volume, not the amount of small sizes shipped early in the season. The Department recognizes that there are several factors contributing to the current problems facing the grapefruit industry. However, this rule is not an attempt to fix every potential problem. Rather, this rule seeks to slow the drastic price decline that occurs during the 11 weeks regulated hereunder. The early season crop tends to have a greater percentage of small sizes. The large volume of smaller, lower priced fruit drives down the price for all sizes.

Larger sized fruit commands a premium price early in the season. The f.o.b. for these sizes can be $4 to $6 a carton more than for the smaller sizes. In early October, the f.o.b. for a size 27 averages around $10.00 per carton, compared to an average f.o.b. of $5.50 per carton for size 56. By the end of the 11 week period in this rule, the f.o.b. for large sizes has dropped to within two dollars of the price for small sizes. In addition, during the 11 week period, prices of red seedless grapefruit have fallen from a weighted average f.o.b. of $7.80 per carton to an average f.o.b. of $5.50 per carton, the f.o.b. for size 56, for the past three seasons.

Later in the season the crop tends to naturally limit the amount of smaller sizes available for shipment. However, the price structure in the market has already been negatively affected, and the f.o.b. price for all sizes remains around $5.00 to $6.00 per carton for the rest of the season.

In addition, the committee examined shipment information detailing the amounts and percentages of sizes 48 and 56 shipped during the 11 week regulatory period for the last four seasons. They compared this information with tables outlining weekly f.o.b. figures for each size. Based on this statistical information from past seasons, the committee members believe there is an indication that once shipments of sizes 48 and 56 reach levels above 250,000 cartons a week, prices decline on those and most other sizes of red seedless grapefruit. The committee believes that if shipments of small sizes can be maintained at around 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

Utilizing these procedures contributes to the Act's objectives of orderly marketing and improving producers' returns. According to EAB, since sizes 48 and 56 red grapefruit are a small part of the total supply of Florida red grapefruit, limiting shipments of these sizes will have a moderate effect on the total quantity shipped. It may, however, help to prevent the average price for all Florida red grapefruit from being reduced to below the cost of production. This rule limitation provides a sufficient supply of small sized red seedless grapefruit to meet market demand, without saturating all markets with these small sizes. This should help stabilize prices for all sizes.

After thoroughly analyzing the comments received and other available information, including the additional recommendation by the committee, the Department has concluded that this interim final rule is appropriate.

A 10-day comment period is provided to allow interested persons to respond to this proposal. Ten days is deemed appropriate because the regulation period begins on September 15, 1997, and continues for 11 weeks. Adequate time will be necessary so that any changes made to the regulations based on comments filed could be made effective during the 11-week period. All written comments timely received will be considered before a final determination is made on this matter.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public intent to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because this rule needs to be in place when handlers begin shipping grapefruit in September. This rule is necessary to help stabilize the market and to improve grower returns. Further, handlers are aware of this rule, which was recommended at public meetings. Also, a 15-day comment period was provided for in the proposed rule and a 10-day comment period is provided in this rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 905.306, paragraphs (a) and (b), the word ''During'' is removed and the words ''Except as otherwise provided in § 905.601, during'' are added in its place.

3. A new § 905.601 is added to read as follows:

Note: The following section will not appear in the Code of Federal Regulations.

§ 905.601 Red seedless grapefruit regulation 101.

The schedule below establishes the weekly percentages to be used to calculate each handler's weekly allotment of small sizes. If the minimum size in effect under section 905.306 for red seedless grapefruit is size 56, handlers can fill their allotment with size 56, size 48, or a combination of the two sizes such that the total of these shipments are within the established weekly limits. If the minimum size in effect under section 905.306 for red seedless grapefruit is 48, handlers can fill their allotment with size 48 red seedless grapefruit such that the total of these shipments are within the established weekly limits. The weekly percentages for sizes 48 and/or 56 red seedless grapefruit grown in Florida, which may be handled during the specified weeks are as follows:

Week	Weekly percent-age
(a) 9/15/97 through 9/21/97	50
(b) 9/22/97 through 9/28/97	50
(c) 9/29/97 through 10/5/97	50
(d) 10/6/97 through 10/12/97	35
(e) 10/13/97 through 10/19/97	35
(f) 10/20/97 through 10/26/97	35
(g) 10/27/97 through 11/2/97	30
(h) 11/3/97 through 11/9/97	30
(i) 11/10/97 through 11/16/97	30
(j) 11/17/97 through 11/23/97	30
(k) 11/24/97 through 11/30/97	30

Dated: September 9, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–24307 Filed 9–11–97; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1011

[DA–97–09]

Milk in the Tennessee Valley Marketing Area; Termination of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; termination order.

SUMMARY: This rule terminates all but certain administrative provisions of the Tennessee Valley Federal milk marketing order. The remaining administrative provisions will be terminated at a later date. On the basis of public hearings held in May and December 1996 on proposed amendments to 4 southeastern milk orders, including the Tennessee Valley milk order, the Department concluded that each of the 4 orders should be similarly amended. Although the amended orders were approved by producers in 3 of the 4 marketing areas, the issuance of the proposed amended order for the Tennessee Valley marketing area did not receive the required two-thirds mandate. After reviewing the comments filed in response to a notice of proposed termination of the order published on July 3, 1997, the Department has concluded that the present Tennessee Valley order should be terminated.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, PO. Box 96456, Washington, DC 20090–6456, (202) 690–1932, e-mail address Nicholas__Memoli@usda.gov.

SUPPLEMENTARY INFORMATION: Prior documents related to this proceeding:

Notice of Hearing: Issued May 1, 1996; published May 3, 1996 (61 FR 19861).

Tentative Partial Final Decision: Issued July 12, 1996; published July 18, 1996 (61 FR 37628).

Interim Amendment of Orders: Issued August 2, 1996; published August 9, 1996 (61 FR 41488).

Extension of Time for Filing Comments: Issued August 16, 1996; published August 23, 1996 (61 FR 43474).

Extension of Time for Filing Comments: Issued October 18, 1996; published October 25, 1996 (61 FR 55229).

Notice of Reopened Hearing: Issued November 19, 1996; published November 25, 1996 (61 FR 59843).

Partial Final Decision: Issued May 12, 1997; published May 20, 1997 (62 FR 27525).

Notice of Proposed Termination: Issued June 30, 1997; published July 3, 1997 (62 FR 36022).

Extension of Time for Filing Comments to the Proposed Termination: Issued July 9, 1997; published July 14, 1997 (62 FR 37524).

Order Amending the Orders: Issued July 17, 1997; published July 23, 1997 (62 FR 39737).

Partial Recommended Decision: Issued July 17, 1997; published July 23, 1997 (62 FR 39470).

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

During the representative month of February 1997, the milk of 1,469 producers was pooled on the Tennessee Valley order. Of these producers, 1,442 are considered as small businesses.

There were 7 handlers operating 8 pool distributing plants regulated under the Tennessee Valley milk order for February 1997. Of these handlers, 3 are considered small businesses.

Upon termination of the Tennessee Valley order, it is likely that all but 2 of the handlers currently regulated under the order will become regulated under the Carolina, Southeast, or Louisville-Lexington-Evansville Federal milk orders. The regulations under these other orders are, for the most part, comparable to those of the Tennessee Valley order, but each of these 4 orders has a different price structure and a unique uniform price to producers that is computed each month. The impact of these regulatory changes on producers will depend upon which order the former Tennessee Valley handlers become regulated under. In some cases, the uniform price paid to producers will be somewhat higher, but in other cases it will be a little lower.

Those handlers who will become regulated under other Federal orders will continue to be responsible for the recordkeeping, reporting, and compliance requirements of those orders.

Preliminary Statement

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Tennessee Valley marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on July 3, 1997 (62 FR 36022), concerning a proposed termination of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon.

In total, 11 comments were received, 3 supporting the termination, 3 opposed to it, and 5 taking no position on the termination but offering comments on questions raised by the Department in the notice of proposed termination.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that the current order regulating the handling of milk in the Tennessee Valley marketing area (7 CFR part 1011) does not tend to effectuate the declared policy of the Act.

Statement of Consideration

This rule terminates the Tennessee Valley Federal milk marketing order effective October 1, 1997. On May 12, 1997, the Department issued a partial final decision on proposed amendments to the Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville milk orders (i.e., Orders 5, 7, 11, and 46) which was published on May 20, 1997 (62 FR 27525). The final decision document contained proposed amended orders for the 4 southeast marketing areas, including the Tennessee Valley order, and directed the respective market administrators of the 4 orders to ascertain whether producers approved the issuance of the amended orders. The final decision concluded that amended orders were needed to effectuate the declared policy of the applicable statutory authority.

Less than two-thirds of the producers whose milk is pooled in the Tennessee Valley marketing area approved the issuance of the proposed amended order. The Act requires approval by at least two-thirds of the producers before an amended order may be issued.

In the Department's Notice of Proposed Termination of the Order, interested parties also were requested to specifically address two issues: (1) The disposition of the Tennessee Valley order transportation credit balancing fund (TCBF) and (2) transportation credit ineligibility on milk of producers located in the area comprising the Tennessee Valley marketing area under Orders 5, 7, and 46.

Comments submitted by two handlers, Mayfield Dairy Farms, Inc., and Land-O-Sun Dairies, Inc., both of which operate pool plants currently regulated under the Tennessee Valley order, support the Department's recommendation that funds accumulated in the Tennessee Valley order's TCBF be transferred prorata to the respective orders where such handlers will become regulated, based on each handler's contribution to the Tennessee Valley order's TCBF.

A comment submitted by Barber Pure Milk Company (Barber) and Dairy Fresh Corporation (Dairy Fresh), handlers regulated under the Southeast milk order, states that the handlers support the Department's proposal to transfer the money in the Tennessee Valley order's TCBF to the TCBFs of the orders under which Tennessee Valley order handlers become regulated. Barber and Dairy Fresh also state that it would be unfair to return the money that Tennessee Valley order handlers have contributed to the Order 11 TCBF to those handlers and then permit these handlers to draw credits out of the TCBFs in the Carolina, Southeast, or Louisville-Lexington-Evansville orders without having ever contributed to such funds. Additionally, the commentors support the Department's position that the milk of producers located geographically within the Tennessee Valley marketing area be ineligible for transportation credits under the other 3 southeastern milk orders.

The Fleming Companies, Inc. (Fleming), a handler operating a pool plant regulated under the Southeast order, submitted a comment urging the Department to speedily complete the process of termination of the Tennessee Valley milk marketing order. The handler contends that termination will result in handlers becoming regulated along competitive lines rather than artificial geographic lines.

Fleming supports the recommendation that funds in the Tennessee Valley order's TCBF be transferred prorata into the comparable funds of markets under which the Order 11 handlers will become regulated. Fleming states that the prorated share of any transportation credit balancing funds to follow each handler should be based on that handler's proportionate share of Class I milk marketed under the Tennessee Valley order. The handler also supports the interpretation that milk of producers located geographically within the Tennessee Valley marketing area should be ineligible for transportation credits subsequent to its termination.

A comment filed on behalf of Mid-America Dairymen, Inc. (Mid-Am), a cooperative association with producers on the 4 southeastern orders, states that Mid-Am supports the Department's proposal concerning the disbursement of the Tennessee Valley's TCBF and contends that a prorata transfer of funds is the most equitable method of disbursement. The cooperative states that in the event that two of the handlers that are currently regulated under Order 11 become unregulated, these handlers should be reimbursed for their contributions. Mid-Am also recommends the adoption of the Department's interpretation concerning the ineligibility for transportation credits for milk of producers located within the geographic boundaries of the Tennessee Valley marketing area.

