

Proposed Rules

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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 Part 1160

[DA-98-09]

Fluid Milk Promotion Program; Notice of Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of referendum.

SUMMARY: This document announces that a referendum will be held to determine whether fluid milk processors favor the continuation of the Fluid Milk Promotion Order. The National Fluid Milk Processor Board, which administers the order, requested the action. The order will remain in effect if at least 50 percent of the fluid milk processors voting in the referendum favor its continuation and those processors marketed in July 1998 at least 60 percent of the fluid milk products sold in the United States by all processors voting in the referendum.

DATES: The referendum will be held November 9-16, 1998. The representative period for establishing voter eligibility will be July 1998.

FOR FURTHER INFORMATION CONTACT: Shirley Flood, Referendum Agent, USDA/AMS/Dairy Programs, Room 2753, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9374.

SUPPLEMENTARY INFORMATION: This document announces that a referendum will be conducted on November 9-16, 1998, among fluid milk processors to determine whether the Fluid Milk Promotion Order should continue. The Order is authorized by the Fluid Milk Promotion Act of 1990, as amended by the Fluid Milk Promotion Amendments Act of 1993 and 1996. The program is funded by a mandatory 20-cent assessment on processors whose monthly marketing exceeds 500,000 pounds of fluid milk products sold in the United States.

The Fluid Milk Promotion Order, which became effective December 10, 1993, provides that the Secretary shall conduct a continuation referendum at the request of the Board or any group of fluid milk processors which represents 10 percent or more of the fluid milk products marketed in the United States by all fluid milk processors voting in the preceding referendum. The order will remain in effect if at least 50 percent of the fluid milk processors voting in the referendum favor its continuation and those processors marketed during the representative period (as determined by the Secretary) at least 60 percent of the fluid milk products marketed in the United States by all processors voting in the referendum.

The month of July 1998 is hereby determined to be the representative period for the conduct of such referendum. Fluid milk processors who wish to participate in the referendum will have to register to vote by certifying that they were processors during the month of July 1998. Those handlers processing and marketing more than 500,000 pounds of fluid milk products during the month of July 1998 will be eligible to vote in the referendum, provided they are fluid milk processors at the time of voter registration and during the time the referendum is conducted.

It is hereby directed that a referendum be conducted during the period of November 9-16, 1998, in accordance with the procedure for the conduct of referenda (7 CFR 1160.600 *et seq.*), to determine whether the Fluid Milk Promotion Order is approved by fluid milk processors who, during the representative period, were engaged in the distribution of fluid milk products within the 48 contiguous United States and the District of Columbia.

Shirley Flood is hereby designated as the agent of the Secretary to conduct such referendum.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the forms and reporting and recordkeeping requirements that are included in the Fluid Milk Promotion Order have been approved by the Office of Management and Budget (OMB) and were assigned OMB No. 0581-0093, except for Board members' nominee information sheets that were assigned OMB No. 0505-0001.

Authority: 7 U.S.C. 6401-6417.

Dated: September 16, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98-25214 Filed 9-21-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-29-AD]

RIN 2120-AA64

Airworthiness Directives; Puritan-Bennett Aero Systems Company C351-2000 Series Passenger Oxygen Masks and Portable Oxygen Masks

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to any aircraft equipped with Puritan-Bennett Aero Systems Company (Puritan-Bennett) C351-2000 series passenger oxygen masks and portable oxygen masks. The proposed AD would require inspecting the passenger and portable oxygen masks for tears around the face cushion adjacent to the inner mask housing, and replacing or repairing any torn passenger or portable oxygen mask. Reports received from three airplane manufacturers of defective oxygen masks prompted the proposed action. The actions specified by the proposed AD are intended to prevent reduced oxygen consumption when passengers are required to use defective oxygen masks, which could result in passenger injury.

DATES: Comments must be received on or before November 26, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-29-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from

Puritan-Bennett Aero Systems Co., 10800 Pflumm Road, Lenexa, Kansas 66215; telephone: (913) 338-9800; facsimile: (913) 338-7353. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Michael Imbler, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4147; facsimile: (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98-CE-29-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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-29-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Three airplane manufacturers found and reported to the FAA that, during routine inspections, tears were found in the face cushion of Puritan-Bennett C351-2000 series passenger and portable masks. These tears were 1/4-

inch to 1-inch long. Pulling on the face cushion after deployment could result in the face cushion tearing away from the mask housing. The tear in the face cushion could also lead to oxygen leakage, and insufficient oxygen delivery to the passengers. The masks in question have elastomer cure dates between September 1993 and March 1997.

Relevant Service Information

Puritan-Bennett has issued Nellcor Puritan Bennett Service Bulletin No. C351-2000-35-1, Revision 2, date of original issue: July, 1996, date of first revision: February, 1997, date of current revision: February, 1998. This service bulletin specifies procedures for inspecting any Puritan-Bennett C351-2000 series passenger oxygen mask for tears in the face cushion. If any tear is found, the service bulletin specifies procedures for replacing or repairing the oxygen mask.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the information described above, including the relevant service information, the FAA has determined that AD action should be taken to prevent reduced oxygen consumption when passengers are required to use defective oxygen masks, which could result in passenger injury.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in aircraft that are equipped with Puritan-Bennett C351-2000 series passenger oxygen masks and portable oxygen masks having elastomer cure dates between September 1993 and March 1997, the FAA is proposing AD action. The proposed AD would require inspecting the oxygen mask face cushion adjacent to the inner mask housing for any tear. If a tear is found, the proposed AD would require replacing or repairing the passenger or portable oxygen mask with one that has an elastomer cure date later than March 1997.

