DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–29–AD; Amendment 39–10286; AD 98–02–04]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–5B/2P Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CFM International (CFMI) CFM56–5B/2P series turbofan engines, that requires a reduction of the low cycle fatigue (LCF) retirement life for certain low pressure turbine (LPT) cases. This amendment is prompted by the results of a refined life analysis performed by the manufacturer which revealed minimum calculated LCF lives significantly lower than the published LCF retirement life. The actions specified by this AD are intended to prevent a LCF failure of the LPT case, which could result in damage to the aircraft.

DATES: Effective March 23, 1998.

ADDRESSES: This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7138; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to CFM International (CFMI) CFM56–5B/2P series turbofan engines was published in the **Federal Register** on September 19, 1997 (62 FR 49179). That action proposed to require a reduction of the low cycle fatigue (LCF) retirement life for certain low pressure turbine (LPT) cases.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

One commenter supports the rule as proposed.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 18 engines of the affected design in the worldwide fleet. The manufacturer has advised the FAA that there are no engines installed on U.S. registered aircraft that are affected by this AD. Therefore, there is no associated cost impact on U.S. operators as a result of this AD. However, should an affected engine be imported on an aircraft and placed on the U.S. registry in the future, and assuming that the parts cost is proportional to the reduction of the LCF retirement life, the required parts would cost approximately $40,423 per engine. Based on these figures, the total cost impact of the AD is estimated to be $40,423 per engine.

The regulations adopted herein will 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 final rule does 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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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:

98–02–04 CFM International: Amendment 39–10286. Docket 97–ANE–29–AD.

Applicability: CFM International (CFMI) CFM56–5B1/2P, –5B2/2P, –5B3/2P, and –5B4/2P turbofan engines, installed with low pressure turbine (LPT) case, Part Number (P/N) 338–117–004–0, installed on but not limited to Airbus A320 and A321 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 (e) 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 a low cycle fatigue (LCF) failure of the LPT case, which could result in damage to the aircraft, accomplish the following:

(a) Remove from service LPT case, P/N 338–117–004–0, and replace with a serviceable part, as follows:

(1) For CFM56–5B2/2P and –5B3/2P engines, prior to accumulating 10,500 cycles.

(2) For CFM56–5B1/2P and –5B4/2P engines, prior to accumulating 15,500 cycles.

(b) This action establishes the new LCF retirement lives of 10,500 and 15,500 cycles for the engines stated in paragraphs (a)(1) and (a)(2) of this AD, which are published in Chapter 05 of CFM56–5B Engine Shop Manual, CFMI–TP.SM.9.

(c) For the purpose of this AD, a ''serviceable part'' is one that has not exceeded its respective new life limit as set out in this AD.

(d) Except as provided in paragraph (e) of this AD, no alternative replacement times may be approved for LPT case, P/N 338–117–004–0.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(f) 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.

(g) This amendment becomes effective on March 23, 1998.

Issued in Burlington, Massachusetts, on January 7, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–1326 Filed 1–20–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–7494, 34–39542, File No. S7–17–97]

RIN 3235–AH18

Covered Securities Pursuant to Section 18 of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is adopting Rule 146(b) under Section 18 the Securities Act of 1933, as amended (''Securities Act''). The purpose of the Rule is to designate securities listed on the Chicago Board Options Exchange, Tier I of the Pacific Exchange, and Tier I of the Philadelphia Stock Exchange as covered securities for the purposes of Section 18 of the Securities Act. Covered Securities under Section 18 are exempt from state law registration requirements.

EFFECTIVE DATE: This final rule is effective January 21, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon M. Lawson, Senior Special Counsel, James T. McHale, Special Counsel, or David S. Sieradzki, Esq., at 202/942–0181, 202/942–0190, or 202/942–0135; Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 2–2), 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 11, 1996, The National Securities Markets Improvement Act of 1996 (''NSMIA'')[1] was signed into law. Among other changes made to the federal securities laws, NSMIA amends Section 18 of the Securities Act[2] to provide for exclusive federal registration of securities listed, or authorized for listing, on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or listed on the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS''), or any other national securities exchange designated by the Commission to have substantially similar listing standards to those markets. More specifically, Section 18(a) provides that ''no law, rule, regulation, or order, or other administrative action of any State * * * requiring, or with respect to, registration or qualification of securities * * * shall directly or indirectly apply to a security that—(A) is a covered security.'' Covered securities are defined in Section 18(b)(1) to include those securities listed, or authorized for listing, on the NYSE, Amex, or listed on Nasdaq/NMS (collectively the ''Named Markets''), or those securities listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) that has listing standards that the Commission determines by rule are ''substantially similar'' to one of the Named Markets.