Associated Milk Producers, Inc. (AMPI), stated that the Tennessee Valley order should be terminated since the order, as amended, was not approved by the producers voting in the referendum. AMPI also contends that since the major handlers on Order 11 will become regulated under Orders 5, 7, or 46, all of which provide similar transportation credit provisions, it is only fair and reasonable that the transportation credit assessments which have been contributed by those Order 11 handlers follow them to their new market of regulation and be added to the fund balance of that market.

AMPI concurs with the Department's determination that milk of producers located within the boundaries of the Tennessee Valley marketing area should be ineligible to receive transportation credits.

A comment submitted by Peeler Jersey Farms, Inc. (Peeler), a handler with distributing plants regulated under the Carolina and Southeast milk orders, states that a termination of the Tennessee Valley milk order may not be in the best interest of the Federal milk order program if an environment is created in which regulated milk competes with unregulated milk. Peeler states that to prevent this inequity the Department should modify pooling standards so that all handlers currently regulated under the Tennessee Valley milk order will be regulated under one of the other 3 southeastern milk orders.

Peeler supports the Department's proposal to transfer the funds in the Tennessee Valley order's TCBF to the TCBF of the respective order where handlers will become regulated based upon their contributions to the Order 11 TCBF. Additionally, the handler states that the milk of dairy farmers pooled on the Tennessee Valley milk order should not be eligible for transportation credits if the order is terminated.

A comment submitted by Carolina-Virginia Milk Producers Association, Inc. (Carolina-Virginia), a cooperative association representing producers whose milk is pooled on the Carolina, Southeast, and Tennessee Valley milk orders, states that Carolina-Virginia takes no position on the proposed termination of the Tennessee Valley milk order. However, the cooperative association does favor the Department's proposal to transfer prorated funds accumulated in the Tennessee Valley order's TCBF to each of the TCBFs of the respective orders where the former Tennessee Valley handlers become regulated. Carolina-Virginia also supports the return of the prorata share of the TCBF to the 2 handlers who will likely become unregulated and recommends the adoption of the Department's interpretation concerning the reference to the Tennessee Valley marketing area as it pertains to transportation credit ineligibility.

Southeastern Graded Milk Producers Association, a cooperative association with nearly 300 producers located in Kentucky, filed a comment in opposition to the termination of the Tennessee Valley order as proposed.

Southern Belle Dairy, a handler operating a pool distributing plant in Somerset, Kentucky, regulated under the Tennessee Valley milk order, also filed a comment opposing the termination of the Tennessee Valley milk marketing order. Southern Belle states that the current Tennessee Valley milk order continues to effectuate the declared policy of the Act and, therefore, should not be terminated. In addition, the handler argues that since less than 50% of the producers requested termination, the Secretary is not required to terminate the order. According to the handler, any termination of the order will create the very disorderly marketing of milk and plant price inequities the Act tends to eliminate.

Southern Belle maintains that in the event that Order 11 is terminated and Southern Belle becomes regulated under Order 7, the handler would be placed at a competitive disadvantage. The handler states that the disadvantage in the milkshed resulting from termination will require Southern Belle to pay significantly more for milk in order to secure a supply. According to the handler, despite the lower Class I price that Southern Belle would be responsible for under regulation of the Southeast order, the blend price at the plant's location would be reduced relative to the blend price of nearby Order 46 handlers competing for milk supplies and, therefore, interfere with Southern Belle's procurement of milk.

The handler also requests that if the Tennessee Valley order is terminated the funds paid into the Order 11 TCBF be returned to Southern Belle since it did not receive transportation credits in 1996 and does not intend to apply for credits in 1997 or thereafter. Southern Belle states that such reimbursement is the only equitable method of distribution of the TCBF.

