

under a higher threat level. This has often resulted in a dramatic increase in the time persons must wait to enter the United States at a land port-of-entry. The increased wait times result in increased release of emissions from vehicles into the communities surrounding the ports and impact the economy as the amount of trade and travel between the United States and its neighbors is decreased. The heightened security measures have required the inspection services to stretch scarce resources. AIS programs alleviate these harms by allowing quicker passage through the port and by allowing the government to focus inspection resources on higher risk travelers. Accordingly, the Service finds that it is impracticable and contrary to the public interest to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553. This rule will be effective immediately upon publication under 5 U.S.C. 553(d)(1) because the rule relieves the burden on the program participant of having to file an application and pay a fee on a yearly basis. This benefits both the traveling public and the government by decreasing the workload at the enrollment center and alleviating the backlog of pending applications. In addition the good cause exception at 5 U.S.C. 553(d)(3) also permits the rule to become effective immediately for the reasons stated above.

#### **Regulatory Flexibility Act**

Although some of the enrollees in the AIS programs may be considered small entities, the majority of the travelers participating in the AIS programs are individuals who cross the border frequently for a variety of reasons, both business and personal. The intent of this rule is to reduce the burden on all of the participants in the AIS programs by eliminating the requirement of having to file an application annually and by reducing the cost to the participant. Accordingly, the Acting Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this interim rule and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100 million or more in any one-year, and it will not significantly or uniquely affect small

governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### **Executive Order 12866**

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

The Service has assessed both the costs and benefits of this rule required by section 1(b)(6) of Executive Order 12866 and has made a reasonable determination that as previously stated in the "Good Cause Exception" that the intent of this rule is to reduce the burden on all of the participants in the AIS programs by eliminating the requirement of having to file an application annually and by reducing the cost to the participant. This will also reduce the strenuous workload of the Service in having to re-enroll thousands of applicants each year.

#### **Executive Order 13132**

This rule will 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 section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### **Executive Order 12988 Civil Justice Reform**

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **Paperwork Reduction Act**

The Form I-823, Application—Alternative Inspection Services, is used for enrolling applicants in the AIS programs. This form has previously been approved for use by the Office of Management and Budget (OMB). The OMB control number for this collection is 1115-0174.

#### **List of Subjects in 8 CFR Part 235**

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

#### **PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION**

1. The authority citation for part 235 continues to read as follows:

**Authority:** 8 U.S.C. 1101 and note, 1103, 1183, 1201, 1224, 1225, 1226, 1228; 8 CFR part 2.

#### **§ 235.7 [Amended]**

2. Section 235.7(a)(4)(xi) is amended in the first sentence by revising the phrase "1 year" to read: "2 years".

Dated: January 29, 2003.

**Michael J. Garcia,**

*Acting Commissioner, Immigration and Naturalization Service.*

[FR Doc. 03-5189 Filed 2-28-03; 3:03 pm]

**BILLING CODE 4410-10-P**

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Chapter I**

**[Docket No. FAA-2003-14578]**

#### **Aviation Safety and Health Partnership Program**

**AGENCY:** Federal Aviation Administration

**ACTION:** Notice of program establishment and request for comments.

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**SUMMARY:** By this notice, the Federal Aviation Administration (FAA) announces the creation of the air carrier Aviation Safety and Health Partnership Program (ASHPP). The FAA intends to enter into partnership agreements with participating air carriers, which will provide, at minimum, air carrier employee injury and illness data to the FAA for collection and analysis. The FAA will establish an Aviation Safety and Health Program (ASHP) Aviation Rulemaking Committee to provide advice and recommendations to:

- a. Develop the scope and core elements of the partnership program agreement,

b. Review and analyze the employee injury and illness data,

c. Identify the scope and extent of systematic employee injury and illness trends,

d. Make recommendations to the FAA concerning remedies that uses all current FAA protocols, including rulemaking activities if warranted, to abate employee hazards, and

e. Any other advisory and oversight functions deemed necessary by the FAA.

The FAA invites air carriers interested in entering into an ASHPP to respond in accordance with this notice.

