

Amendment Number 1 Effective Date: May 30, 2000.

SAR Submitted by: Pacific Sierra Nuclear Associates.

SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System.

Docket Number: 72-1007.

Certificate Expiration Date: May 7, 2013.

Model Number: VSC-24.

\* \* \* \* \*

Dated at Rockville, Maryland, this 12th day of April, 2000.

For the Nuclear Regulatory Commission.

**Frank J. Miraglia, Jr.,**

*Acting Executive Director for Operations.*

[FR Doc. 00-10392 Filed 4-26-00; 8:45 am]

BILLING CODE 7590-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-NM-56-AD; Amendment 39-11700; AD 2000-08-14]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 747 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires repetitive inspections or checks to detect broken H-11 steel bolts at the wing rear spar side-of-body on the lower chord splice plate and kick fitting; and corrective actions, if necessary. This AD also requires eventual replacement of the existing bolts with new Inconel bolts, which constitutes terminating action for the repetitive inspections. This amendment is prompted by a report of broken bolts at the wing rear spar side-of-body on the lower chord splice plate. The actions specified by this AD are intended to prevent cracking of the bolts due to stress corrosion, which could result in reduced structural integrity of the wing-to-body joint structure.

**DATES:** Effective June 1, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 1, 2000.

**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, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2771; fax (425) 227-1181.

#### 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 certain Boeing Model 747 series airplanes was published in the **Federal Register** on September 2, 1999 (64 FR 48120). That action proposed to require repetitive inspections or checks to detect broken H-11 steel bolts at the wing rear spar side-of-body on the lower chord splice plate and kick fitting; and corrective actions, if necessary.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### Request To Reference Revised Service Bulletin

One commenter requests that the FAA revise paragraph (d) of the notice of proposed rulemaking (NPRM) to allow accomplishment of the terminating action in accordance with either the original issue of Boeing Alert Service Bulletin 747-57A2309, dated February 25, 1999 (which is referenced as the appropriate source of service information in the NPRM), or Boeing Service Bulletin 747-57A2309, Revision 1, dated December 22, 1999.

The FAA concurs with the commenter's request. Since the issuance of the NPRM, the FAA has reviewed and approved Boeing Service Bulletin 747-57A2309, Revision 1. The procedures specified in that service bulletin are substantially similar to those in the original issue. Among other things, Revision 1 of the service bulletin references kits with cadmium-plated nuts instead of passivated nuts and revises jacking instructions. The FAA finds that use of either the original issue or Revision 1 of the service bulletin is acceptable for compliance with all

actions specified in this AD. Therefore, the FAA is revising paragraphs (a), (b), and (d), of this final rule to reference Revision 1, as well as the original issue of the service bulletin.

In addition, no new airplanes are added to the effectivity listing in Revision 1 of the service bulletin, but the effectivity listing does show changes in airplane operators. Therefore, for clarity, the applicability statement of this final rule has been revised to refer to airplanes listed in Revision 1 instead of the original issue of the service bulletin.

#### Request To Revise Paragraph (c)

One commenter requests that paragraph (c) of the proposed AD be revised to refer not only to paragraph (b), as specified in the proposal, but also to paragraph (d)(1). The commenter points out that paragraph (c) of the proposal only refers to cracks found during accomplishment of corrective action required by paragraph (b), but paragraph (d)(1) of the proposal also refers to accomplishment of necessary corrective actions in accordance with paragraph (c). The commenter recommends that paragraph (c) of this AD be revised to read as follows: "If any crack is detected during any corrective action required by paragraph (b) of this AD or during terminating action required by paragraph (d)(1) of this AD. \* \* \* The FAA concurs with the commenter's request, and has revised paragraph (c) of this final rule accordingly.

#### Request To Clarify Number of Fasteners

One commenter requests that the FAA revise paragraphs (d)(1) and (d)(2) of the proposed rule to accurately state the correct number of fasteners for all groups of airplanes listed in the service bulletin. The commenter points out that airplanes in Group 2 have only four high strength H-11 steel bolts common to the rear spar lower chord splice plate, while airplanes in Groups 1, 3, 4, and 5 have eight high strength H-11 steel bolts common to the rear spar lower chord splice plate.

The same commenter requests that the FAA revise paragraphs (d)(1) and (d)(2) of the proposed AD to also explicitly state that the number of high strength H-11 steel bolts listed in those paragraphs of the AD are the numbers for each side. The commenter states that this change is necessary for clarity.

The FAA partially concurs with the commenter's request. The FAA acknowledges that airplanes in Group 2 have only four high strength H-11 steel bolts common to the rear spar lower chord splice plate, while airplanes in

Groups 1, 3, 4, and 5 have eight high strength H-11 steel bolts common to the rear spar lower chord splice plate.

However, the FAA finds that revising paragraphs (d)(1) and (d)(2) of this AD to refer separately to airplanes in Group 2 and airplanes in Groups 1, 3, 4, and 5; and to specify that the numbers given are for each side of the airplane; would unnecessarily complicate these paragraphs. Paragraph (d) of this AD states that the actions required by paragraphs (d)(1) and (d)(2) of this AD are to be accomplished in accordance with Boeing Alert Service Bulletin 747-57A2309, or Boeing Service Bulletin 747-57A2309, Revision 1. Boeing Service Bulletin 747-57A2309, Revision 1, clarifies the difference in number of high strength H-11 steel bolts common to the rear spar lower chord splice plate between airplanes in Group 2 and airplanes in Groups 1, 3, 4, and 5. The correct number of bolts is shown in Figure 1 of the service bulletin. In addition, the accomplishment instructions in both the original issue and Revision 1 of the service bulletin make it clear that the number of fasteners are per fitting, and fittings are installed on both sides of the airplane.

In acknowledgement of the commenter's request, the FAA has revised paragraphs (d)(1) and (d)(2) of this final rule to delete references to specific numbers of bolts, and to instead refer to "all high strength H-11 steel bolts common to the rear spar lower chord splice plate and common to the wing rear spar lower chord kick fitting." The FAA finds that no further clarification is necessary in this regard.

#### **Request To Base Compliance Times on Accumulated Flight Hours**

One commenter requests that the FAA base compliance times for the proposed actions on the total number of flight hours an airplane has accumulated. (The FAA infers that the commenter is referring to the number of flight hours an airplane has accumulated as of the effective date of this AD.) The commenter requests one compliance time for airplanes with fewer than 45,000 total flight hours, and one for airplanes with more than 45,000 total flight hours. The commenter explains that, according to worldwide reports, the average number of flight hours for an airplane on which damage has been found is 45,000 flight hours. The commenter does not state what compliance times it would consider appropriate, nor does it provide any other technical justification for establishing separate compliance times.

The FAA does not concur with the commenter's request. The FAA finds no

justification for the assumption that airplanes with fewer than 45,000 total flight hours will have fewer broken bolts than airplanes with 45,000 total flight hours or more. Indeed, the FAA has determined that broken bolts have been found on airplanes that have accumulated from 10,000 to 83,704 total flight hours. No change to the final rule is necessary in this regard.

#### **Request To Increase Threshold for Initial Inspection**

One commenter requests that the FAA revise paragraph (a) of the proposed rule to increase the threshold for the initial inspection from 12 months to 18 months. The commenter wants the initial inspection threshold to be the same as the repetitive inspection interval. The commenter provides no technical justification for its request.

The FAA does not concur with the commenter's request. In developing an appropriate compliance time for this action, the FAA considered not only the manufacturer's recommendation for the inspection threshold (one year), but also the safety implications for timely accomplishment of the initial inspection. In consideration of these items, the FAA has determined that 12 months represents an appropriate interval of time allowable wherein an acceptable level of safety can be maintained. No change to the final rule is necessary in this regard.

#### **Request To Provide Repetitive Inspection Interval in Flight Hours**

One commenter requests that the paragraph (a) of the proposed rule be revised to provide a repetitive inspection interval in flight hours instead of calendar time (18 months). The commenter explains that stress corrosion cracking is related to the H-11 material of the bolt, and the tension loads on the lower chord when the airplane is in the air. The commenter does not specify what flight hour interval it considers appropriate.

The FAA does not concur with the commenter's request. The repetitive inspection interval of 18 months is intended to make the inspections convenient for operators to accomplish at a regularly scheduled maintenance visit. No change to the final rule is necessary in this regard.

#### **Request To Clarify Intent of Service Bulletin**

One commenter requests that the FAA revise paragraph (b) of the proposal to clarify the inspection processes intended by the service bulletin, and to clarify that cracked bolts, as well as broken bolts, must be replaced. The

commenter states that paragraph (b) should read, "If there is any indication of cracked or broken bolts as indicated by cracks in the sealant, sealant separated from the bolt or structure, gaps under the bolt head or nut, bolt movement[, or fuel leaks, perform the ultrasonic inspection or torque check in accordance with [the service bulletin]. If indications of a cracked or broken bolt are confirmed by the ultrasonic inspection or torque check, replace the bolt with an Inconel 718 bolt in accordance with [the service bulletin], prior to further flight."

