

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 121, 129, and 135**

[Docket No. FAA-2002-13458; Notice No. 04-04]

RIN 2120-AE92

Corrosion Prevention and Control Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule, withdrawal.

SUMMARY: The Federal Aviation Administration (FAA) withdraws the proposal to require operators to include FAA-approved corrosion prevention and control programs (CPCPs) in their maintenance or inspection programs. The FAA has determined that existing CPCPs, either mandated by airworthiness directive (AD) or incorporated through new maintenance philosophies, sufficiently address the issues covered in the proposed rule. The intent of this action is to explain to the public the FAA's decision to withdraw the proposal.

FOR FURTHER INFORMATION CONTACT: Russell Jones, Flight Standards Service, Aircraft Maintenance Division (AFS-300), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-7228.

SUPPLEMENTARY INFORMATION:**Background**

On October 3, 2002, the FAA published a notice of proposed rulemaking (67 FR 62142). The document proposed a requirement to include FAA-approved CPCPs in operators maintenance or inspection programs. The applicable airplanes were those operated under 14 CFR part 121, all U.S.-registered multiengine airplanes operated in common carriage by foreign air carriers or foreign persons under part 129, and all multiengine airplanes used in scheduled operations under part 135. The proposal's comment period closed on April 1, 2003.

Withdrawal of Proposal

The FAA withdraws Notice No. 02-16 (67 FR 62142, October 3, 2002) because the FAA's safety objectives are being met without this rulemaking.

Before issuing the CPCP proposal, the FAA issued ADs that mandated corrosion prevention and control programs for certain older airplane models where an unsafe condition existed. The AD-mandated CPCPs are

equal to the kinds of CPCPs the proposal would have required. The FAA issued the CPCP proposed rule to expand the requirement for CPCPs to airplane models not previously covered by ADs. Also, the FAA intended to address the need for CPCPs globally, with the CPCP regulation, rather than by issuing ADs on airplanes model-by-model. The proposal was based on the CPCP-related ADs. Therefore, operators already in compliance as a result of having the AD-mandated programs in place would not have needed to make further changes to their maintenance programs.

The FAA issued the earlier ADs against older transport category airplanes first. During the period the CPCP rulemaking was pending, the FAA had to issue more ADs to address corrosion concerns on many other airplane models the proposal was intended to cover. Also, during this interim period, airplane manufacturers came to better understand the effects of corrosion and developed CPCPs (e.g., using Maintenance Steering Group-3 (MSG-3) programs) for their new airplane models. The MSG-3 process uses airline and manufacturer experience to develop scheduled maintenance for new airplanes. Therefore, current production airplane models, such as the Boeing 757, 767, 777, and 717, are being delivered with an acceptable CPCP included as part of their maintenance program. For new airplane designs that have maintenance programs developed under the MSG-3 process, the corrosion inspections are included in the original manufacturers' developed maintenance program.

The ADs the FAA issued and the aviation industry's actions have resulted in about 92 percent of part 121 airplanes being covered by an FAA-approved CPCP. Like part 121 operators, part 135 operators saw the benefits of CPCPs and have begun to adopt these programs. In addition, the FAA's cost-benefit analysis for the proposal was based on 1997 data. Since then, the number of affected airplanes have decreased. As of 2002, only about 50 percent of part 135 airplanes in use in 1997 remained in operation within the U.S. By 2010, it is expected that only about 11 percent will be in operation.

Discussion of Comments

The FAA sought and received comments on the proposed rule.

Comment

The commenters, while generally supportive of the need for a systematic approach to corrosion prevention and control, questioned the need for the rulemaking because of the progress they

have made in adopting CPCPs. The commenters said current maintenance programs already include CPCP inspections required by AD or as part of an MSG-3 program. The commenters believe the proposal duplicates, conflicts with, and further complicates how current CPCPs, which have proven effective, are administered.

FAA Response

The FAA issued ADs before and after issuing the proposed CPCP rule. These ADs covered airplane models where the potential for an unsafe condition existed and where an approved CPCP was not in the maintenance program. In addition, operators, using FAA-approved MSG-3 processes, have continually incorporated CPCPs into their maintenance programs. In developing these maintenance schedules, the MSG follows a service-history-based approach to address items like corrosion prevention and control. The FAA believes both the AD-mandated and MSG-3 programs are effective in preventing and controlling corrosion. Currently about 92 percent of part 121 airplanes are covered by AD or by MSG-3 programs. Therefore, the FAA believes the primary safety objectives of the proposal are currently being met. The FAA intends to address any corrosion-related unsafe conditions in the remaining airplanes in the fleet by AD.

Comments

Multiple comments addressed the FAA's methodologies applied to the cost-benefit analysis. Some commenters said the benefits given in the proposal do not justify the costs. Other commenters questioned the relevance of the data used in the analysis given that most of the part 121 and part 135 data are outdated and the numbers of applicable part 135 airplanes have decreased substantially.

FAA Response

Based on the benefits of mitigating corrosion on aircraft, industry has helped to accomplish the objectives of this proposal by incorporating FAA-approved MSG-3 processes into their maintenance programs. The FAA determined that about 47 percent of the current part 121 fleet has maintenance programs that include MSG-3 processes. The FAA also has mandated Airworthiness Directives (AD) for CPCP inspections on another 45 percent of the part 121 transport category fleet. This leaves only 8 percent of this fleet not covered by ADs or MSG-3 maintenance processes.

For the CPCP proposed rule, the FAA based its analysis on 1997 data. The FAA found that as of 2002, only about 50 percent of the part 135 airplane fleet in use in 1997 were still operating in the U. S. By 2010, the FAA expects this percentage to decrease to only 11 percent.

Given that such a small percentage of the part 121 and part 135 fleets would be affected by the proposed rule, the FAA intends to address the discovery of any remaining unsafe condition by issuing ADs. The FAA expects these entire airplane fleets will soon be protected either through industry practice, AD, or airplane retirement.

The FAA received comments disputing its assessment that the benefits of the proposal justified the costs. Without arguing the specifics of the methodology the FAA used in completing the analysis, the FAA believes the joint action of industry and the FAA demonstrate the benefits of the proposal justify the costs.

The many ADs issued across airplane models operated under part 121 are evidence of the accident risk resulting from corrosion. Each AD, by itself, is proof that a significant accident risk exists. This risk has been addressed in about 92 percent of the part 121 fleet by industry and FAA actions. The response by industry to the corrosion problem strongly supports the FAA's cost-benefit conclusion.

The FAA believes the essential safety objectives of the proposed rule are being met through industry action, AD-mandated action, and the substantial decline of the affected fleet. In the future, a discovery of an unsafe condition will result in the issuance of an AD.

Comment

The commenters raised several other issues, including questions about the proposed definition of Level 1 and Level 2 Corrosion.

FAA Response

The FAA is not responding to these other concerns in this document since we are withdrawing the proposal.

For the reasons discussed in this document, the FAA believes it is neither reasonable nor in the public interest to proceed with the CPCP proposal. Therefore, the FAA withdraws Notice No. 02-16, published at (67 FR 62142) on October 3, 2002. However, withdrawal of this proposed rule does not preclude the FAA from issuing another proposal on the same subject matter in the future or taking any future course of action.

Issued in Washington, DC, on August 10, 2004.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. 04-18633 Filed 8-13-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-D-7598]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT:

Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646-2903.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified BFEs, together with the floodplain management criteria required

by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows: