

Proposed Rules

Federal Register

Vol. 68, No. 156

Wednesday, August 13, 2003

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 91 and 96

[Docket Number ST02-03]

RIN 0581-AC18

Removal of Cottonseed Chemist Licensing Program, Updating of Commodity Laboratory and Office Addresses, and Adoption of Information Symbols

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to remove the cottonseed chemist licensing program and the related official grading program. This proposed regulation would update various commodity testing laboratory addresses and would adopt two information symbols in the form of approved AMS shields to indicate that products have been tested by AMS.

DATES: Comments must be received on or before September 12, 2003.

ADDRESSES: Interested persons are invited to submit comments concerning this proposed rule. The Agency particularly invites ideas for adequate funding so that this 67-year-old USDA user fee program may become operational again if the cottonseed products industry shows renewed interest. Comments should be sent in triplicate to James V. Falk, Docket Manager, USDA, AMS, Science and Technology, 1400 Independence Avenue, SW., Room 3521 South Agriculture Building, Mail Stop 0272, Washington, DC 20250-0272; telephone (202) 690-4089; fax (202) 720-4631, or e-mail: James.falk@usda.gov and should refer to the docket title and number located in the heading of this document. Comments received will be available for public inspection in Room 3507, South Agriculture Building, 1400 Independence Avenue, SW., between

the hours of 10 a.m. and 4 p.m., Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James V. Falk, Docket Manager, USDA, AMS, Science and Technology, 1400 Independence Avenue, SW., Room 3521 South Agriculture Building, Mail Stop 0272, Washington, DC 20250-0272; telephone (202) 690-4089; fax (202) 720-4631, or e-mail: James.falk@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Executive Order 12988

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Even though an official cottonseed grading certificate has not been issued since June 3, 1999, there are some potential users available that may use the cottonseed chemist licensing program services. Such possible users of program services include 35 oil mills, 1,400 U.S. cottonseed gins, 11 private laboratories, and exporters. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601).

USDA licensed cottonseed chemist program service and official cottonseed grade determinations are provided to all businesses on a voluntary basis and user fees to administer the program are listed in 7 CFR part 96. Any decision to discontinue the use of the official cottonseed grading services (with a unit

certificate fee) at private laboratories and obtain new contracts with their customers based upon unofficial grade of seed (without a fee) would not hinder the cottonseed industry members from marketing their products. Monthly published Marketing News reports for cottonseed are based entirely on summary information of the quality and quantity factors and grades obtained from all official certificates issued by licensed chemists. There has been no official cottonseed grade certificate issued from a licensed chemist since June 3, 1999. All cottonseed business since that date has been based on an unofficial cottonseed grade. User fee costs to entities would be proportional to their use of program services, so that costs are shared equitably by all users.

The last fee increases for the USDA Cottonseed Chemist Licensing Program services became effective on May 4, 1998 (63 FR 16370-16375). Since June 1999, no revenue has been available to administer the program and there has been a yearly increase in cost of living for the Federal employee salaries and benefits that comprise 72 percent of total program expenses. No program revenue is generated because there has been a shift in usage patterns on the part of the cottonseed industry for testing and grading services by chemists. The industry is now relying entirely on an unofficial cottonseed grade certification for their purchase and trade decisions.

Other miscellaneous and unsubstantial changes which would be made by the proposed rule will not adversely affect users of the program services. The addition of two information symbols in the form of approved AMS shields and their inclusion in the regulations would not add further costs to users of the variety of AMS Science and Technology laboratory testing services.

Accordingly, the Administrator has determined that this rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule does not contain any new information collection or recordkeeping requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Background and Analysis of Proposal

On August 9, 1993, AMS published a rule in the **Federal Register** (58 FR 42408–42448) to combine AMS regulations concerning laboratory services. The goal was to consolidate and to transfer existing laboratory testing programs operating independently under the various commodity programs into the Science and Technology (S&T) program, formerly the Science Division and the Science and Technology Division (S&TD). All divisions in the Agricultural Marketing Service (AMS) were designated as programs by the Administrator on September 18, 1997.

