

a timely response and the evidence in the record of processing establishes deportability by clear, convincing, and unequivocal evidence, or if the alien concedes deportability, then the deciding Service officer shall issue and cause to be served upon the alien a Final Administrative Deportation Order that states the reasons for the deportation decision. The alien may knowingly and voluntarily waive in writing the 30-day waiting period before execution of the final order of deportation provided in paragraph (f) of this section.

(2) *Response submitted.* (i) *Insufficient rebuttal; no prima facie claim or genuine issue of material fact:* If the alien timely submits a rebuttal to the allegations, but the deciding Service officer finds that deportability is established by clear, convincing, and unequivocal evidence in the record of proceeding, and that the alien has not demonstrated a prima facie claim of eligibility for relief from deportation under the Act, the deciding Service officer shall issue and cause to be served upon the alien a Final Administrative Deportation Order that states the reasons for the deportation decision.

(ii) *Additional evidence required.* (A) If the deciding Service officer finds that the record of proceeding, including the alien's timely rebuttal, raises a genuine issue of material fact regarding the preliminary findings, the deciding Service officer may either obtain additional evidence from any source, including the alien, or cause to be issued an order to show cause to initiate deportation proceedings under section 242(b) of the Act. The deciding Service officer also may obtain additional evidence from any source, including the alien, if the deciding Service officer deems that such additional evidence may aid the officer in the rendering of a decision.

(B) If the deciding Service officer considers additional evidence from a source other than the alien, that evidence shall be made a part of the record of proceeding, and shall be provided to the alien. If the alien elects to submit a response to such additional evidence, such response must be filed with the Service within ten (10) calendar days of service of the additional evidence (or thirteen (13) calendar days if service is by mail). If the deciding Service officer finds, after considering all additional evidence, that deportability is established by clear, convincing, and unequivocal evidence in the record of proceeding, and that the alien does not have a prima facie claim of eligibility for relief from deportation under the Act, the deciding Service

officer shall issue and cause to be served upon the alien a Final Administrative Deportation Order that states the reasons for the deportation decision.

(iii) *Statutory eligibility for relief; conversion to proceedings under section 242(b) of the Act.* If the deciding Service officer finds that the alien is not amenable to deportation under section 242A(b) of the Act or has presented a prima facie claim of statutory eligibility for a specific form of relief from deportation, the deciding Service officer shall terminate the expedited proceedings under section 242A(b) of the Act, and shall, where appropriate, cause to be issued an order to show cause for the purpose of initiating an Immigration Judge proceeding under section 242(b) of the Act.

(3) *Termination of proceedings by deciding Service officer.* Only the deciding Service officer may terminate proceedings under section 242A(b) of the Act, in accordance with this section.

(e) *Proceedings commenced under section 242(b) of the act.* In any proceeding commenced under section 242(b) of the Act, if it appears that the respondent alien is subject to deportation pursuant to section 242A(b) of the Act, the Immigration Judge may, upon the Service's request, terminate the case and, upon such termination, the Service may commence administrative proceedings under section 242A(b) of the Act. However, in the absence of any such request, the Immigration Judge shall complete the pending proceeding commenced under section 242(b) of the Act.

(f) *Executing final deportation order of deciding Service officer.* (1) *Time of execution.* Upon the issuance of a Final Administrative Deportation Order, the Service shall issue a warrant of deportation in accordance with 8 CFR 243.2; such warrant shall be executed no sooner than 30 calendar days after the date the Final Administrative Deportation Order is issued, unless the alien knowingly, voluntarily and in writing waives the 30-day period. The 72-hour provisions of § 243.3(b) of this chapter shall not apply.

(2) *Country to which alien is to be deported.* The deciding Service officer shall designate the country of deportation in the manner prescribed by section 243(a) of the Act.

(g) *Arrest and detention.* At the time of issuance of a Notice of Intent or at any time thereafter and up to the time the alien becomes the subject of a warrant of deportation, the alien may be arrested and taken into custody under the authority of a warrant of arrest issued by an officer listed in § 242.2(c)(1) of this chapter. Pursuant to

section 242(a)(2)(A) of the Act, the deciding Service officer shall not release an alien who has not been lawfully admitted. Pursuant to section 242(a)(2)(B) of the Act, the deciding Service officer may release an alien who has been lawfully admitted if, in accordance with § 242.2(h) of this chapter, the alien demonstrates that he or she is not a threat to the community and is likely to appear at any scheduled hearings. The decision of the deciding Service officer concerning custody or bond shall not be administratively appealable during proceedings initiated under section 242A(b) of the Act and this section.

(h) *Record of proceeding.* The Service shall maintain a record of proceeding for judicial review of the Final Administrative Deportation Order sought by any petition for review. The record of proceeding shall include, but not necessarily be limited to: the charging document (Notice of Intent); the Final Administrative Deportation Order (including any supplemental memorandum of decision); the alien's response, if any; all evidence in support of the charge; and any admissible evidence, briefs, or documents submitted by either party respecting deportability or relief from deportation.

**PART 299—IMMIGRATION FORMS**

3. The authority citation for part 299 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103; 8 CFR part 2.

4. Section 299.1 is amended by adding the entries for Forms "I-851" and "I-851A" to the listing of forms, in proper numerical sequence, to read as follows:

**§ 299.1 Prescribed forms.**

| Form No. | Edition date | Title   |
|----------|--------------|---|
| I-851    | 04-06-95     | Notice of Intent to Issue Final Administrative Deportation Order. |
| I-851A   | 04-06-95     | Final Administrative Deportation Order.                           |

Dated: August 17, 1995.

**Janet Reno,**

*Attorney General.*

[FR Doc. 95-20946 Filed 8-23-95; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 95-ANE-40; Amendment 39-9345; AD 95-15-51]

**Airworthiness Directives; Pratt and Whitney Model JT8D-9A Turbofan Engines**

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T95-15-51 that was sent previously to all known U.S. owners and operators of Pratt and Whitney (PW) Model JT8D-9A engines by individual telegrams. This AD requires inspection, and replacement, if necessary, of suspect 7th through 12th stage HPC disks. This amendment is prompted by a report of an uncontained engine failure during takeoff. The actions specified by this AD are intended to prevent an uncontained HPC disk failure and damage to the aircraft.

**DATES:** Effective September 8, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95-15-51, issued July 10, 1995, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before October 23, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-ANE-40, 12 New England Executive Park, Burlington, MA 01803-5299.

**FOR FURTHER INFORMATION CONTACT:** Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7137, fax (617) 238-7199.

**SUPPLEMENTARY INFORMATION:** On July 10, 1995, the Federal Aviation Administration (FAA) issued telegraphic airworthiness directive (AD) T95-15-51, applicable to certain Pratt & Whitney (PW) Model JT8D-9A turbofan engines, which requires inspection, and replacement, if necessary, of suspect 7th through 12th stage high pressure compressor (HPC) disks. That action was prompted by a report that on June 8, 1995, a PW JT8D-9A engine, installed

on a McDonnell Douglas DC-9-32 aircraft, experienced an uncontained engine failure during takeoff at the William B. Hartsfield International Airport in Atlanta, Georgia. After the engine failure, the takeoff was aborted and the aircraft was stopped on the runway. Engine fragments penetrated the cabin, struck a fuel line, and initiated a fire that destroyed the aircraft. The FAA's on-going investigation has revealed that the 7th stage HPC disk failed due to a fatigue crack that originated at a corrosion pit in a shielding hole. The aircraft records showed that the engine was one of a total of 24 acquired from Turk Hava Yollari (THY), a Turkish domestic and international airline that also operates a PW JT8D engine overhaul and maintenance facility. The FAA has determined that THY may not have performed the inspection of the subject disk in accordance with all practices and procedures specified by the FAA and PW. This condition, if not corrected, could result in an uncontained HPC disk failure and damage to the aircraft.

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, the FAA issued Telegraphic AD T95-15-51 to prevent an uncontained HPC disk failure and damage to the aircraft. The AD requires inspection, and replacement, if necessary, of suspect 7th through 12th stage HPC disks.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on July 10, 1995, to all known U.S. owners and operators of engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR part 39) to make it effective to all persons.

**Comments Invited**

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES**. All communications received on or before

the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-ANE-40." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein 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 Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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, 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 USC 106(g), 40101, 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**95-15-51 Pratt and Whitney:** Amendment 39-9345. Docket 95-ANE-40

*Applicability:* Pratt and Whitney (PW) Model JT8D-9A turbofan engines identified by the following Serial Numbers: 656953, 656981, 657299, 657308, 657607, 657608, 657612, 666862, 666868, 666906, 666912, 666915, 666948, 666955, 666957, 666967, 666973, 666987, 667136, 667137, 667143, 667154, and 667165. These engines are installed on but not limited to Boeing 727 and 737 series, and McDonnell Douglas DC-9 series aircraft.

**Note:** This airworthiness directive (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 use the authority provided in paragraph (d) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent an uncontained high pressure compressor (HPC) disk failure and damage to the aircraft, accomplish the following:

(a) For engines that contain any 7th through 12th stage HPC disk that has accumulated 2,900 or more cycles in service (CIS) on the effective date of this AD since HPC disk inspection performed by Turk Hava Yollari (THY), visually inspect each 7th through 12th stage HPC disk within 10 days, or 100 CIS after the effective date of this AD, whichever occurs first, for evidence of corrosion pitting and cracks in accordance with PW JT8D Engine Manual, Part Number (P/N) 481672, Section 72-36-41 through -46,

as applicable. Pay particular attention to the inspection of the bolt holes, and shielding holes, as applicable. Replace all corroded or cracked disks with a serviceable part prior to further flight.

(b) For engines that contain any 7th through 12th stage HPC disk that has accumulated less than 2,900 CIS on the effective date of this AD since HPC disk inspection performed by THY, visually inspect each 7th through 12th stage HPC disk prior to the accumulation of 3,000 CIS since HPC inspection performed by THY for evidence of corrosion pitting and cracks in accordance with PW JT8D Engine Manual, P/N 481672, Section 72-36-41 through -46, as applicable. Pay particular attention to the inspection of the bolt holes, and shielding holes, as applicable. Replace all corroded or cracked disks with a serviceable part prior to further flight.

(c) No AD action is required for those engines that contain 7th through 12th stage HPC disks that were all inspected by an FAA-approved repair station after the last 7th through 12th stage HPC disk inspection performed by THY.

(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. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

(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 aircraft to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective September 8, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95-15-51, issued July 10, 1995, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on August 15, 1995.

**Jay J. Pardee,**

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

[FR Doc. 95-20852 Filed 8-23-95; 8:45 am]

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**14 CFR Part 95**

[Docket No. 28305; Amdt. No. 391]

**IFR Altitudes; Miscellaneous Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**EFFECTIVE DATE:** 0901 UTC, September 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

**The Rule**

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established