplane to accomplish the proposed removal of the thrust reverser sequencing mechanism and installation of a solenoid-operated shutoff valve, at an average labor rate of $60 per work hour. The cost of required parts is minimal. Based on these figures, the cost impact of the removal and installation proposed by this AD on U.S. operators is estimated to be $1,360,320, or $6,240 per airplane.

It would take approximately 568 work hours per airplane to accomplish the proposed sync lock hardware installation, at an average labor rate of $60 per work hour. Required parts would cost approximately $166,000 per airplane. Based on these figures, the cost impact of the installation proposed by this AD on U.S. operators is estimated to be $43,617,440, or $200,080 per airplane.

It would take approximately 8 work hours (2 per engine) per airplane to accomplish the functional test, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the functional test proposed by this AD on U.S. operators is estimated to be $104,640, or $480 per airplane, per test cycle.

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. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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 removing amendment 39–9321 (60 FR 39631, August 3, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–67–AD. Supersedes AD 95–16–02, amendment 39–9321.

Applicability: Model 747SP, 747SR, 747–100, 747–200, and 747–300 series airplanes; equipped with Pratt & Whitney Model JT9D–3, –7, and –7Q series engines and Model JT9D–7R4G2 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 request approval for an alternative method of compliance in accordance with paragraph (g)(1) 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 ensure the integrity of the fail-safe features of the thrust reverser system by preventing possible failure modes in the thrust reverser control system that can result in inadvertent deployment of a thrust reverser during flight, accomplish the following:

Restatement of Requirements of AD 95–16–02

Operational Test

(a) Within 90 days after September 5, 1995 (the effective date of AD 95–16–02, amendment 39–9321), perform an operational test of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, in accordance with Boeing Alert Service Bulletin 747–78A2131, dated September 15, 1994. Repeat the test thereafter at intervals not to exceed 2,000 flight hours until accomplishment of paragraph (c) of this AD.

Note 2: Paragraph (a) of this AD merely restates the requirements of paragraph (a) of AD 95–16–02. The intent of including this paragraph is to ensure that the currently required repetitive tests continue to be done until the terminating modifications specified in paragraph (c) of this AD are installed.

Corrective Action

(b) If any of the tests required by paragraph (a) of this AD cannot be successfully performed, or if any discrepancy is found during those tests, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Prior to further flight, correct any discrepancy found, in accordance with Boeing Alert Service Bulletin 747–78A2131, dated September 15, 1994. Or

(2) The airplane may be operated in accordance with the provisions and limitations specified in an operator's FAA-approved Minimum Equipment List (MEL), provided that no more than one thrust reverser on the airplane is inoperative.

New Requirements of This AD

Modifications

(c) Within 48 months after the effective date of this AD, accomplish the requirements of paragraphs (c)(1), (c)(2), and (c)(3) of this AD. Accomplishment of the actions required by this paragraph constitutes terminating action for the repetitive tests required by paragraph (a) of this AD.

(1) Install provisional wiring for the additional locking system on the thrust reversers, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2134, Revision 3, dated March 19, 1998.

(2) Remove the thrust reverser sequencing mechanism and install a solenoid-operated shutoff valve in accordance with Boeing Service Bulletin 747–78–2052, Revision 5, dated February 22, 1996.

(3) Install an additional locking system on each thrust reverser in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2152, Revision 5, dated June 14, 2001; or Revision 6, dated October 24, 2002.

Repetitive Tests

(d) Within 3,000 flight hours after accomplishment of paragraph (c) of this AD: Perform a functional test to detect discrepancies of the additional locking system on each thrust reverser in accordance with the procedures described in the Boeing 747 Airplane Maintenance Manual (AMM), Section 78–34–11, dated October 25, 1997. Prior to further flight, correct any discrepancy detected and repeat the functional test of that repair in accordance with the procedures described in the AMM. Repeat the functional tests thereafter at intervals not to exceed 3,000 flight hours.

Dispatch Limitations

(e) If, after incorporation of the modification required by paragraph (c)(3) of this AD on any airplane, it becomes necessary to install a thrust reverser assembly that does not have the additional locking system installed, dispatch of the airplane is allowed in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List, provided that the thrust reverser assembly that does not have the additional locking system installed is deactivated in accordance with Section 78–1 of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 25, dated July 26, 2002. No more than one thrust reverser on any airplane may be deactivated under the provisions of this paragraph. Within 10 days after deactivation of the thrust reverser, install a thrust reverser assembly that has the additional locking system installed and reactivate the thrust reverser.