The description of examination and licensure services provided in section 91.4 needs to be broadened to include other laboratory and testing licenses provided by the Science & Technology programs. In addition, if the proposed rule to remove the Cottonseed Chemist Licensing Program becomes finalized then the limited description of services would no longer be applicable. Science & Technology Program laboratories and facilities have undergone modernization and consolidation since May 1998. In many instances the addresses of the locations changed in section 91.5. A major change was the October 2002 opening of the National Science Laboratory in Gastonia, North Carolina which now has biotechnology testing facilities

On November 1, 1999 the USDA Office of Communications approved two information symbols in the form of AMS shields to be added to the USDA/AMS inventory and they are acceptable for use with AMS materials. The two approved AMS shields with the words "USDA AMS TESTED" and "USDA LABORATORY TESTED FOR EXPORT" are proposed to be added to the regulations in 7 CFR part 91. A major role of the Science and Technology program for the Agency is to perform analytical testing services of commodities. The approved AMS shields are designed to enhance the acceptance of AMS tested agricultural commodities on a national or international basis.

The licensed cottonseed chemist program and official grade certification are voluntary, user fee-funded services, conducted under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624). Under the current USDA program, chemists in private laboratories are licensed to analyze cottonseed in order to certify its quality, to access its lot potential for oil yield at seed crushing mills, and to determine the grade of official samples

of cottonseed produced at cotton gins according to the rules, regulations and By-Laws of the National Cottonseed Products Association (NCPA). A representative lot of cottonseed for official grade determination is generally limited to a maximum of 150 tons for quality concerns. An official certificate is issued by the licensed chemist for each official cottonseed sample at a current unit fee of \$3.18 to cover the costs of the USDA program.

The USDA licensed cottonseed chemist program originated on July 31, 1937 when a Bureau of the United States Department of Agriculture published a rule in the **Federal Register** (2 FR 1348–1353) and provided the details for the program. On August 14, 1937 the first user fee increase for the program occurred when the issuance cost for each certificate of the official grade of cottonseed increased from 10 cents to 25 cents (2 FR 1400).

The regulations in 7 CFR part 96 include in subpart A the details of the USDA cottonseed chemist licensing program (under the AMS Cotton Division's supervision for the last time in 1988) and the applicable user fees. In subpart B the method used to calculate official cottonseed grade was provided.

The current fees have been in effect since May 4, 1998 (63 FR 16370–16375). The fees include \$1,166 for a chemist's license examination, \$292 for a chemist's license renewal, a \$3.18 fee per official cottonseed grade certificate issued, and a \$60 fee for the review of the grading of an official lot of cottonseed. The number of official cottonseed grade certificates issued by licensed chemists dropped from 36,565 in fiscal year 1992 to 5,718 in early fiscal year 1999. The large decline in official cottonseed grade certificates was due to the 40 percent divergence of cottonseed usage from human food to dairy animal feed. In addition, many large oil mills have setup their own laboratories to perform cottonseed quality testing and have established trade relations with their customers based on an unofficial grade of seed.

The S&T programs are mainly voluntary, user fee services, conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The Act authorizes the Department to provide analytical testing services that facilitate marketing and allow commodity products to obtain grade designations or meet marketing standards. In addition, the laboratory tests establish quality standards for the agricultural commodities. The Act also requires that reasonable and reimbursable fees be collected from users of the program services to cover,

as nearly as practicable, the costs of the services rendered to maintain the program. At a May 1999 annual meeting, the National Cottonseed Products Association was provided an analysis of the services the Agency provides for the official cottonseed grade determination, and the revisions of fees that are needed to continue services to the extent commensurate with the actual costs. The industry expressed strong resistance to paying the increased costs needed to provide the official cottonseed grading service that includes official sampling expenses. It was their recommendation to eliminate the cottonseed chemist licensing program. In June 1999 the last official cottonseed grade certificate was issued and no revenue has been obtained from the USDA cottonseed chemist licensing program since that time to the present. The program has become a financial burden to AMS. The total obligatory cost to Science and Technology to carry the program forward to the full completion of fiscal year (FY) 2003 would be \$65,939. The estimated cost of the program for FY 2004 would remain at \$65,939. This cost consists of \$47,786 for salaries and benefits, \$2,480 for USDA blind check sample preparation, \$7,101 for travel, \$3,575 for rent/utilities/communications, and \$4,997 for administrative overhead. The Agency has no projected revenue to continue the program operation using the current user fee schedule. Hence, this rule proposes to terminate the cottonseed chemist licensing program and to remove related official cottonseed grading and associated fees from the regulations. This rule proposes to remove 7 CFR part 96 in its entirety. Private or non-government laboratories would no longer be eligible to hold USDA cottonseed chemist licenses. There will be no need for persons to possess official cottonseed sampler licenses or similar designations. Marketing News for official grade cottonseed would no longer be available.

This proposed rule would also update various commodity testing laboratory addresses and would adopt approved AMS shields to indicate that products have been tested by AMS. The new shields would be placed in a new subpart together with appropriate definitions.

This proposed rule provides for a 30-day comment period. This period is deemed appropriate in view of the need to make changes to the regulations as soon as possible. All comments which are received during the comment period will be considered before making any

final decision about the continuance or the discontinuance of official cottonseed grading and the related USDA Cottonseed Chemist Licensing Program.

List of Subjects

7 CFR Part 91

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

7 CFR Part 96

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 91 is amended as follows:

PART 91—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

2. In § 91.4, paragraph (b) is revised to read as follows:

§ 91.4 Kinds of services.

* * * * *

(b) Examination and licensure. The manager of a particular Science and Technology program administers examinations and licenses analysts in laboratories for competency in performing commodity testing services.

* * * * *

3. Section 91.5 is revised to read as follows:

§ 91.5 Where services are offered.

(a) Services are offered to applicants at the Science and Technology field service laboratories and facilities in the following list:

(1) Science and Technology regional laboratory. A variety of tests and laboratory analyses are available in one regional multi-disciplinary Science and Technology (S&T) laboratory, and is located as follows: USDA, AMS, Science and Technology, National Science Laboratory, 801 Summit Crossing Place, Suite B, Gastonia, NC 28054-2193.

(2) Science and Technology (S&T) satellite laboratories. The specialty laboratories performing mycotoxin and other chemical testing on peanuts, peanut products, dried fruits, grains, edible seeds, tree nuts, shelled corn products, oilseed products and other commodities as well as proximate analyses on foods are:

(i) USDA, AMS, Science & Technology, 959 North Main Street, Blakely, GA 39823-2030.

(ii) USDA, AMS, Science & Technology, 107 South Fourth Street, Madill, OK 73446-3431.

(iii) USDA, AMS, Science & Technology, c/o Golden Peanut Company LLC, (Mail: P.O. Box 272; Dawson, GA 31742-0272), 715 Martin Luther King Jr. Drive, Dawson, GA 39842-1002.

(iv) USDA, AMS, S&T, Mail: P.O. Box 1130, 308 Culloden Street, Suffolk, VA 23434-4706.

(3) Citrus laboratory. The Science and Technology's citrus laboratory specializes in testing citrus juices and other citrus products and is located as follows: USDA, AMS, Science & Technology Citrus Laboratory, 98 Third Street, SW., Winter Haven, FL 33880-2905.

(4) Program laboratories. Laboratory services are available in all areas covered by cooperative agreements providing for this laboratory work and entered into on behalf of the Department with cooperating Federal or State laboratory agencies pursuant to authority contained in Act(s) of Congress. Also, services may be provided in other areas not covered by a cooperative agreement if the Administrator determines that it is possible to provide such laboratory services.

(5) Other alternative laboratories. Laboratory analyses may be conducted at alternative Science and Technology laboratories and can be reached from any commodity market in which a laboratory facility is located to the extent laboratory personnel are available.

(6) Science and Technology headquarters offices. The examination, licensure, quality assurance reviews, laboratory accreditation/certification and consultation services are provided by headquarters staff located in Washington, DC. The main headquarters office is located as follows: USDA, AMS, Science and Technology, Office of the Deputy Administrator, Room 3507 South Agriculture Bldg., Mail Stop 0270, 1400 Independence Ave., SW., Washington, DC 20250-0270.