The FAA does not concur with the commenter's request. Paragraph (a) of this AD requires a detailed visual inspection or an ultrasonic inspection or torque check to detect broken bolts. That paragraph specifies the inspection is to be accomplished in accordance with the service bulletin. As specified in Notes (a) and (b) of Figures 3, 4, and 5 of the service bulletin, the detailed visual inspection includes inspections for cracks in the sealant, sealant separated from the bolt or structure, gaps under the bolt head or nut, bolt movement, or fuel leaks. Any of these discrepancies could indicate broken bolts. Paragraph (b) states that if there is any indication of a broken bolt, the applicable corrective action must be performed in accordance with the service bulletin. The FAA finds that, for the purposes of this AD, the work instructions specified in the service bulletin are sufficient, and it is not necessary to repeat such instructions in the text of the AD. In addition, the FAA notes that cracked bolts are only expected to be detected by an ultrasonic inspection. If an indication of a crack is found during the ultrasonic inspection, the service bulletin specifies that the bolt must be removed. In accordance with paragraph (e) of this AD, this AD does not allow installation of H-11 steel bolts; therefore, the cracked (or broken) bolt must be replaced. The FAA finds that no change to the final rule is necessary in this regard.

#### **Request To Clarify Intent of Corrective Action**

A commenter requests that the FAA revise paragraph (c) of the proposed rule to read, "If any crack in the splice is detected during the open hole high frequency eddy current inspection during any corrective action required by paragraph (b) of this AD; \* \* \*" The commenter states that the inspection is intended to detect cracks in the fastener holes of the splice members, not cracks in the bolts.

The FAA does not concur with the commenter's request. The FAA finds

that it is appropriate for paragraph (c) of this final rule to continue to refer to "any crack detected during any corrective action \* \* \*," because cracks may be detected in the splice fitting, kick fitting, skin, et cetera. No change to the final rule is necessary in this regard.

#### **Request To Extend Compliance Time**

One commenter requests that the compliance time for the bolt replacement proposed in paragraph (d) of the NPRM be revised from 48 months after the effective date of this AD to at the next "D" check. The commenter expresses concern that 48 months will not allow enough time to plan the bolt replacement and procure parts. Similarly, a second commenter (an operator) requests that the compliance time be extended to 72 months to coincide with that operator's "D" check interval. The commenter states that, with a compliance time of 48 months, the proposed bolt replacement would have to be accomplished on several airplanes during a "C" check, rather than a "D" check. The commenter notes that, to accomplish the proposed terminating action, the fuel tanks must be purged. The commenter explains that purging the fuel tanks is standard procedure during a "D" check, but not during a "C" check. The commenter states that draining the fuel tanks during a "C" check will have a serious impact on the downtime for the maintenance visit. Also, the commenter asserts that the area subject to this AD was not recognized as a potential critical area in AD 89-23-07, amendment 39-6376 (54 FR 43801, October 27, 1989), and AD 94-07-06, amendment 39-8864 (59 FR 15854, April 5, 1994).

The FAA does not concur with the commenters' request to extend the compliance time for accomplishment of the terminating action. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of accomplishing the required actions within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. The FAA finds that 48 months is an adequate amount of time for most operators to accomplish the modification at a scheduled heavy maintenance visit. Also, Revision 1 of the service bulletin quotes a lead time of 30 weeks for obtaining repair kits, so the FAA does not anticipate that operators will have difficulty getting the required parts within the 48-month compliance time.

With regard to the second commenter's remark that the area subject to this AD (in which H-11 steel bolts are installed) was not recognized as a potential critical area in other rulemaking actions, the FAA points out that one operator has reported four of the eight H-11 steel bolts broken. The manufacturer's analysis indicates that four broken bolts would result in the structure being unable to carry limit loads. The AD's that the commenter references did not take into consideration that multiple bolts may be broken. Additionally, the FAA notes that the wing rear spar side-of-body lower splice plate and kick fitting are primary structure. For all of these reasons, the FAA considers a compliance time of 48 months to be warranted for accomplishment of the terminating action, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. No change to the final rule is necessary in this regard.

#### **Request To Clarify "Spares" Paragraph**

One commenter requests that the FAA revise paragraph (e) of the NPRM to change the words "on any airplane" to "on any Boeing 747 airplane that is listed in the effectiveness of [Boeing Service Bulletin] 747-57A2309." The commenter states that an operator was confused about the meaning of the paragraph as it is phrased in the NPRM.

The FAA does not concur with the commenter's request. The applicability statement of all AD actions lists all models affected by that AD. All of the requirements stated in an AD are applicable only to the airplane models listed in the applicability. The FAA finds that there is no justification for making the change requested by the commenter. No change to the final rule is necessary in this regard.