Milk Marketing Inc. (MMI), a regional cooperative representing 7,500 producers whose milk is pooled under 8 different Federal milk orders, submitted a comment fully supporting the continuation of the Tennessee Valley order. MMI believes that the Federal Order Program has served the public very well and states there is no reason to terminate the Tennessee Valley order.

According to MMI, many businesses would encounter severe economic hardship if the Tennessee Valley order were terminated. MMI indicated that Southern Belle, which is supplied in part by MMI, would be financially harmed. MMI stated that Southern Belle would most likely become regulated under the Southeast Order. Were this to happen, it states, Southern Belle would experience a 32.5 cents reduction in its Class I price, but this reduction would be more than offset by a substantial increase in its procurement cost for all milk received at the Southern Belle plant because its blend price under Order 7 would be well below (e.g., 41 cents during 1996) the blend price at Somerset under Order 46. Thus, the cooperative noted, the prices received by producers servicing this plant would be severely reduced.

MMI agreed with the Department's interpretation that milk of producers located in the Tennessee Valley marketing area should still be ineligible for a transportation credit under Orders 5, 7, and 46.

Conclusion. The Department has determined that the Tennessee Valley milk order must be terminated since the existing order does not tend to effectuate the declared policy of the Act. The comments that were filed in response to the notice of proposed termination provide no basis for questioning the validity of the vote on the proposed amended order or the determination that the existing order needed to be amended.

The Act specifically prohibits the issuance of any milk order that is not favored by more than two-thirds of producers by number or by volume of milk marketed. Accordingly, since less than two-thirds of the producers, by number and volume of milk marketed, approved of the proposed new amended Tennessee Valley order, it cannot be issued. No comments disputed this point.

Several comments suggested that the Secretary was not required to terminate the existing Tennessee Valley marketing order. In the Partial Final Decision, however, the Secretary determined that recent experience under the existing marketing order demonstrated there were certain serious problems with the order that needed to be corrected (62 FR 27532–27536). The Secretary determined that the new proposed amended order was ''the detailed and appropriate means of effecting'' these corrections, and he specifically rejected the previous findings and determinations for the existing marketing order in this regard (62 FR 27537–27538). Thus, the existing marketing order does not tend to effectuate the declared policy of the Act. None of the comments dispute the Secretary's conclusions on this point.

The comments essentially just claim that a particular handler may feel competitive pressure if it is pooled under Order 7. Under Federal marketing orders, a handler located in an unregulated area is pooled under the particular marketing order where it has most of its sales. This is the main area where it chooses to compete with other handlers. If such a handler does not wish to be regulated under a particular order, it is free to sell its milk in a different geographic area and, thus, effectively choose the marketing order under which it is regulated. Similarly, any handler is free to purchase its milk supply from any producers wherever located. But certainly the existence or boundaries of Federal marketing orders should not be controlled by the marketing or procurement strategies of one particular milk plant. Furthermore, as noted above, such a claim is not even directly relevant to the question of whether the existing marketing order required certain changes in order to continue to effectuate the declared policy of the Act.

The termination of the Tennessee Valley order will not result in a regulatory void in the Tennessee Valley marketing area. In fact, it appears that all but two of the handlers now regulated under Order 11 will continue to be fully regulated under Order 5, Order 7, or Order 46. The two handlers likely to become unregulated have very limited distribution areas. Virtually all of the producers whose milk is priced under the Tennessee Valley order will continue to receive the benefits of a Federally mandated minimum price, albeit under a different order.

As requested, many of the comments received addressed the issue of disbursement of the Order 11 TCBF. A majority of the commentors support the Department's proposal to transfer the funds prorata based upon handlers' contributions to the funds of the orders that they will become regulated under. Since the handlers will be eligible to request transportation credits once they become regulated under the Carolina, Southeast or Louisville-Lexington-Evansville orders, it is the most equitable means for disbursement in accordance with 7 CFR 1000.4.

It is also reasonable, and fully supported by the comments received, to continue to exclude transportation credits under Orders 5, 7, and 46 for milk received from a dairy farm within the defined area known as the Tennessee Valley marketing area. Accordingly, there will be no change in the interpretation of Section 82(c)(2)(iii) of Orders 5, 7, and 46 after Order 11 is terminated.

It is hereby found and determined that the Tennessee Valley milk marketing order should be terminated pursuant to 7 U.S.C. 608(c)(16)(A).

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The termination is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area;

(b) This termination does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this termination.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1011

Milk marketing orders.

Order

It is therefore ordered, That the terms and provisions of the order, as amended, regulating the handling of milk in the Tennessee Valley marketing area, (7 CFR part 1011) except § 1011.1 which incorporates the General Provisions in part 1000, are hereby terminated effective October 1, 1997.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. The authority citation for 7 CFR part 1011 continues to read as follows:

Authority: Secs. 1–19, 48 Stats. 31, as amended; 7 U.S.C. 601–674.

§§ 1011.2 through 1011.86 [Removed]

2. Part 1011 is amended by removing §§ 1011.2 through 1011.86.

Dated: September 5, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97–24174 Filed 9–11–97; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–180–AD; Amendment 39–10128; AD 97–19–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires ultrasonic inspection of certain engine strut diagonal brace lugs for cracks, and replacement, if necessary. This amendment requires new repetitive inspections to detect discrepancies of the diagonal brace lugs, and rework of the diagonal brace lug, if necessary. In lieu of accomplishing the rework for certain cases, this amendment provides for an option to defer the rework by accomplishing repetitive inspections and resealing the bushing. This amendment also provides for an optional terminating modification for repetitive inspections. This amendment is prompted by additional reports of fatigue cracking in the diagonal brace lug. The actions specified in this AD are intended to prevent such fatigue cracking, which could result in failure of the strut and consequent separation of the engine from the airplane.

DATES: Effective September 29, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 29, 1997.

Comments for inclusion in the Rules Docket must be received on or before November 12, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–180–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tamara L. Dow, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On March 14, 1989, the FAA issued AD 89–07–15, amendment 39–6167 (54 FR 11693, March 22, 1989), applicable to certain Boeing Model 747 series airplanes, to require ultrasonic inspection of certain engine strut diagonal brace lugs for cracks, and replacement, if necessary. That action was prompted by reports of cracked diagonal braces. The actions required by that AD are intended to prevent overloading of the remaining strut attach points and possible structural damage.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received several reports of six additional diagonal braces with cracks in one lug of the aft clevis on Boeing Model 747 series airplanes. These incidents occurred following accomplishment of the optional terminating action specified in AD 89–07–15.

One diagonal brace, which had 3,386 flight cycles, had a crack from the bore to the part edge in the aft lug. The second diagonal brace, which had 5,206 flight cycles, had one lug in the aft clevis completely fractured. The third diagonal brace, which had 13,964 flight cycles, had a crack less than 0.10 inch in the aft lug bore. The fourth diagonal brace, which had 1,275 flight cycles, had a crack from the bore to the part edge in the aft lug. The fifth diagonal brace, which had approximately 3,360 flight cycles, had a through thickness crack in the lug. The sixth diagonal brace, which had approximately 8,350 flight cycles, had a crack in the aft lug. The length of the cracks for the fifth and sixth diagonal braces is not known. (The above mentioned flight cycles refer to cycles following accomplishment of the rework.)

Investigation revealed that the apparent cause of these cracks was attributed to fatigue, which may initiate at lug bore corrosion pits or other lug surface anomalies. Fatigue cracking in the diagonal brace lugs, if not detected and corrected in a timely manner, could result in failure of the strut and consequent separation of the engine from the airplane.

Discussion of Relevant Service Information

Subsequent to the finding of this new cracking, the manufacturer issued, and