(7) The Information Technology (IT) Group. The IT office of the Science and Technology programs is headed by the Associate Deputy Administrator for Technology/Chief Information Officer and provides information technology services and management systems to the Agency and other agencies within the USDA. The main IT office is located as follows: USDA, AMS, Science and Technology, Office of the Associate Deputy Administrator for Technology, 1752 South Agriculture Bldg., Mail Stop

2004, 1400 Independence Ave., SW., Washington, DC 20250-0204.

(8) Statistics Branch Office. The Statistics Branch office of Science and Technology (S&T) provides statistical services to the Agency and other agencies within the USDA. In addition, the Statistics Branch office generates sample plans and performs consulting services for research studies in joint efforts with or in a leading role with other program areas of AMS or of the USDA. The Statistics Branch office is located as follows: USDA, AMS, S&T Statistics Branch, 0603 South Agriculture Bldg., Mail Stop 0223, 1400 Independence Ave., SW., Washington, DC 20250-0223.

(9) Technical Services Branch Office. The Technical Services Branch office of Science and Technology (S&T) provides technical support services to all Agency programs and other agencies within the USDA. In addition, the Technical Services Branch office provides certification and accreditation services of private and State government laboratories as well as oversees quality assurance programs; import and export certification of laboratory tested commodities. The Technical Services Branch office is located as follows: USDA, AMS, S&T Technical Services Branch, 3521 South Agriculture Bldg., Mail Stop 0272, 1400 Independence Ave., SW., Washington, DC 20250-0272.

(10) Monitoring Programs Office. Services afforded by the Pesticide Data Program (PDP) and Microbiological Data Program (MDP) are provided by USDA, AMS, Science and Technology Monitoring Programs Office (MDP and PDP), 8609 Sudley Road, Suite 206, Manassas, VA 20119-8411.

(11) Federal Pesticide Record Keeping Program Office. Services afforded by the Federal Pesticide Record Keeping Program for restricted-use pesticides by private certified applicators are provided by USDA, AMS, Science and Technology, Pesticide Records Branch, 8609 Sudley Road, Suite 203, Manassas, VA 20110-8411. The addresses of the various laboratories and offices appear in the pertinent parts of this subchapter. A prospective applicant may obtain a current listing of addresses and telephone numbers of Science and Technology laboratories, offices, and facilities by addressing an inquiry to the Administrative Officer, Science and Technology, Agricultural Marketing Service, United States Department of Agriculture (USDA), 1400 Independence Ave., SW., Room 0725 South Agriculture Building, Mail Stop 0271, Washington, DC 20250-0271.

4. A new subpart J is added to read as follows:

Subpart J—Designation of Approved Symbols for Identification of Commodities Officially Tested by AMS

Sec.

91.100 Scope.

91.101 Definitions.

91.102 Form of official identification symbols.

§ 91.100 Scope.

Two approved information symbols in the form of AMS shields are available to indicate official testing by an AMS laboratory. The two approved AMS shields with the words “USDA AMS TESTED” and “USDA LABORATORY TESTED FOR EXPORT” are added to the USDA symbol inventory to enhance the acceptance of AMS tested agricultural commodities on a national or international basis.

§ 91.101 Definitions.

Words used in the regulations in this part in the singular form will import the

plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

AMS. The abbreviation for the Agricultural Marketing Service (AMS) agency of the United States Department of Agriculture.

Export. To send or transport a product originally created or manufactured in the United States of America to another country in the course of trade.

Laboratory. An AMS Science and Technology (S&T) laboratory listed in § 91.5 that performs the official analyses.

Test. To perform chemical, microbiological, or physical analyses on a sample to determine presence and levels or amounts of a substance or living organism of interest.

USDA. The abbreviation for the United States Department of Agriculture.

§ 91.102 Form of official identification symbols.

Two information symbols in the form of AMS shields indicate commodity testing at an AMS laboratory listed in § 91.5 of this part. The AMS shield set forth in figure 1 of this section, containing the words “USDA AMS TESTED”, and the shield set forth in figure 2, containing the words “USDA LABORATORY TESTED FOR EXPORT” have been approved by the USDA Office of Communications to be added to the USDA/AMS inventory of symbols. Each example of an AMS shield has a black and white background; however the standard red, white and blue colors are approved for the shields. They are approved for use with AMS materials. Shields with the same wording that are similar in form and design to the examples in figures 1 and 2 of this section may also be used.