#### **Conclusion**

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

#### **Cost Impact**

There are approximately 523 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 115 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required inspection, at the average labor rate of \$60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be \$6,900, or \$60 per airplane, per inspection cycle.

It will take approximately 13 (Groups 1, 3, 4, and 5 airplanes) and 10 (Group 2 airplanes) work hours per airplane to accomplish the open hole HFEC inspection and replacement, at the average labor rate of \$60 per work hour. Required parts will cost approximately \$4,500 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$5,280 (Groups 1, 3, 4, and 5 airplanes) and \$5,100 (Group 2 airplanes) per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

#### **Regulatory Impact**

The regulations adopted herein will 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 final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under 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. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### **List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### **Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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 adding the following new airworthiness directive:

**2000-08-14 Boeing:** Amendment 39-11700. Docket 99-NM-56-AD.

**Applicability:** Model 747 series airplanes, as listed in Boeing Service Bulletin 747-57A2309, Revision 1, dated December 22, 1999, 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 (f) 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 prevent cracking of the high strength H-11 steel bolts on the wing rear spar side-of-body on the lower chord splice plate and kick fitting due to stress corrosion, which could result in reduced structural integrity of the wing-to-body joint structure, accomplish the following:

#### Repetitive Inspections

(a) Within 12 months after the effective date of this AD, perform a detailed visual inspection, or alternatively, an ultrasonic inspection or torque check, to detect broken H-11 steel bolts common to the rear spar lower chord splice plate and the H-11 steel bolts common to the wing rear spar lower chord kick fitting, in accordance with Boeing Alert Service Bulletin 747-57A2309, dated February 25, 1999, or Boeing Service Bulletin 747-57A2309, Revision 1, dated December 22, 1999. Thereafter, repeat the applicable inspection or torque check at intervals not to exceed 18 months, until accomplishment of the actions specified in paragraph (d) of this AD.

**Note 2:** For the purposes of this AD, a detailed visual 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."

#### Corrective Actions

(b) If there is any detection or indication that any bolt is broken during the inspection required by paragraph (a) of this AD, prior to further flight, perform the applicable corrective action [i.e., ultrasonic inspection, torque check, high frequency eddy current (HFEC) inspection, repair, and replacement] in accordance with Boeing Alert Service Bulletin 747-57A2309, dated February 25, 1999, or Boeing Service Bulletin 747-57A2309, Revision 1, dated December 22, 1999, except as provided in paragraph (c) of this AD. Replacement of a broken bolt with a new Inconel bolt in accordance with the service bulletin constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD for that bolt only.

(c) If any crack is detected during any corrective action required by paragraph (b) of this AD, or during the terminating action required by paragraph (d)(1) of this AD, and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

#### Terminating Action

(d) Within 48 months after the effective date of this AD, accomplish the actions required by paragraphs (d)(1) and (d)(2) of this AD in accordance with Boeing Alert Service Bulletin 747-57A2309, dated February 25, 1999, or Boeing Service Bulletin 747-57A2309, Revision 1, dated December 22, 1999. Accomplishment of the actions specified in this paragraph constitutes terminating action for the repetitive inspection requirements of this AD.

(1) Prior to accomplishing the replacement required by paragraph (d)(2) of this AD, perform an open hole HFEC inspection to

detect cracks at the bolt hole location for all high strength H-11 steel bolts common to the rear spar lower chord splice plate and all high strength H-11 steel bolts common to the wing rear spar lower chord kick fitting. If any crack is detected, prior to further flight, perform applicable corrective actions in accordance with paragraph (c) of this AD.

(2) Replace all high strength H-11 steel bolts common to the rear spar lower chord splice plate and all high strength H-11 steel bolts common to the wing rear spar lower chord kick fitting with new Inconel bolts.

#### Spares

(e) As of the effective date of this AD, no person shall install an H-11 steel bolt having part number (P/N) BACB30MT ( ) \* ( ) or BACB30TR ( ) \* ( ), or any other H-11 steel bolt, in the locations specified in this AD, on any airplane.

#### Alternative Methods of Compliance

(f) 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 ACO. 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.

**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

(g) 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 airplane to a location where the requirements of this AD can be accomplished.

#### Incorporation by Reference

(h) Except as provided by paragraph (c) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747-57A2309, including Appendix A, dated February 25, 1999, or Boeing Service Bulletin 747-57A2309, Revision 1, including Appendix A, dated December 22, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P. O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at

the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on June 1, 2000.

Issued in Renton, Washington, on April 18, 2000.

