

# Proposed Rules

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-19140; Directorate Identifier 2004-NM-84-AD]

RIN 2120-AA64

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

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 757 series airplanes. This proposed AD would require repetitive inspections for corrosion and cracking of the midspar fittings in the nacelle struts, and corrective actions if necessary. This action also provides an optional terminating action for the repetitive inspections. This proposed AD is prompted by reports of corrosion and cracking on midspar fittings on the nacelle struts of several Boeing Model 757 series airplanes. We are proposing this AD to detect and correct cracking in the midspar fittings of the nacelle struts, consequent reduced structural integrity of the struts, and possible separation of an engine and strut from the airplane.

**DATES:** We must receive comments on this proposed AD by November 5, 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.

You can get the service information identified in this proposed AD from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207.

You may 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:

Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6450; fax (425) 914-6590.

#### 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-2004-19140; Directorate Identifier 2004-NM-84-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://](http://dms.dot.gov)

[dms.dot.gov](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 that 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 may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may 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 may examine the AD docket 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

We have received reports of corrosion and cracking on midspar fittings on the nacelle struts of several Boeing Model 757 series airplanes. Investigation revealed that the fittings were made from 4330M material. Corrosion may cause pits that result in cracking of the midspar fittings. This condition, if not corrected, could result in reduced structural integrity of the struts, and possible separation of an engine and strut from the airplane.

#### Other Related Rulemaking

On August 29, 2003, we issued AD 2003-18-05, amendment 39-13296 (68 FR 53496, September 11, 2003), applicable to certain Boeing Model 757 series airplanes powered by Pratt & Whitney engines. That AD requires

modifying the nacelle strut and wing structure at a threshold of 37,500 total flight cycles or 20 years, whichever is first. That AD is part of the manufacturer's nacelle strut improvement program. The newly reported cracking of the midspar fittings that prompted this proposed AD occurred at approximately 29,700 total flight cycles and 18 years—below the compliance time threshold for the modifications required by AD 2003–18–05. If the modifications required by AD 2003–18–05 have been accomplished, operators do not need to do the inspections required by this proposed AD. The nacelle strut modification required by AD 2003–18–05 includes replacing the midspar fittings. This proposed AD does not affect the requirements of AD 2003–18–05.

**Relevant Service Information**

We have reviewed Boeing Special Attention Service Bulletin 757–54–0042, dated May 13, 1999, which describes various procedures for repetitive visual and detail visual inspections of the midspar fittings located in the nacelle struts for evidence of corrosion and cracking, and corrective actions. Evidence of corrosion includes rust stains around the cap seals; along the edge of the fittings; and on the skins, spars, and bulkheads.

The service bulletin effectivity is divided into two groups of airplanes, depending on the material used to make the midspar fittings. Group 1 airplanes have midspar fittings made exclusively of 4330M material, while Group 2 airplanes have fittings made of both 4330M material and 15–5PH CRES material. For both Group 1 and Group 2 airplanes, the procedures and corrective actions include:

- Doing visual and detail visual inspections of the midspar fittings.
- If no corrosion is found, applying corrosion inhibitor and repeating the inspections at the times specified in the service bulletin.
- If corrosion is found and the fitting is not replaced before further flight,

removing the clip from the affected strut and repeating the inspections at the times specified.

- If corrosion is found and the fitting is replaced before further flight, either modifying only the strut, or the wing and strut together, in accordance with the Accomplishment Instructions in Boeing Service Bulletin 757–54–0034, Revision 1, dated October 11, 2001.
- If no cracking is found, doing repetitive visual inspections of the upper and lower tangs of the midspar fittings at the intervals specified.
- If any cracking is found, replacing the fitting before further flight by either modifying only the strut, or the wing and strut together, in accordance with the Accomplishment Instructions in Boeing Service Bulletin 757–54–0034.

For Group 2 airplanes, there is an additional procedure for identifying the material used to make each fitting.

Accomplishment of the actions specified in Boeing Special Attention Service Bulletin 757–54–0042 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 airplanes of this same type design. Therefore, we are proposing this AD, which would require repetitive inspections for corrosion and cracking of the midspar fittings in the nacelle struts, and corrective actions if necessary. The 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 Service Information." The proposed AD also provides an optional terminating action for the repetitive inspections.