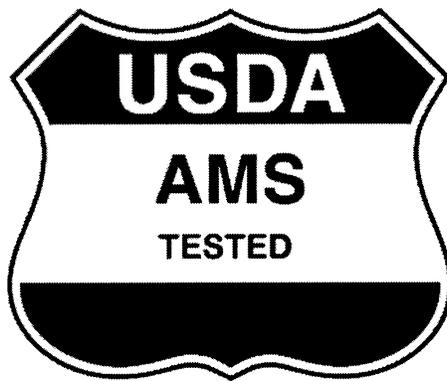


Figure 1.



Figure 2.

PART 96—[REMOVED AND RESERVED]

4. Part 96 is removed and reserved.

Dated: August 7, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–20563 Filed 8–12–03; 8:45 am]

BILLING CODE 3410–02–P

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

[Docket No. 2003–NE–19–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007A1, AE 3007A1/1, AE 3007A1/3, AE 3007A3, AE 3007A1E, and AE 3007A1P Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007A1, AE 3007A1/1, AE 3007A1/3, AE 3007A3, AE 3007A1E, and AE 3007A1P turbofan engines, with 1st to 2nd stage turbine spacers, part number (P/N) 23069627, 23070989, 23072849, or 23075364 installed. This proposed AD would reduce the life limit for 1st to 2nd stage turbine spacer, part number (P/N) 23072849, to a certain lower life limit, based on engine model. This proposed AD would also require a one-time fluorescent penetrant inspection (FPI) of 1st to 2nd stage turbine spacers P/Ns 23069627, 23070989, 23072849, and 23075364 before reaching the spacer life limit, within specified cycles-since-new (CSN), and would require replacement of the spacer if found cracked, or with bent or missing aft tangs. This proposed AD is prompted by a report that during a scheduled inspection, aft pilot tangs on a 1st to 2nd stage turbine spacer were found bent and cracked. The actions specified in this proposed AD are intended to prevent 1st to 2nd stage turbine spacer failure, leading to uncontained turbine failure, engine shutdown, and damage to the airplane.

DATES: We must receive any comments on this proposed AD by October 14, 2003.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–19–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov*.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7870, fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION:**Comments Invited**

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include “AD Docket No. 2003–NE–19–AD” in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us through a nonwritten communication, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You may get more information about plain language at <http://www.plainlanguage.gov>.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Discussion

The FAA has been made aware that during a scheduled engine inspection, aft pilot tangs on a 1st to 2nd stage turbine spacer were found cracked and bent. The manufacturer has determined that the cause of the cracking and bending is due to a tight interference fit between the 2nd stage high pressure turbine wheel and the 1st to 2nd stage turbine spacer, and a fillet radius on the aft tangs, that is too small. The manufacturer is making design changes to decrease the interference fit of a replacement 1st to 2nd stage turbine spacer. The manufacturer has reduced the original life limit for spacer part number 23072849. The manufacturer is also requesting FPI of this spacer P/N 23072849 and three other related spacers P/Ns 23069627, 23070989, and 23075364. This action is considered interim and future AD action may be taken based on inspection results and replacement part availability.

FAA’s Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would reduce the 20,000 CSN life limit for the replacement 1st to 2nd stage turbine spacer, P/N 23072849, to 13,100 CSN for engine models AE 3007A1/1, AE 3007A1/3, AE 3007A1, and AE 3007A3, and to 12,900 CSN for engine models AE 3007A1E and AE 3007A1P. This proposed AD would also require a one-time FPI of 1st to 2nd stage turbine spacers P/Ns 23069627, 23070989, 23072849, and 23075364 before reaching the spacer life limit, within specified CSN, and would require replacement of spacers if found cracked, or with bent or missing aft tangs.

Changes to 14 CFR Part 39—Effect on the Proposed AD

On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA’s AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

There are approximately 1,244 engines of the affected design in the worldwide fleet. We estimate that 850 engines installed on airplanes of U.S.