**Donald L. Riggins,**

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

[FR Doc. 00-10161 Filed 4-26-00; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 701

RIN 0703-AA58

#### Availability of Department of the Navy Records and Publication of Department of the Navy Documents Affecting the Public

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** This rule sets forth regulations pertaining to the Department of the Navy's Freedom of Information Act Program. This rule adds regulations regarding indexing, public inspection, and publication of documents affecting the public.

**DATES:** Effective April 27, 2000.

**ADDRESSES:** Office of the Judge Advocate General (Code 13), 1322 Patterson Avenue, Suite 3000, Washington Navy Yard, DC 20374-5066.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander James L. Roth, JAGC, USN, Head, Regulations & Legislation, FOIA/PA Branch, Administrative Law Division, Office of the Judge Advocate General (Code 13), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066, Telephone: (703) 604-8200.

**SUPPLEMENTARY INFORMATION:** Due to incorrect amendatory instructions, subpart E was inadvertently deleted from Part 701 when subparts A through D were revised on September 14, 1999 (64 FR 49850). Subpart E is being added back to Part 701 in its entirety. This rule is being published by the Department of the Navy for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has been determined that invitation of public comment on this amendment would be impracticable and unnecessary, and it is therefore not required under the public rulemaking provisions of 32 CFR part 336 or Secretary of the Navy Instruction

5720.45, on which subpart E is derived. Interested persons, however, are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions to 32 CFR Part 701, subpart E, or the instruction on which it is based. Changes may be initiated on the basis of comments received. Written comments should be addressed to Lieutenant Commander James L. Roth, JAGC, USN, Head, Regulations and Legislation, FOIA/PA Branch, Administrative Law Division, Office of the Judge Advocate General (Code 13), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. It has been determined that this final rule is not a "significant regulatory action" as defined in Executive Order 12866.

#### List of Subjects in 32 CFR Part 701

Administrative practice and procedure, Freedom of Information, Privacy.

Accordingly, 32 CFR Part 701 is amended as follows:

#### PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

1. The authority citation for Part 701 continues to read as follows:

**Authority:** 5 U.S.C. § 552

2. Part 701 is amended by adding subpart E as follows:

#### Subpart E—Indexing, Public Inspection, and Federal Register Publication of Department of the Navy Directives and Other Documents Affecting the Public.

Sec.

701.61 Purpose.

701.62 Scope and applicability.

701.63 Policy.

701.64 Publication of adopted regulatory documents for the guidance of the public.

701.65 Availability, public inspection, and indexing of other documents affecting the public.

701.66 Publication of proposed regulations for public comment.

701.67 Petitions for issuance, revision, or cancellation of regulations affecting the public.

#### 701.61 Purpose.

This subpart implements 5 U.S.C. 552(a) (1) and (2) and provisions of Department of Defense Directive 5400.7 May 13, 1988 (32 CFR part 286, 55 FR 53104); Department of Defense Directive

5400.9, December 23, 1974 (32 CFR part 336, 40 FR 49111); and the Regulations of the Administrative Committee of the Federal Register (1 CFR chaps. I and II) by delineating responsibilities and prescribing requirements, policies, criteria, and procedures applicable to:

(a) Publishing the following Department of the Navy documents in the **Federal Register**:

(1) Certain classes of regulatory, organizational policy, substantive, and procedural documents required to be published for the guidance of the public;

(2) Certain classes of proposed regulatory documents required to be published for public comment prior to issuance; and

(3) Certain public notices required by law or regulation to be published;

(b) Making available, for public inspection and copying, certain classes of documents having precedential effect on decisions concerning members of the public;

(c) Maintaining current indexes of documents having precedential effect on decisions concerning members of the public, and publishing such indexes or making them available by other means;

(d) Receiving and considering petitions of members of the public for the issuance, revision, or cancellation of regulatory documents of some classes; and

(e) Distributing the **Federal Register** for official use within the Department of the Navy.

#### § 701.62 Scope and applicability.

This subpart prescribes actions to be executed by, or at the direction of, Navy Department (as defined in § 700.104c of this chapter) components and specified headquarters activities for apprising members of the public of Department of the Navy regulations, policies, substantive and procedural rules, and decisions which may affect them, and for enabling members of the public to participate in Department of the Navy rulemaking processes in matters of substantial and direct concern to the public. This subpart complements subpart A, which implements Navy-wide requirements for furnishing documents to members of the public upon request. That a document may be published or indexed and made available for public inspection and copying under this instruction does not affect the possible requirement under subpart A for producing it for examination, or furnishing a copy, in response to a request made under that subpart.