The Pacific Exchange, Incorporated (''PCX''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the Chicago Stock Exchange, Incorporated (''CHX''), and the Philadelphia Stock Exchange, Incorporated (''Phlx'') (collectively the ''Petitioners'') have petitioned the Commission to adopt a rule which finds their listing standards to be substantially similar to those of the NYSE, Amex, or Nasdaq/NMS and, therefore, entitling securities listed pursuant thereto to be deemed covered securities under Section 18 of the Securities Act.[3]

On June 10, 1997, the Commission issued a release proposing to adopt Rule 146(b) that would designate securities listed on the CBOE and Tier I of the PCX as designated securities for the purposes of Section 18(a) of the Securities Act, and soliciting comment on whether Tier I securities of the CHX and Phlx should be included in Rule 146(b).[4] The Commission received three comment letters in response to the proposal.[5]

As to the inclusion of securities listed on Tier I of the CHX and Tier I of the Phlx in Rule 146(b), the Commission stated that while most of their Tier I listing standards are substantially similar to one of the Named Markets, they differed in several important respects.[6] The Commission also indicated, however, that if the CHX and Phlx were to revise their Tier I listing standards in these areas to conform them to those of the NYSE, Amex, or Nasdaq/NMS prior to the adoption of the proposed Rule, the Commission likely would include securities listed on these markets in final Rule 146(b). Accordingly, in order to obtain the benefits of the exemption under the proposed Rule, the CHX and Phlx[7] both revised their Tier I listing standards to address the noted deficiencies. Although CHX has modified its listing and maintenance standards as suggested, the Commission has concerns regarding the CHX's listing and maintenance procedures and thus does not include CHX in the final Rule. The Commission will continue to review the CHX's listing program, including listing standards and operations, and may determine to include securities listed on CHX Tier I in the future.

After careful comparison, the Commission concludes that currently

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[1] Pub. L. 104–290, 110 Stat. 3416 (1996).

[2] 15 U.S.C. 77r.

[3] *See* Letter from David P. Semak, Vice President, Regulation, Pacific Stock Exchange, Incorporated (n/k/a Pacific Exchange, Inc.), to Arthur Levitt, Jr., Chairman, Commission, dated November 15, 1996 (''PCX Petition''); letter from Alger B. Chapman, Chairman, CBOE, to Jonathan G. Katz, Secretary, Commission, dated November 18, 1996 (''CBOE Petition''); letter from J. Craig Long, Esq., Foley and Lardner, to Jonathan G. Katz, Secretary, Commission, dated February 4, 1997(''CHX Petition''); and letter from Michele R. Weisbaum, Vice President and Associate General Counsel, Phlx, to Jonathan G. Katz, Secretary, Commission, dated March 31, 1997 (''Phlx Petition'') (collectively the ''Petitions'').

[4] Securities Act Release No. 7422, Securities Exchange Act Release No. 38728 (June 10, 1997) (''proposing release''), 62 FR 32705 (June 17, 1997).

[5] *See* Letter from J. Craig Long, Esq., Foley & Lardner, to Jonathan G. Katz, Secretary, Commission, dated June 26, 1997 (received June 30, 1997) (''Foley letter''); letter from Ira L. Kotel, Esq., Roberts, Sheridan & Kotel, to Jonathan G. Katz, Secretary, Commission, dated July 16, 1997 (received July 21, 1997) (''Kotel letter''); and letter from James C. Yong, First Vice President and General Counsel, The Options Clearing Corporation (''OCC''), to Jonathan G. Katz, Secretary, Commission, dated July 8, 1997 (received July 22, 1997) (''OCC letter'').

[6] Specifically, the Commission noted that unlike the NYSE, Amex, or Nasdaq/NMS, the CHX did not have a minimum share price requirement for continued listing of common stock on Tier I. With regard to the Phlx, the Commission identified the Exchange's lack of a maintenance standard for bonds and debentures listed on Tier I of the Exchange as a deficiency in their listing standards. Moreover, with respect to stock index, currency and currency index warrants, the Phlx had no public distribution, aggregate market value, nor term to maturity requirements. Finally, the Commission noted that issuers of ''other securities'' listed on Tier I of the Phlx were required to have pre-tax income of only $100,000 in three of the four last fiscal years, versus the Amex requirement that issuers have $750,000 in pre-tax income in their last fiscal year, or in two of their last three fiscal years. *See* proposing release, *supra* note 4.

[7] *See* Phlx Listing Standards Order, *infra* note 18.