IMPORT ASSESSMENT TABLE—Continued

[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6302910060	1.052	0.9068
6303110000	0.9448	0.8144
6303910010	0.6429	0.5542
6303910020	0.6429	0.5542
6304111000	1.0629	0.9162
6304190500	1.052	0.9068
6304191000	1.1689	1.0076
6304191500	0.4091	0.3526
6304192000	0.4091	0.3526
6304910020	0.9351	0.8061
6304920000	0.9351	0.8061
6505901540	0.181	0.1560
6505902060	0.9935	0.8564
6505902545	0.5844	0.5038

* * * * *

Dated: May 21, 2002.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 02–13228 Filed 5–24–02; 8:45am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 3

[EOIR 133; AG Order No. 2585–2002]

RIN 1125–AA38

Protective Orders in Immigration Administrative Proceedings

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends regulations governing the Executive Office for Immigration Review (''EOIR'') by authorizing immigration judges to issue protective orders and seal records relating to law enforcement or national security information. The rule will apply in all immigration proceedings before EOIR. This rule is necessary to ensure that sensitive information can be protected from general disclosure while affording use of that information by the respondent, the immigration judges, the Board of Immigration Appeals, and reviewing courts.

DATES: Effective date: This rule is effective May 21, 2002.

Comment date: Written comments must be submitted on or before July 29, 2002.

ADDRESSES: Please submit written comments to Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone (703) 305–0470.

FOR FURTHER INFORMATION CONTACT: Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone (703) 305–0470.

SUPPLEMENTARY INFORMATION:

Immigration Judge Authority to Issue Protective Orders and Seal Records

This interim rule amends 8 CFR 3.27 and 3.31, and adds 8 CFR 3.46 to authorize immigration judges to issue protective orders and accept documents under seal. This authority will ensure that sensitive law enforcement or national security information can be protected against general disclosure, while still affording full use of the information by the immigration judges, Board of Immigration Appeals, the respondent, and the courts.

The Immigration and Naturalization Service (''Service'') may need to introduce in immigration proceedings sensitive law enforcement or national security information. For example, the Service may need to introduce grand jury information or information that reveals the identity of confidential informants, witnesses, or sources to establish that release from custody of a particular respondent poses a danger to the safety of other persons under section 236 of the Immigration and Nationality Act (''Act''), 8 U.S.C. 1226. Similarly, the Service may need to introduce sensitive evidence of organized criminal activity, either in the United States or in a foreign country, to establish the basis on which the Service believes that the respondent ''is or has been an illicit trafficker in any controlled substance'' under section 212(a)(2)(C)(i) of the Act, 8 U.S.C. 1182(a)(2)(C)(i), and is inadmissible. The disclosure of such information could clearly jeopardize ongoing criminal investigations and the safety of any sources and law enforcement officers. This rule is necessary to ensure that a respondent in proceedings will not disclose that information to individuals not authorized to possess the information.

This rule is also necessary because apparently innocuous law enforcement or national security information may be valuable to persons with a broader view of a subject. See generally, *McGehee* v. *Casey,* 718 F.2d 1137, 1149 (D.C. Cir. 1983) (''[d]ue to the mosaic-like nature of intelligence gathering, for example, [w]hat may seem trivial to the uninformed may appear of great moment to one who has a broad view of the scene and may put the questioned item of information in context'') (internal quotations omitted). Certain circumstances may therefore require that access to information submitted to an immigration judge be restricted. This regulation provides immigration judges and the Service with the flexibility to protect this information where necessary.

In this post-September 11, 2001, era, the highest priority of the Department of Justice (''Department'') is to prevent, detect, disrupt, and dismantle terrorism while preserving constitutional liberties. The intelligence and law enforcement communities' ability to collect and protect information relating to terrorist organizations is vital to the success of the United States' mission against terrorism. Failure to protect sensitive information may impede future collection efforts or aid terrorists who seek to harm Americans by revealing the thrust, sources, and methods of the Government's investigations. Disclosures of such sensitive information could allow terrorists to discern patterns in an investigation, enabling them to evade detection in the future. Disclosure of sensitive information could also reveal the identity of witnesses, allowing terrorists to threaten those witnesses or their families, and to make all witnesses less likely to cooperate. Such disclosures could also give terrorists clues as to what the Government knows and, sometimes more importantly, what the Government does not know. Such information could enable terrorists to adjust their plans in ways that avoid Government detection and that further endanger American lives. The Third Circuit recently recognized this principle:

> ''We are not inclined to impede investigators in their efforts to cast out, root and branch, all vestiges of terrorism both in our homeland and in far off lands. As the [Supreme] Court has stated:
>
> 'Few interests can be more compelling than a nation's need to ensure its own security. It is well to remember that freedom as we know it has been suppressed in many countries. Unless a society has the capability and will to defend itself from the aggressions of others, constitutional protections of any sort have little meaning.'
>
> *Wayte* v. *United States,* 470 U.S. 598, 611–612 (1985).''

