

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–245–AD." The postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–245–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

#### Discussion

The FAA has received a report indicating that Boeing Stress Engineering has found that the material thickness for longerons L–5L to L–5R, located in the upper center fuselage of Boeing Model 717–200 airplanes, is undersized. Investigation revealed that this could cause fatigue cracking of the longerons of the upper center fuselage after the accumulation of 30,000 total flight cycles on the airplane. Such fatigue cracking could result in reduced structural integrity of the fuselage.

#### Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 717–53–0001, including Evaluation Form, dated March 20, 2001, which describes procedures for modification of the longeron-to-frame installation of the main frame of the upper center fuselage between stations Y=655.000 and Y=813.000, at longerons L–5L to L–5R. The modification includes fabricating the angles and installing support angles and doublers. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

#### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

#### Difference Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin recommends accomplishing the modification "at a scheduled heavy maintenance period when manpower, materials, and

facilities are available," the FAA has determined that such an imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modification. In light of all of these factors, the FAA finds a compliance time of "Before the accumulation of 30,000 total flight cycles or within 10 years after the effective date of the AD, whichever is first," for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

#### Cost Impact

There are approximately 56 airplanes of the affected design in the worldwide fleet. The FAA estimates that 38 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 108 work hours per airplane to accomplish the proposed modification, and that the average labor rate is \$60 per work hour. Required parts cost would be minimal. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$246,240, or \$6,480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. The manufacturer may cover the cost of replacement parts associated with this proposed AD, subject to warranty conditions.

#### Regulatory Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal

would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

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

**McDonnell Douglas:** Docket 2001–NM–245–AD.

**Applicability:** Model 717–200 airplanes, manufacturer's fuselage numbers 5001 through 5056 inclusive; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent fatigue cracking of the longerons of the upper center fuselage, which