

# 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. 97-ANE-05-AD]

RIN 2120-AA64

#### Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

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

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

**SUMMARY:** The Federal Aviation Administration (FAA) proposes to supersede an existing airworthiness directive (AD), that is applicable to Pratt & Whitney JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR turbofan engines. That AD currently requires a determination of the utilization rate and protective coating type of the 7th, 8th, 9th, 10th, 11th, and 12th stage high pressure compressor (HPC) disks, and removal, inspection for corrosion, and recoating of those HPC disks based on utilization rate. This proposal would require removal and replacement of protective coating of 7th, 8th, 9th, 10th, 11th, and 12th stage HPC disks, initial and repetitive inspections for corrosion pits and cracks, and removal from service as required. This proposal is prompted by operator reports of cracks found on several JT8D steel HPC disks since the existing AD was published. The actions specified in the proposed AD are intended to prevent fracture of the HPC disks, which can result in uncontained release of engine fragments, inflight engine shutdown, and airframe damage.

**DATES:** Comments must be received by March 25, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97-ANE-05-AD, 12 New England Executive Park,

Burlington, MA 01803-5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-6600, fax (860) 565-4503. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

#### FOR FURTHER INFORMATION CONTACT:

Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7175; fax (781) 238-7199.

#### 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 should 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.

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 97-ANE-05-AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97-ANE-05-AD, 12 New England Executive Park, Burlington, MA 01803-5299.

#### Discussion

On May 29, 1998, the FAA issued AD 98-12-07, Amendment 39-10563 (63 FR 31340, June 9, 1998), to supersede AD 94-20-01, Amendment 39-9020 (59 FR 49175, September 27, 1994). AD 98-12-07 requires a determination of the utilization rate and protective coating type of the 7th, 8th, 9th, 10th, 11th, and 12th stage HPC disks, and removal, inspection for corrosion, and recoating of those HPC disks based on utilization rate, and shortens the inspection interval for certain low utilization disks. That action was prompted by a report of an additional uncontained 9th stage HPC disk failure due to corrosion pitting. That condition, if not corrected, could result in uncontained release of engine fragments, inflight engine shutdown, and airframe damage.

Since that AD was issued, operators have found cracks on various JT8D steel HPC disks. Some of these cracks originate in the tierod hole area of the disk. The inspection intervals in AD 98-12-07 do not account for risk of fractures originating from tierod hole areas. This proposal is a result of a complete re-assessment of the risks associated with a disk fracture due to a corrosion pit. Since the tierod hole corrosion does not correlate well with the utilization rate of the disks, that calculation has been eliminated from the proposal. Also, because the thin-webbed 9th stage disk represents a higher risk of fracture than other part numbers, a tighter inspection interval has been assigned to those parts.

#### Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Pratt & Whitney Alert Service Bulletin (ASB) No. A6431, dated November 27, 2002, that describes procedures for initial and repetitive inspections to detect corrosion on HPC disks, and removal

from service of HPC disks corroded beyond serviceable limits. This ASB supersedes ASB No. 6038, referenced in AD 98-12-07.

#### **Differences Between This Proposal and the Manufacturer's Service Information**

Although PW ASB No. A6431 dated November 27, 2002, refers to the ASB issuance date for computing compliance intervals, this proposal calls for computing compliance intervals based on the effective date of the AD.

#### **FAA's Determination of an Unsafe Condition and Proposed Actions**

Since an unsafe condition has been identified that is likely to exist or develop on other Pratt & Whitney JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR turbofan engines of this same type design, the proposed AD would supersede AD 98-12-07 to require removal and replacement of coating of 7th, 8th, 9th, 10th, 11th, and 12th stage HPC disks, initial and repetitive inspections for corrosion pits and cracks, and removal from service as required. The actions are required to be done in accordance with the alert service bulletin described previously.

#### **Economic Analysis**

At the time of publication of AD 98-12-07, there were approximately 11,119 engines of the affected design in the worldwide fleet. The FAA estimated that 6,815 engines installed on aircraft of U.S. registry were affected by AD 94-20-01, and 2 work hours would be necessary to determine the utilization rate and type of surface treatment. Based on domestic fleetwide data, the FAA estimated that approximately 8.7% or 593 engines were considered to have low utilization rates. Approximately 8.6 work hours would be required to remove these engines from the aircraft, 500 work hours to tear down, deblade, and to reassemble the engine, and 8.6 work hours to reinstall the reassembled engines. The FAA estimated 69% of the removed engines would require scrapping the disks. The FAA assumed that 3 disks per engine may require replacement, and the cost of a new disk would be approximately \$7,000. The average labor rate is \$60 per work hour. Based on these figures, the total cost of AD 94-20-01 on U.S. operators was estimated to be \$ 14,279,542. The cost increase between AD 94-20-01 and the superseding AD, AD 98-12-07 was based on the increased inspections of some low utilization disks. The FAA estimated 31% of the low utilization disks required an additional inspection. The cost of these additional inspections