Kiareldeen v. *Ashcroft,* 273 F.3d 542, 555–56 (3d Cir. 2001). The premise of this interim rule is that ongoing investigations require that sensitive information be protected from general disclosure in immigration proceedings

and that regulatory authority for such protection is appropriate.

These regulations are a prudent and balanced acknowledgment of the reality that the Government's efforts against terrorism require the Department to treat information collected by the law enforcement and intelligence communities as vital national assets.

The Attorney General's Authority to Issue These Regulations

Congress has plenary authority over immigration matters. U.S. Const. Art I, sec. 8, cl. 4.

Congress has delegated to the Attorney General broad authority to administer the Act, to manage the Service, and to effectuate the administrative adjudication functions related to immigration. 8 U.S.C. 1103(a). Moreover, the Attorney General has an active role in the administration of the intelligence and law enforcement communities, both of which implicate the President's plenary authority over foreign relations. *United States ex rel. Knauff* v. *Shaughnessy,* 338 U.S. 537, 542 (1950); *United States* v. *Curtiss-Wright Export Corp.,* 299 U.S. 304, 319 (1936) (''In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation'').

Indeed, the courts have viewed the President's inherent powers as a justification for permitting Congress to make remarkably broad delegations of its authority in the immigration field. *Knauff,* 338 U.S. at 543; *Curtiss-Wright Export Corp.,* 299 U.S. at 319–20 (when dealing with foreign affairs Congress may delegate a degree of discretion that would not be permissible if domestic policy alone were involved); *see also Jean* v. *Nelson,* 472 U.S. 846, 879 (1985) (Marshall, J., dissenting) (a lesser degree of procedural due process has been accorded to respondents in cases involving national security).

The Attorney General here is exercising the confluence of the authority granted by Congress under the Act and his authority inherent from his position as Attorney General concerning immigration policy, with regard to all such matters that are not subject to either a statutory mandate or an express prohibition. See *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579, 636–37 (1952) (Jackson, J. concurring).

This rule complements several other authorities to retain information. A directive by Chief Immigration Judge Creppy on September 21, 2001, that certain ''special interest'' cases should be closed to the public under 8 CFR 3.27, has generally limited the disclosure of information during hearings by limiting the attendees to those hearings. This rule is designed to work in tandem with that authority, and in a limited sense, codify a portion of that authority, by limiting what the respondent and his or her representatives may disclose about sensitive law enforcement and national security information outside the context of those hearings. The rule does not, however, replace or diminish the authority of the Chief Immigration Judge to manage the Immigration Courts and close hearings. The Chief Immigration Judge will continue to use 8 CFR 3.9 and 3.27 to ensure that testimony before an Immigration judge does not disclose sensitive law enforcement and national security information.

Process for Protective Orders

This rule utilizes several elements of protective orders in federal courts in the immigration administrative adjudication process. The Service may file a motion, with or without sealed information, to acquire a protective order for that information. The motion will be served on the respondent, who may respond within a short time. The information will not be made available to the respondent. The Immigration judge may review the information in camera only to determine whether to grant or deny the motion.

If a motion is denied, the information must be returned to the Service. The Service may appeal that decision immediately and any appeal must be decided expeditiously. This process maintains the *status quo* to the greatest extent possible while the protective order is considered.

If the motion is granted, an appropriate protective order is issued and the respondent will be provided with the information under the protective order. The respondent may challenge the admissibility of the information as evidence. The respondent may appeal the determination at the conclusion of proceedings.

Standards for Issuance of a Protective Order

The Department recognizes that the issuance of a protective order raises First Amendment free speech issues. In this rule, the protective orders are limited to an important and substantial governmental interest in safeguarding the public, and national security and law enforcement concerns. The rule no more limits a respondent's, or the respondent's representatives, rights than is necessary or essential to protect the particular governmental interests involved. Like the protective orders under Federal Rule of Civil Procedure 26(c), the Department seeks only to limit a respondent's ability to disclose or disseminate information discovered in the removal process and subject to the protective order. The Department believes that this rule is sufficiently narrow to meet the requirements of the Supreme Court in *Seattle Times Company* v. *Rhinehart,* 467 U.S. 20 (1984) (interpreting Rule 26(c) and a district court protective order issued in discovery) and *Gentile* v. *State Bar of Nevada,* 501 U.S. 1030 (1991) (public statements of attorney and application of bar disciplinary process). To do so, the rule utilizes a requirement that there be a substantial likelihood that disclosure or dissemination will harm the law enforcement or national security interests of the United States.

Moreover, the rule must be construed to comply with constitutional requirements. For example, the rule could not be applied to preclude a respondent from publicly stating the content of his own testimony before the immigration judge. See *Butterworth* v. *Smith,* 494 U.S. 624 (1990). A respondent could, however, be ordered not to disclose what he or she has learned from the protected information that comes into his or her knowledge during the proceedings, including, for example, the significance of information that the respondent already knows. *Id.,* at 632 (''right to divulge information of which he was in possession before he testified before the grand jury, and not information which he may have obtained as a result of his participation in the proceedings of the grand jury'').

Protective Orders in Other Administrative Contexts

The issuance of protective orders in administrative proceedings is not a new concept. On the contrary, a number of agencies have exercised this type of authority in the past, in situations that do not pose the same degree of danger to the interests of the United States. *See, e.g.,* 4 CFR 21.4 (General Accounting Office; protection of proprietary, confidential, or source-selection sensitive material in bid protests); 14 CFR 13.220 (Federal Aviation Administration; discovery in civil penalty actions); 17 CFR 201.322 (Securities and Exchange Commission; rules of practice and procedure).

Consequences of not Complying With the Protective Order

The administrative enforcement provision of this interim rule sets out various consequences that violators of a protective order may face. A respondent

who violates a protective order, or whose attorney or accredited representative violates a protective order, will not be granted any form of discretionary relief from removal. The Supreme Court has upheld an agency's ability to exercise discretionary authority through regulations. *See Lopez* v. *Davis,* 531 U.S. 230 (2001). Discretionary relief is an ''an act of grace.'' *Jay* v. *Boyd,* 351 U.S. 345, 354 (1956). Where a respondent has violated a protective order and thereby possibly compromised sensitive information, such grace ought not be afforded readily—particularly where the respondent has already shown a disregard for this Nation's laws by violating the terms of his or her visa or otherwise violating the Act. Thus, as an exercise of the Attorney General's discretion, these regulations provide that a respondent who violates a protective order, or whose attorney or accredited representative violates a protective order, should generally not be granted discretionary relief.

Attorneys and accredited representatives may also be barred from appearing in further proceedings before EOIR or the Service. *See* 8 CFR 3.102(g) (contumelious conduct amounting to contempt). An attorney's or accredited representative's failure to comply with the protective order may be charged to the client and may impair the client's ability to obtain discretionary relief.

The possibility that a respondent might violate the order and disclose protected information presented does not eliminate the importance of attempting to restrict access to the information. The Department believes that most respondents will comply with the protective orders because disclosure of some sensitive information may imperil them directly.

The Respondents' Protection Against Unwarranted Disclosures

The Department also recognizes that a respondent may possess information that is of such a sensitivity to the respondent that it warrants protection from general disclosure and existing regulations provide sufficient protection for the respondent. For example, a respondent who has applied for asylum under section 208 of the Act will naturally be testifying about events that he or she believes have had or will have horrific consequences. The application for asylum and related documents are already the subject of non-disclosure requirements. 8 CFR 208.6. Similarly, an immigration judge may close proceedings in the public interest, including for the protection of the respondent. 8 CFR 3.27(b). A lawful permanent resident is protected from disclosure of personal information by government officials under the Privacy Act of 1974, 8 U.S.C. 552a. Respondents arriving at a port of entry who are denied admission also routinely receive closed hearings. 8 CFR 3.27. Moreover, the Department has a long-standing policy against releasing information about any individual who is involved in civil proceedings in order to protect their privacy and the integrity of the adjudicatory process. 28 CFR 50.2(c). Accordingly, the Department feels that individual respondents in proceedings do not require further privacy protections for sensitive information.

Good Cause Exception

The Department's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for the immediate promulgation of this rule are as follows: Sensitive information developed by, or provided to, the Federal Bureau of Investigation or the Service in the course of national security and law enforcement investigations sometimes must be presented to Immigration judges in instances where disclosure of that information would jeopardize or compromise the national security or law enforcement operations of the Government as explained in the Supplementary Information. Disclosure could, for example, reveal important information about the direction, progress, focus and scope of investigations arising out of the attack on September 11, 2001, and thereby assist terrorist organizations in counteracting investigative efforts of the United States.

In order to safeguard these important interests, the immigration judge must be given authority to issue protective orders to safeguard such sensitive information from disclosure. In light of the national emergency declared by the President on September 14, 2001, in Proclamation 7453, with respect to the terrorist attacks of September 11, 2001, and the continuing threat by terrorists to the security of the United States, and the need immediately to control such information pertaining to respondents in immigration proceedings, there is good cause under 5 U.S.C. 553(b) and (d) for dispensing with the requirements of prior notice and to make this rule effective upon signature.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies only to release of sensitive information in immigration proceedings. It does not have any impact on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule merely pertains to the disclosure of sensitive information filed under seal in immigration proceedings. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988, Civil Justice Reform

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

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval, any reporting requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Aliens, Immigration.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

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

Authority: 5 U.S.C. 301, 8 U.S.C. 1101 note, 1103, 1231, 1252 note, 1252b, 1324b, 1253, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

2. Section 3.27 is amended by adding paragraph (d) to read as follows:

§ 3.27 Public access to hearings.

* * * * *

(d) Proceedings before an Immigration Judge shall be closed to the public if information subject to a protective order under § 3.46, which has been filed under seal pursuant to § 3.31(d), may be considered.

3. Section 3.31 is amended by adding paragraph (d) to read as follows:

§ 3.31 Filing documents and applications.

* * * * *

(d) The Service may file documents under seal by including a cover sheet identifying the contents of the submission as containing information which is being filed under seal. Documents filed under seal shall not be examined by any person except pursuant to authorized access to the administrative record.

4. Section 3.46 is added to read as follows:

§ 3.46 Protective orders, sealed submissions in Immigration Courts.

(a) *Authority.* In any immigration or bond proceeding, Immigration Judges may, upon a showing by the Service of a substantial likelihood that specific information submitted under seal or to be submitted under seal will, if disclosed, harm the national security (as defined in section 219(c)(2) of the Act) or law enforcement interests of the United States, issue a protective order barring disclosure of such information.

(b) *Motion by the service.* The Service may at any time after filing a Notice to Appear, or other charging document, file with the Immigration Judge, and serve upon the respondent, a motion for an order to protect specific information it intends to submit or is submitting under seal. The motion shall describe, to the extent practical, the information that the Service seeks to protect from disclosure. The motion shall specify the relief requested in the protective order. The respondent may file a response to the motion within ten days after the motion is served.

(c) *Sealed annex to motion.* In the Service's discretion, the Service may file the specific information as a sealed annex to the motion, which shall not be served upon the respondent. If the Service files a sealed annex, or the Immigration Judge, in his or her discretion, instructs that the information be filed as a sealed annex in order to determine whether to grant or deny the motion, the Immigration Judge shall consider the information only for the purpose of determining whether to grant or deny the motion.

(d) *Due deference.* The Immigration Judge shall give appropriate deference to the expertise of senior officials in law enforcement and national security agencies in any averments in any submitted affidavit in determining whether the disclosure of information will harm the national security or law enforcement interests of the United States.

(e) *Denied motions.* If the motion is denied, any sealed annex shall be returned to the Service, and the Immigration Judge shall give no weight to such information. The Service may immediately appeal denial of the motion to the Board, which shall have jurisdiction to hear the appeal, by filing a Notice of Appeal and the sealed annex with the Board. The Immigration Judge shall hold any further proceedings in abeyance pending resolution of the appeal by the Board.

(f) *Granted motions.* If the motion is granted, the Immigration Judge shall issue an appropriate protective order.

(1) The Immigration Judge shall ensure that the protective order encompasses such witnesses as the respondent demonstrates are reasonably necessary to the presentation of his case. If necessary, the Immigration Judge may impose the requirements of the protective order on any witness before the Immigration Judge to whom such information may be disclosed.

(2) The protective order may require that the respondent, and his or her attorney or accredited representative, if any:

(i) Not divulge any of the information submitted under the protective order, or any information derived therefrom, to any person or entity, other than authorized personnel of the Executive Office for Immigration Review, the Service, or such other persons approved by the Service or the Immigration Judge;

(ii) When transmitting any information under a protective order, or any information derived therefrom, to the Executive Office for Immigration Review or the Service, include a cover sheet identifying the contents of the submission as containing information subject to a protective order under this section;

(iii) Store any information under a protective order, or any information derived therefrom, in a reasonably secure manner, and return all copies of such information to the Service upon completion of proceedings, including judicial review; and

(iv) Such other requirements as the Immigration Judge finds necessary to protect the information from disclosure.