Compliance Time

The compliance time of this AD is presented in calendar time instead of hours time-in-service (TIS). The FAA has determined that a calendar time compliance is the most desirable method because the use of these oxygen masks is not related to hours time-in-service. The unsafe condition exists regardless of whether the aircraft is in operation. Therefore, to ensure that the

above-referenced condition is corrected within a reasonable period of time, a compliance schedule based upon calendar time instead of hours TIS is proposed.

Cost Impact

The FAA estimates that 10,500 oxygen masks would be affected by the proposed AD, that it would take approximately 1 workhour per aircraft to accomplish the proposed inspection, and that the average labor rate is approximately \$60 an hour. Puritan-Bennett will repair or replace oxygen mask assemblies found defective at no cost to the owner/operator of any affected aircraft. Based on these figures, the total cost impact of the proposed inspection is estimated to be \$630,000.

Regulatory Impact

The regulations proposed herein would 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under 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 has been placed 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 a new airworthiness directive (AD) to read as follows:

Puritan-Bennett Aero Systems Company

Docket No. 98-CE-29-AD

Applicability: Puritan-Bennett C351-2000 series passenger oxygen masks and portable oxygen masks, part numbers as listed below, that (1) have elastomer cure dates between September 1993 and March 1997; and (2) are installed in aircraft that are certificated in any category:

Passenger Masks

C351-2000-00
C351-2000-02
C351-2000-21
C351-2000-38
C351-2000-52
C351-2000-59
C351-2000-63
114006-01
174006-16
174006-30
174006-31
174290-21
174290-22
174290-24
174290-26
174291-21
174291-23
174291-24
174501-00
174504-01 (C351-2000-205)
174505-01 (C351-2000-201)
174506-00 (C351-2000-223)
174509-00 (C351-2000-302)
174510-01 (C351-2000-224)
174510-08 (C351-2000-231)
174510-09 (C351-2000-232)
174510-10 (C351-2000-233)
174510-11 (C351-2000-234)

Drop-Out Box Assemblies

115055-04
115055-10
175011-01
175015-00
175016-00
175105-00
175109-00
175112-10
175112-11
175112-21
175112-90
175205-00
175210-00
175215-01
175222-11
175222-13
175222-20
175222-21
175222-90
175224-00
175242-00
175242-01
175242-02
175303-00
175308-00

Emergency Oxygen Portable Assemblies

176960-13

176960-14
176980-00
176965-SMB2
176965-SCOB2
176965-SMO2
176965-SCMB2

Note 1: This AD applies to each aircraft equipped with an oxygen mask 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 aircraft 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 (d) 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 in the body of this AD, unless already accomplished.

To prevent reduced oxygen consumption when passengers are required to use defective oxygen masks, which could result in passenger injury, accomplish the following:

(a) Within the next 90 calendar days after the effective date of this AD, inspect the passenger or portable oxygen masks for any tear in the face cushion in accordance with the Accomplishment Instructions section in Nellcor Puritan Bennett Service Bulletin No. C351-2000-35-1, Revision 2, date of original issue: July, 1996, date of first revision: February, 1997, date of current revision: February, 1998. The face cushion is adjacent to the inner mask housing. If a tear is found, prior to further flight, replace or repair the mask in accordance with the service bulletin.

(b) As of the effective date of this AD, no person may install, in any aircraft, Puritan-Bennett C351-2000 series passenger oxygen masks and portable oxygen masks that are specified in the Applicability section of this AD unless they have been inspected and found airworthy in accordance with paragraph (a) of this AD.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) All persons affected by this directive may obtain copies of the document referred

to herein upon request to Puritan-Bennett Aero Systems Co., 10800 Pflumm Road, Lenexa, Kansas 66215; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 15, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-25216 Filed 9-21-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2510

RIN 1210-AA48

Plans Established or Maintained Pursuant to Collective Bargaining Agreements Under Section 3(40)(A) of ERISA

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of establishment of the ERISA Section 3(40) Negotiated Rulemaking Advisory Committee, and notice of first meeting.

SUMMARY: The Department of Labor (Department) is establishing the ERISA Section 3(40) Negotiated Rulemaking Advisory Committee (Committee) under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act (the FACA). The Committee will meet for the first time on Monday, October 26 through Tuesday, October 27, 1998. The Committee will develop a proposed rule implementing the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001-1461 (ERISA). The purpose of the proposed rule is to establish a process and criteria for a finding by the Secretary of Labor that an agreement is a collective bargaining agreement for purposes of section 3(40) of ERISA. The proposed rule will also provide guidance for determining when an employee benefit plan is established or maintained under or pursuant to such an agreement. Employee benefit plans that are established or maintained for the purpose of providing benefits to the employees of more than one employer are "multiple employer welfare arrangements" under section 3(40) of ERISA, and therefore are subject to certain state regulations, unless they meet one of the exceptions set forth in section 3(40)(A). At issue in this regulation is the exception for plans or