(f) If, prior to incorporation of the modification required by paragraph (c)(3) of this AD on any airplane, it becomes necessary to install a thrust reverser assembly that has the additional locking system installed, dispatch of the airplane is allowed in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List, provided that the thrust reverser assembly that has the additional locking system installed is deactivated in accordance with Section 78–1 of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 25, dated July 26, 2002. No more than one thrust reverser on any airplane may be deactivated under the provisions of this paragraph. Within 10 days after deactivation of the thrust reverser, install a thrust reverser assembly that does not have the additional locking system installed and reactivate the thrust reverser.

Alternative Methods of Compliance

(g)(1) 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. 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.

(2) Alternative methods of compliance, approved previously in accordance with paragraphs (a) and (b) of AD 95–16–02, amendment 39–9321, are approved as alternative methods of compliance with the corresponding paragraphs in this AD.

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

(h) 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 April 25, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–10727 Filed 4–30–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 630

[FHWA Docket No. FHWA–1997–2262; Formerly FHWA 95–10]

RIN 2125–AD59

Advance Construction of Federal-Aid Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to amend the regulation for advance construction of Federal-aid projects by removing the provisions that prescribe the policies and procedures for the execution of the project agreement for Federal-aid projects and for advancing the construction of Federal-aid highway projects without obligating Federal funds apportioned or allocated to the States. These provisions are no longer consistent with section 115 of title 23, United States Code (U.S.C.), due to technical amendments provided in the National Highway System Designation Act of 1995 (NHS Act) and the Transportation Equity Act for the 21st Century (TEA–21).

DATES: Comments must be received on or before June 30, 2003.

ADDRESSES: Mail or hand deliver comments for the docket number that appears in the heading of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, or submit electronically at *http://dms.dot.gov/submit.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgement page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the U.S. DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Max Inman, Federal-aid Financial Management Division, (202) 366–2853, or Mr. Steve Rochlis, Office of the Chief Counsel, (202) 366–1395, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

Background

The FHWA published an interim final rule on part 630, subpart G on July 19, 1995, at 60 FR 36991. Interested persons were invited to submit comments to FHWA Docket No. 95–10. (The FHWA rearranged its docket system to accord with the electronic system adopted by the Department of Transportation in 1997. The FHWA Docket No. 95–10 was transferred and scanned as FHWA Docket No. 1997–2262.)

Section 115 of title 23, U.S.C., provides for the authorization of advance construction projects. This statute allows States to advance the construction of Federal-aid highway projects without requiring that Federal funds be obligated at the time the FHWA approves the project. States may proceed with projects using only State funds and then request that Federal funds be made available at a later time. The State may request that a project be converted to a regular Federal-aid project at any time provided that sufficient Federal-aid funds and obligation authority are available. The State may request a partial conversion where only a portion of the Federal share of project costs is obligated and the remainder may be converted at a later time provided that funds are available. Only the amount converted is an obligation of the Federal Government.

Section 308 of the NHS Act (Pub. L. 104–59, 109 Stat. 568, November 28, 1995) replaced 23 U.S.C. 115(d), relating to the amount of advance construction that may be authorized. The previous limitation required that future year authorizations be in effect one year beyond the fiscal year for which an advance construction application was sought, thus limiting that States' flexibility to advance construct projects during the final year of an authorization act. The NHS Act replaced the limitation with a requirement that advance construction projects be on the approved Statewide Transportation Improvement Program (STIP). The STIP covers a period of at least three years and is a financially constrained program which is not limited to the period of the authorization act. This change provided the States with more flexibility in financing projects and developing financial plans which in turn allows more projects to begin construction earlier.

The FHWA regulation governing the pre-construction procedures is found at 23 CFR part 630. Currently, § 630.707 outlines the limitations are no longer in effect after the changes made to title 23, U.S.C., section 115(d) by the NHS Act. Therefore, the FHWA proposes to remove § 630.707.

Section 1226(a) of the TEA–21, Pub. L. 105–178, 112 Stat. 107 (1998), as amended by Pub. L. 105–206, 112 Stat. 838 (1998), revised 23 U.S.C. 115 by removing subsections (b)(2) and (b)(3) relating to payment of bond interest on certain Interstate construction projects because it is obsolete; removed subsection (c) relating to completion of projects; and redesignated subsection (d) as (c). Based on changes in the law, the FHWA proposes to remove § 630.705 (c), § 630.705 (d) and