Additionally, the FAA invites persons interested in serving on the ASHP Aviation Rulemaking Committee to request membership in accordance with this notice. The FAA will select members to provide a balance of viewpoints, interests, and expertise. Membership on the committee may be limited to facilitate discussions and maintain a balance of interests. This program preserves FAA's complete and exclusive responsibility for determining whether proposed abatements of safety and health hazards would compromise or negatively affect aviation safety.

**DATES: Membership:** Air carriers interested in participating in the voluntary ASHPP with the FAA should submit their intentions and the name and contact information of their representative before March 31, 2003. Air carriers belonging to a trade organization may elect to be represented by that organization. Air carrier trade associations, air carrier employee unions and other persons interested in participating on the ASHP Aviation Rulemaking Committee should submit their request on or before March 31, 2003. Selected committee members will be advised, in writing, of their participation and first meeting details.

**Comments:** The FAA will consider all comments on this ASHP Aviation Rulemaking Committee filed on or before May 30, 2003. We will consider comments filed late if it is possible to do so without incurring expense or delay.

**ADDRESSES: Membership:** People that request membership or participation in the ASHP Aviation Rulemaking Committee should contact the person listed below under **FOR FURTHER INFORMATION CONTACT**.

**Comments:** Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify docket number FAA-2003-14578 at the beginning of your

comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

You may also submit comments through the Internet at <http://dms.dot.gov>. You may review the public docket containing comments to the ASHP Aviation Rulemaking Committee, in person, in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review comments made to this public docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Gene Kirkendall, AFS-200W, rm. 831, 800 Independence Ave., SW., Washington, DC 20591, (202) 267-7074, facsimile at (202) 267-5229, or by email: [Gene.Kirkendall@FAA.GOV](mailto:Gene.Kirkendall@FAA.GOV)

**SUPPLEMENTARY INFORMATION:**

**Background**

The joint FAA and Occupational Safety and Health Administration (OSHA) Aviation Safety and Health Team (ASHT) was established by a Memorandum of Understanding (MOU) between the two agencies in August 2000. The MOU directed the team to determine whether certain OSHA requirements could be applied to the working conditions of employees on aircraft in operation (other than flightdeck crew) without compromising aviation safety. The ASHT produced a report that outlined several legal, enforcement, compliance, and aviation safety issues that prevented the team from recommending jurisdiction over the working environment of employees on aircraft in operation be granted or ceded to OSHA. The team also identified a lack of reliable empirical data concerning injury and illness hazards on aircraft in operation necessary to justify any rulemaking activities at that time. The ASHT recognized that the overall safety of air carrier operations dictates that the FAA play an active role in the application of any safety and health standards and recommended abatements if they were to be applied to the working conditions of employees on aircraft in operation. The team developed an action plan that created the FAA ASHP and proposed that air carriers voluntarily enter into an ASHPP with the FAA. These documents and other ASHP information may be

obtained on the FAA, ASHP Web site at [www.faa.gov/avr/afs/osha/ashp.cfm](http://www.faa.gov/avr/afs/osha/ashp.cfm).

The ASHPP proposes that air carriers voluntarily provide selected safety and health protections for employees currently not covered by OSHA, establish a steering committee consisting of members from FAA, air carriers, and employee unions, and contain evaluation criteria to assert program effectiveness. The program would also preserve the FAA's preeminent authority over aviation safety issues by reserving to the FAA complete and exclusive responsibility for determining whether proposed abatements of safety and health hazards would compromise or negatively affect aviation safety. The ASHPP would include electronic web based procedures for air carriers to report employee injury and illness information, thereby enabling FAA to obtain the required data. This data will be used to determine if FAA should take additional measures, including rulemaking activities, to address safety and health issues in air carrier operations. The initial plan focused on those employees whose workplace was on aircraft in operation (other than flightdeck crew). Limiting the data collection to only one employee work group would exclude other air carrier employees, such as pilots, mechanics and ramp personnel, whose working conditions are or may also be preempted from OSHA coverage under section 4(b)(1) of the OSH Act. Therefore, at the discretion of the committee, the scope of the employee injury and illness data collection under the partnership program may be expanded to include other air carrier employees. This expansion of data collection would provide FAA with a more comprehensive assessment of the overall safety and health hazards present within the air carrier industry rather than limiting the data collection to specific air carrier employees or job functions.

**Public Participation in the ASHP Aviation Rulemaking Committee**

The FAA invites members of the public to serve on the ASHP Aviation Rulemaking Committee. The committee will serve as the steering committee, provide an oversight role, receive data evaluation results, and provide advice and recommendations to the FAA to assist the agency in determining if the FAA should take additional measures to address safety and health issues in air carrier operations. The committee acts solely in an advisory capacity. The committee will discuss and present input, guidance, and recommendations

considered relevant to the ultimate disposition of issues.

Because of the diversity and complexities of the air carrier industry, the committee will be structured with a steering committee with the FAA as the chairperson. The steering committee will consist of members selected by the FAA, including aviation associations, industry representatives, employee unions, the FAA and other government entities (such as OSHA), and other participants, to provide a balance of views, interests, and expertise. Membership on the committee will be limited to facilitate discussions. Priority will be given to those applicants representing an identified segment of the air carrier community who are empowered to speak for that segment.

Other subcommittees or work groups may be established if required.

All non-Government representatives serve without Government compensation and bear all costs related to their participation on the committee or work groups. Members and participants should be available to attend all scheduled committee or work group meetings for the duration of the committee activities.

The first meeting of the committee will be scheduled as soon as possible after the comment period is expired. Work groups will be scheduled as determined by the committee and work group members to provide information and meet schedule requirements.

Make your request to participate in the ASHPP and/or on the committee, in writing, on or before March 31, 2003. Your request should provide the following information:

- Contact information (name, company and position, address, phone, facsimile, and e-mail)
- Segment(s) of the industry or organization/association you represent
- Experience, subject expertise, or other background information

The FAA will notify all selected members and participants, in writing, in advance of the first meeting. Additional information on the committee, membership, dates, and other information may be obtained on the FAA ASHP Web site at <http://www.faa.gov/avr/afs/asha/ashp.cfm>.

Commenters should be as specific as possible and provide as much detail in comments as necessary to facilitate decisionmaking. The FAA anticipates that the comments provided in response to this voluntary ASHPP and ASHP Aviation Rulemaking Committee will assist the FAA in considering options to address and enhance the safety and

health of employees in the air carrier industry.

Issued in Washington, DC on February 26, 2003.

**Louis C. Cusimano,**

*Deputy Director, Flight Standards Service.*

[FR Doc. 03-5000 Filed 3-3-03; 8:45 am]

**BILLING CODE 4910-13-U**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-23-AD; Amendment 39-13059; AD 2003-04-11]

RIN 2120-AA64

#### **Airworthiness Directives; Boeing Model 747-200B and -200F Series Airplanes Powered by Pratt & Whitney JT9D-70 Series Engines**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-200B and -200F series airplanes powered by Pratt & Whitney JT9D-70 series engines, that requires repetitive detailed inspections of the pylon skin and internal structure of the nacelle struts adjacent to and aft of the precooler exhaust vent for heat damage (discoloration), wrinkling, and cracking; and corrective action, if necessary. The actions specified by this AD are intended to find and fix such damage, which could result in cracking or fracture of the nacelle struts, and consequent reduced structural integrity and possible separation of the strut and engine from the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective April 8, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 8, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### **FOR FURTHER INFORMATION CONTACT:**

Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6421; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Boeing Model 747-200B and -200F series airplanes powered by Pratt & Whitney JT9D-70 series engines was published in the **Federal Register** on November 27, 2002 (67 FR 70875). That action proposed to require repetitive detailed inspections of the pylon skin and internal structure of the nacelle struts adjacent to and aft of the precooler exhaust vent for heat damage (discoloration), wrinkling, and cracking; and corrective action, if necessary.

#### **Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

#### **Explanation of Editorial Change**

We have changed the service bulletin citation throughout this final rule to exclude the Evaluation Form. The form is intended to be completed by operators and submitted to the manufacturer to provide input on the quality of the service bulletin; however, this AD does not include such a requirement.

#### **Conclusion**

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

#### **Cost Impact**

There are approximately 7 airplanes of the affected design in the worldwide fleet. The FAA estimates that 6 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the inspection, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$2,880, or \$480 per airplane, per inspection cycle.