(3) Upon issuance of such protective order, the Service shall serve the respondent with the protective order and the sealed information. A protective order issued under this section shall remain in effect until vacated by the Immigration Judge.

(4) Further review of the protective order before the Board shall only be had pursuant to review of an order of the Immigration Judge resolving all issues of removability and any applications for relief pending in the matter pursuant to 8 CFR 3.1(b). Notwithstanding any other provision of this section, the Immigration Judge shall retain jurisdiction to modify or vacate a protective order upon motion of the Service or the respondent. An Immigration Judge may not grant a motion by the respondent to modify or vacate a protective order until either: the Service files a response to such motion or 10 days after service of such motion on the Service.

(g) *Admissibility as Evidence.* The issuance of a protective order shall not prejudice the respondent's right to

challenge the admissibility of the information subject to a protective order. The Immigration Judge may not find the information inadmissible solely because it is subject to a protective order.

(h) *Seal.* Any submission to the Immigration Judge, including any briefs, referring to information subject to a protective order shall be filed under seal. Any information submitted subject to a protective order under this paragraph shall remain under seal as part of the administrative record.

(i) *Administrative enforcement.* If the Service establishes that a respondent, or the respondent's attorney or accredited representative, has disclosed information subject to a protective order, the Immigration Judge shall deny all forms of discretionary relief, except bond, unless the respondent fully cooperates with the Service or other law enforcement agencies in any investigation relating to the noncompliance with the protective order and disclosure of the information; and establishes by clear and convincing evidence either that extraordinary and extremely unusual circumstances exist or that failure to comply with the protective order was beyond the control of the respondent and his or her attorney or accredited representative. Failure to comply with a protective order may also result in the suspension of an attorney's or an accredited representative's privilege of appearing before the Executive Office for Immigration Review or before the Service pursuant to 8 CFR part 3, subpart G.

Dated: May 21, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–13264 Filed 5–24–02; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–12–AD; Amendment 39–12761; AD 2002–10–15]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines. This amendment requires reapplication of dry film lubricant to low pressure compressor (LPC) fan blade roots. This amendment is prompted by an aborted take-off resulting from LPC fan blade loss. Since this event, four additional cracked LPC fan blade roots have been reported. The actions specified by this AD are intended to prevent LPC fan blade loss, which could result in an uncontained engine failure and possible aircraft damage.

DATES: Effective date July 2, 2002.

ADDRESSES: Information regarding this action may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7744, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Rolls-Royce plc RB211 Trent 875, 877, 884, 892, 892B, and 895 series turbofan engines was published in the **Federal Register** on December 6, 2001 (66 FR 63341). That action proposed to require reapplication of dry film lubricant to low pressure compressor (LPC) fan blade roots.

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.

Wording Clarification

One commenter suggests that the word ''installation'' in Table 1 of the compliance section, be replaced with the words ''new or last lubrication.'' The commenter is concerned that the word ''installation'' does not ensure AD compliance at installation.

The FAA agrees. The wording in Table 1 has been changed because the suggested wording ensures that lubrication of the blade root is the proper criteria to use.

Typographical Errors

One commenter requests ''LPT'' be changed to correctly read ''LPC'' in Table 1, and ''Dow Corning 321R (Rolls-Royce (RR) Omat item 4/52)'' be changed to correctly read Dow Corning 321R (Rolls-Royce (RR) Omat item 4/51)'' in paragraph (a).

The FAA agrees and has made these corrections in the final rule.

Update Terminology

One commenter suggests that the word ''inspect'' is not applicable in paragraph (b), and should be replaced with the word ''lubricate.'' The AD is applicable to blade root lubrication.

The FAA agrees and has changed paragraph (b) in the final rule to state that on the effective date of the AD, blades with more cycles than the initial compliance criteria listed in Table 1 of this AD must be lubricated within 100 cycles-in-service after the effective date of this AD.

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 described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

The FAA estimates that 100 engines installed on aircraft of U.S. registry would be affected by this AD. The FAA also estimates that it would take approximately 6 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total labor cost of the AD on U.S. operators is estimated to be $36,000 to accomplish each application of lubricant. The FAA estimates that operators will apply lubricant an average of 1.5 times per year, making the total annual cost of compliance with this AD $54,000.

Regulatory Analysis

This final 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 final rule.

For the reasons discussed above, I certify that this action (1) is not a