**Differences Between the Proposed AD and Service Information**

The service bulletin states that airplanes with any corroded midspar fitting may continue to fly for up to 18

months before replacing an affected fitting, if repetitive inspections are done at intervals of 300 flight cycles. Neither the referenced service bulletin, Boeing Special Attention Service Bulletin 757–54–0042, nor the Boeing 757 Structural Repair Manual, provide instructions for removing corrosion from these midspar fittings. Operators are allowed to make specific proposals for an alternative method of compliance through the provisions of paragraph (l) of this proposed AD. In the absence of established or acceptable methods of removing corrosion on midspar fittings, this proposed AD would require replacing any corroded midspar fitting before further flight. Continued operation with untreated corrosion can lead to cracking that emanates from a corrosion pit. This is especially true for a high strength steel like 4330M.

For Group 2 airplanes, the service bulletin states that, if there is a mixture of midspar fittings made of 15–5PH CRES material and 4330M material, regular zonal inspections may be done for airplanes less than ten years old. This proposed AD would require repetitive detailed inspections for all fittings made of 4330M material at 18-month intervals since all affected airplanes are at least ten years old.

The manufacturer is aware of these differences and concurs.

**Clarification of Inspection Terminology**

Boeing Special Attention Service Bulletin 757–54–0042 specifies visual and detail visual inspections of the midspar fittings. This proposed AD requires general visual and detailed inspections of the midspar fittings. Notes 1 and 2 have been included in this proposed rule to define these types of inspections.

**Costs of Compliance**

This proposed AD would affect about 410 airplanes worldwide. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle.	3	\$65	None .....	\$195, per inspection cycle.	338	\$65,910, per inspection cycle

**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 adding the following new airworthiness directive (AD):

**Boeing:** Docket No. FAA-2004-19140; Directorate Identifier 2004-NM-84-AD.

#### Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by November 5, 2004.

#### Affected ADs

(b) This AD is related to AD 2003-18-05, amendment 39-13296.

#### Applicability

(c) This AD applies to Boeing Model 757 series airplanes, line numbers 1 through 639 inclusive, powered by Pratt & Whitney engines; certificated in any category.

#### Unsafe Condition

(d) This AD was prompted by reports of corrosion and cracking on midspar fittings on the nacelle struts of several Boeing Model 757 series airplanes. We are issuing this AD to detect and correct cracking in the midspar fittings of the nacelle struts, consequent reduced structural integrity of the struts, and possible separation of an engine and strut from 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.

#### Inspections for Group 1 Airplanes

(f) For airplanes identified as Group 1 in Boeing Special Attention Service Bulletin 757-54-0042, dated May 13, 1999: Within 18 months after the effective date of this AD, do general visual and detailed inspections for evidence of corrosion and/or cracking of the midspar fittings located in the nacelle struts, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-54-0042, dated May 13, 1999. Repeat the inspections thereafter at intervals not to exceed 18 months until the requirements of paragraph (j) are accomplished.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: "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."

#### Inspections for Group 2 Airplanes

(g) For airplanes identified as Group 2 in Boeing Special Attention Service Bulletin 757-54-0042, dated May 13, 1999: Within 18 months after the effective date of this AD, do a general visual inspection to identify the type of material the midspar fittings are made from, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-54-0042, dated May 13, 1999.

(1) If all four midspar fittings are made of 15-5PH CRES material, no further action is required by this AD.

(2) If any midspar fitting is made of 4330M material, do the inspections required by paragraph (h) of this AD.

(h) For Group 2 airplanes with fittings made of 4330M material: After the inspection required by paragraph (g) of this AD, but before further flight: Do a general visual and a detailed inspection of the 4330M midspar fittings for evidence of corrosion and/or cracking, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-54-0042, dated May 13, 1999. Repeat the inspections for corrosion and/or cracking thereafter at intervals not to exceed 18 months until the requirements of paragraph (j) of this AD are accomplished.

#### Corrective Actions

(i) For Group 1 and Group 2 airplanes: If any corrosion or cracking is found during any inspection required by paragraph (f) or (h) of this AD, before further flight, replace the affected midspar fitting with a new midspar fitting by accomplishing all of the applicable actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-54-0042, dated May 13, 1999. Replacement of an affected midspar fitting terminates the repetitive inspections required by paragraphs (f) and (h) of this AD for that fitting only.

#### Optional Terminating Action

(j) Replacement of all of the midspar fittings with new midspar fittings in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757-54-0042, dated May 13, 1999, terminates the repetitive inspections required by paragraphs (f) and (h) of this AD.

#### Actions Accomplished Previously

(k) Accomplishment of the nacelle strut and wing modification required by AD 2003-18-05, amendment 39-13296, is considered acceptable for compliance with the requirements of this AD.

#### Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle Aircraft Certification Office (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 replacement 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.

Issued in Renton, Washington, on September 13, 2004.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-21176 Filed 9-20-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG-138176-02]

RIN 1545-BA99

#### Timely Mailing Treated as Timely Filing

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations amending a Treasury Regulation to provide that, other than direct proof of actual