was estimated to be \$4,426,658. The cost increase between AD 98-12-07 and this proposal is based on the increased domestic fleet size that will be effected by this proposal. The FAA currently estimates the domestic fleet of engines affected by this AD to be 1,800 engines. This is an increase of 1,023 engines or 1.32 times the total number of engines effected by the two previous AD's. The total cost of the previous two AD's was \$18,706,200, therefore, the total cost of this AD is \$24,692,184, and the cost increase associated with this proposal is \$5,985,985.

#### **Regulatory Analysis**

This proposed rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with State authorities prior to publication of this proposed rule.

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 39-10563, (63 FR

31340 June 9, 1998), and by adding a new airworthiness directive:

**Pratt & Whitney:** Docket No. 97-ANE-05-AD. Supersedes AD 98-12-07, Amendment 39-10563.

**Applicability:** This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR turbofan engines. These engines are installed on, but not limited to Boeing 737 and 727 series, and McDonnell Douglas DC-9 series airplanes.

**Note 1:** This AD applies to each engine 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 engines 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 (d) 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:** Compliance with this AD is required as indicated, unless already done.

To prevent fracture of the 7th, 8th, 9th, 10th, 11th, and 12th stage high pressure compressor (HPC) disks, which can result in uncontained release of engine fragments, inflight engine shutdown, and airframe damage, do the following:

(a) Perform initial and repetitive inspections of HPC disks for corrosion pits and cracks after stripping the protective coating in accordance with the intervals and procedures specified in the compliance section and accomplishment instructions of PW Alert Service Bulletin (ASB) No. 6431, dated November 27, 2002.

(b) Before further flight, replace HPC disks found with corrosion pits or cracks beyond serviceable limits as defined by PW ASB No. 6431, dated November 27, 2002.

(c) For the purposes of this AD, use the effective date of this AD for computing compliance intervals whenever PW ASB No. A6431, dated November 27, 2002, refers to the issuance date of the ASB.

#### **Alternative Methods of Compliance**

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

#### **Special Flight Permits**

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197

and 21.199) to operate the airplanes to a location where the requirements of this AD can be done.

Issued in Burlington, Massachusetts, on January 16, 2003.

**Francis A. Favara,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 03-1543 Filed 1-23-03; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-126485-01]

RIN 1545-BA06

#### Statutory Mergers and Consolidations

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

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations; notice of public hearing; and withdrawal of previous notice of proposed rulemaking.

**SUMMARY:** In the rules and regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to transactions involving corporations engaging in statutory mergers and consolidations. The text of those regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations. This document also withdraws the notice of proposed rulemaking published in the **Federal Register** at 66 FR 57400 (REG-126485-01) on November 15, 2001.

**DATES:** Written or electronic comments and outlines of topics to be discussed at the public hearing scheduled for May 21, 2003 at 10 a.m. must be received by April 24, 2003.

**ADDRESSES:** Send submissions to: CC:ITA:RU (REG-126485-01), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-126485-01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at <http://www.irs.gov/regs>. The public hearing will be held in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Richard M. Heinecke or Reginald Mombrun at (202) 622-7930; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Guy R. Traynor, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background and Explanation of Provisions

On November 15, 2001, the IRS and Treasury published in the **Federal Register** at 66 FR 57400 a notice of proposed rulemaking (REG-126485-01) under section 368(a)(1)(A) of the Internal Revenue Code of 1986 (Code). Those proposed regulations are withdrawn.

Temporary regulations in the rules and regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 368(a)(1)(A). The temporary regulations set forth certain definitions and explanations with respect to certain transactions that qualify as statutory mergers and consolidations. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

##### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

##### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All

comments will be available for public inspection and copying.

A public hearing has been scheduled for May 21, 2003, beginning at 10 a.m. in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight copies) by April 24, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

##### Drafting Information

The principal author of these regulations is Richard M. Heinecke, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Withdrawal of Proposed Amendments

Accordingly, under the authority of 26 U.S.C. 7805, the proposed amendment to 26 CFR part 1 that was published in the **Federal Register** on Thursday, November 15, 2001 (66 FR 57400), is withdrawn.

##### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** In § 1.368-2, paragraph (b)(1) is revised to read as follows: